

January 19, 1989

LB 36, 38, 648-661

SPEAKER BARRETT: Thank you. On Senator Johnson's motion to advance the bill, is there discussion? Seeing none, Senator Rod Johnson, anything further? The question is then the advancement of LB 36 to E & R Initial. Those in favor vote aye, opposed nay. Voting on the advancement of LB 36. Have you all voted? Record, please.

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB 36.

SPEAKER BARRETT: LB 36 is advanced. New bills, Mr. Clerk.

CLERK: Mr. President, new bills. (Read title for the first time to LBs 648-661. See pages 309-12 of the Legislative Journal.)

SPEAKER BARRETT: Mr. Clerk, proceed to LB 38 on General File, please.

CLERK: Mr. President, LB 38 offered by Senator Rod Johnson. (Read title.) The bill was introduced on January 5, referred to the Agriculture Committee, advanced to General File. I have no amendments to the bill, Mr. President.

SPEAKER BARRETT: (Gavel.) Senator Rod Johnson, to present LB 38.

SENATOR R. JOHNSON: Mr. Speaker and members, again, another housekeeping bill, this time for the Department of Agriculture. Covers three basic areas in the statutes that affect the department. The first area in Section 1 of the bill affects definitions as it relates to the Nebraska Poultry Disease Control Act. Sections 3 through 5 deal with the Manufactured Milk Act and this might be one of the more controversial areas of the bill. In Section 4, it amends the law to require new permittees who run dairies to have hot and cold running water in the milkhouse as of October 1 of 1989. This might be controversial. However, the dairymen have come in and testified in support of the bill and feel that any new construction of a dairy house should incorporate both hot and cold water for sanitation reasons. Finally, in Section 6, it approves new rules and regulations that will be adopted by the state veterinarian as it concerns the Nebraska Swine Brucellosis Act. Again, most of this is technical. The hot and cold running water in the dairy house is an area that does have some concern,

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476, 562, 574, 589, 651, 759
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new bills. That will be laid over.

Education Committee reports LB 562 to General File with amendments attached. That is signed by Senator Withem. (See page 927 of the Legislative Journal.)

Agriculture Committee reports LB 162 to General File, LB 381 General File, LB 574 General File, LB 54 General File with amendments, LB 589 indefinitely postponed, LR 14CA indefinitely postponed, those all signed by Senator Johnson as Chair. (See pages 930-33 of the Legislative Journal.)

Banking Committee reports LB 423 to General File, LB 380 to General File with amendments, LB 467 indefinitely postponed, LB 476 indefinitely postponed, LB 759 indefinitely postponed, those signed by Senator Landis. (See pages 933-34 of the Legislative Journal.)

Education reports LB 651 to General File with amendments, signed by Senator Withem and Banking reports LB 319 to General File with amendments. That is signed by Senator Landis. (See page 935 of the Legislative Journal.) I believe that is all that I have, Mr. President.

PRESIDENT: Senator Chambers, you have an amendment coming up. Do you wish to take that up now, or... Okay, Senator Bernard-Stevens, you have one. Do you want to try that now? We're getting close to the end of time. What do you think?

SENATOR BERNARD-STEVENS: We're going to pick it up just for a couple of minutes here.

PRESIDENT: All right, go ahead. Mr. Clerk.

CLERK: Mr. President, Senator Bernard-Stevens would move to amend the bill.

SENATOR BERNARD-STEVENS: Mr. Speaker, or, Mr. President, what I'm going to do is I wanted to briefly explain what the bill (sic) is, and then I'm going to withdraw it because I do believe we can get a vote on the bill at this particular time and I'd hate for us to have this good discussion and not have the bill advance, and I'm hoping the bill will advance. What I'll be offering on Select File is an amendment, is this particular amendment that will put in a mechanism and a procedure in place

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LB 46, 54, 145, 182, 211, 237, 247
259, 288, 315, 316, 356, 379, 388
411, 418, 437, 447, 449, 449A, 506
587, 630, 651, 652, 809

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

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325, 379, 397, 414, 418, 640, 651
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way. I think if we still see a lot of recalls going on in this state, still seeing it being used as a harassment tool, we'll come back in and try and make it even more meaningful with maybe some stricter restrictions onto what the reasons can be for recall, but right now I think we've just got a very general statement of reasons. We've got something here that would be a very meaningful process. With that, I would just urge you to advance the bill. Thank you.

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

CLERK: 26 ayes, 0 nays, Mr. President, on the motion to advance LB 640.

PRESIDENT: LB 640 advances. LB 651.

CLERK: Mr. President, may I read some items for the record?

PRESIDENT: Yeah, please.

CLERK: Mr. President, new resolution, LR 73, by Senator Abboud. (Read brief description. See pages 1521-22 of the Legislative Journal.) That will be laid over.

I have a request...or bills read on Final Reading this afternoon have been presented to the Governor. (Re: LB 157, LB 46, LB 145, LB 231, LB 231A, LB 237, LB 379 and LB 418. See page 1522 of the Legislative Journal.)

Senator Chambers has amendments to LB 397, Senator Hall to LB 414, Senator Withem to LB 247. (See pages 1522-29 of the Legislative Journal.)

And Senator Schimek would like to add her name to LB 325 as co-introducer. (See page 1529 of the Legislative Journal.) That's all that I have, Mr. President.

Mr. President, the next bill, LB 651 is on General File. It is a bill originally introduced by Senator Hall. (Title read.) The bill was introduced on January 19, referred to the Education Committee for public hearing. The bill was advanced to General File. I have committee amendments pending by the Education Committee, Mr. President.

PRESIDENT: Senator Withem, are you handling those? All right.

SENATOR WITHEM: Yes, Mr. President, members of the body, LB 651 is an Education Committee priority bill brought to us by Senator Hall. The purpose of the bill is to clarify or clarify, if you're on one side of the issue, change, I guess, if you're on the other side of the issue, the manner in which SSIG monies are to be distributed. This is a pot of money that comes, some from the state government, some from the federal government for purposes of providing financial assistance to students that are in need. This issue always brings about heated discussion between representatives of the private postsecondary institutions and the public postsecondary institutions. When 651 was referred to the Education Committee and at the hearing, by the committee statement, you can see that the same sort of dispute continued with those from the independents in support of the bill. Those from the publics were there in opposition. The committee amendments, I do not want to characterize as removing the opposition from the bill, from the privates. They can speak for themselves as to what their position is on 651 with the committee amendments. What the committee amendments do though is they answer...they are the Education Committee's response to the legitimate concerns that we heard from the public institutions. They were concerned that the bill would not allow part-time students to qualify any longer if it had passed in its original form. Committee amendments make it clear that part-time students are, in fact, eligible to compete for and be considered for the SSIG. Number two, there was a concern that poor individuals at ending public institutions would stand behind middle-class individuals in line from attending private schools in line, that all of the money under the way the bill was written would go to people attending private schools. That was not the intent of the bill, is not what the Education Committee wanted to see happen anyway, so we indicate that when the Coordinating Commission sets the guidelines, they may take students financial abilities into consideration. In other words, they may set a cap that if you make...have so much resources personally available that you don't qualify for this program. That makes if somewhat more of an acceptable sort of bill. And we also put in the committee amendments that they shall consult with the Nebraska Association of Student Financial Aid Administrators in determining the award priorities. In other words, that they will take into consideration input from the professionals that really understand this area of student

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financial aid. With that, I hope the committee amendments themselves are not controversial. If anybody has any questions or comments on the committee amendments, I'd be happy to have Senator Hall respond.

PRESIDENT: Thank you. Senator Warner, did you wish to speak about the committee amendments?

SENATOR WARNER: Just briefly, and this will be on the bill as well. Senator Withem indicated there is, as we all know, some area of disagreement I guess on how these funds are to be distributed. There is another bill which takes a somewhat different approach, actually it establishes a second distribution formula, LB 468, which is also a committee priority bill and, obviously, the option would be to argue on this one but I'm willing to assume that we'll get to 468 at a later time. I do...I may ask, I don't know if I should ask Senator Withem or Senator Hall, but with the committee amendments after they are adopted, and based upon the current level of appropriation, do you have an idea of what the percentage or dollar shift that would be likely to occur between the various sectors by virtue of this bill?

SENATOR HALL: Senator Warner, it is my understanding with the committee amendments, that basically there won't be a shift, that the privates will continue to I think receive approximately 40 percent that they currently do of the funds that are available.

SENATOR WARNER: And there would be no reduction in the four-year public institutions?

SENATOR HALL: Not...it's my understanding that there would not be.

SENATOR WARNER: Okay. Well, we can probably see how it comes out later, but I have no objection at the moment to adoption or advancing the bill but obviously if 468 is, for some reason or another, not able to come up, why then we can bring the issue up again, but it is my understanding, at least, that there probably is, as a practical matter, some significant shift from some of the current sectors to different sectors, as it is written with the committee amendment, but we can check that out later.

PRESIDENT: Thank you. Senator Hall, please.

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SENATOR HALL: I don't have anything on the committee amendments.

PRESIDENT: Senator Nelson, on the committee amendments.

SENATOR NELSON: No, I'll speak to the bill.

PRESIDENT: All right. Senator Schellpeper, on the committee amendments? All right. Now we're back to the closing on the committee amendments. Senator Withem, would you like to close on that?

SENATOR WITHEM: I'd like to close just simply by adding to Senator Hall's response to Senator Warner's question, and maybe taking a slightly different interpretation. As I understand the SSIG program, it is not aid...we always talk about it as aid to public institutions or aid to private institutions. It is aid to students. People that understand the program understand that, but there may, with the line of questioning there before, may have confused that point. I think it's aid to students that qualify and the question is, will there be more students attending private schools that qualify for SSIG under this manner of distributing dollars versus the other manner of distributing dollars? And that's really questionable either way because it depends on what particular level of financial resources they set as a cap. That power is being delegated to the coordinating commission in this bill. It also depends on the relative number of students and their incomes that attend different institutions. I guess as a practical matter though, however, 651 clarifies that when you determine the whole financial need of the student that one of the factors you consider is the cost of attending the institution. And because the cost of attending institutions is higher at private institutions than it is at public institutions, there probably will be a few more dollars that flow, even with the committee amendments, although it's questionable whether the committee amendments will...questionable determining how much because of where this cap level is set, but there probably will be more dollars flowing to students attending private institutions than there are under the current manner of distribution. With that further clarification, put the term "clarification" in quote marks if you'd like to. I don't know if that clarified things for you with that explanation. What the committee amendments do is that they are an attempt by the committee to answer the

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legitimate concerns brought by some of the public institutions and would urge you to adopt the committee amendments.

PRESIDENT: Senator Withem was closing on the adoption of the committee amendments. All those in favor of adopting the committee amendments please vote aye, those opposed no. Record, Mr. Clerk, please.

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

PRESIDENT: The committee amendments are adopted.

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

PRESIDENT: Senator Hall, please.

SENATOR HALL: Thank you, Mr. President and members. LB 651, as Senator Withem explained, was brought to the Education Committee by myself and it deals with the issue of the student financial aid program or SSIG, and with the adoption of the committee amendments, it basically, I think, alleviates many of the fears that the public institutions felt the bill contained. But the reason for introducing 651 was to clarify what was originally and currently is in statute with regard to this program. And if you had your statutes available and you could look at 85-980, the scholarship award program is spelled out there, and it's only about three or four pages long, and it deals with the definitions of what financial aid is, who would be eligible, resident students are defined, those types of things that spell out how the program operates. And all 651 does is clarify that language, especially the language that deals with the postsecondary education institutions that would be eligible and how the money would be spent. And the statute reads that those institutions must be located in Nebraska, they must be primarily engaged in instruction of students, they must satisfy the provisions of Nebraska law regarding the approval, licensure and accreditation of schools, so on and so forth. But in the very opening there where it says eligible postsecondary education institutions defined, it says eligible postsecondary educational institutions shall mean public or private institutions, and then it goes on to clarify that statement. This is an issue that, and I appreciate Senator Warner's comments because basically what he is saying is that we will put the fight off until Select File which is fine with me, and we might as well save a little

time here, maybe pass a few more bills this afternoon and do that at that time. We talked about it yesterday a little bit in LB 812 that was introduced, the deficit appropriation bill, and I'm sure we'll have an opportunity where the new program is set up to talk about this issue, at least one or two more times this year. With that, I think Senator Withem clearly explained what the content of the bill, and with the adoption of the committee amendments, I don't know that there is any other discussion necessary, but I would answer any questions that members might have.

PRESIDENT: Thank you. Senator Nelson, you're next followed by Senator Schellpeper, Korshoj, Warner, Wesely, Elmer, Withem and Pirsch. Senator Nelson.

SENATOR NELSON: Sounds like, Senator Hall, there will be a few questions asked maybe. Senator Hall, in debate on the bill in committee, we were...these figures were used that by the provisions of LB 651, and I recognize that the committee amendments tried to address this, in my working with the nursing bill and the need, I certainly hope I gained a lot more knowledge on student loans and so on. And I, too, have this concern that I know the unmet need in a school that the costs of going to school is double, like \$8,000 over and above going to school at a cost of \$3,500. Naturally the unmet need then of which is SSIG is much higher in the school than what we may think of, the more wealthier student could go. SSIG money, I know, has to be matched, too. Some of the poorer institutions cannot do that so they don't give out as many of these loans. Am I correct in saying that this would be approximately a shift of \$350,000 from public to private schools, provisions of LB 651?

SENATOR HALL: Senator Nelson, I don't think that that can be determined at this time. Because of the provisions in the committee amendments that deals with the cap that will be set by the postsecondary commission, I don't think that we can determine at this point a specific dollar figure; that, again, it's based on what is appropriated into the fund and then what is received from the federal government and then a cap that will be set in the future with passage of this bill, of course, but...

SENATOR NELSON: But you do agree that this is a shift from one to the other and...

SENATOR HALL: I think that there is potential there, there is potential for a shift.

SENATOR NELSON: ...exactly, that potential is what the basis of the bill is?

SENATOR HALL: Sure. But, no, that is not the basis of the bill. The basis of the bill is clarify what is currently in statute and that's all it does and the AG's opinion states that.

SENATOR NELSON: Thank you.

PRESIDENT: Senator Schellpeper, please.

SENATOR SCHELLPEPER: Thank you, Mr. President and members, I would have a question of Senator Withem.

PRESIDENT: Senator Withem, please.

SENATOR SCHELLPEPER: Senator Withem, in your opinion, is there ever going to be a time that you could see when the people of Nebraska are going to realize, although how unpopular, that we have probably too many colleges to fund?

SENATOR WITHEM: Yeah, Senator Schellpeper, thank you for the question. Also thank you for sharing it with me about ten seconds before you asked it so I could get a little time to think about my response. I think part of the resource debates that we have on the floor of this Legislature over higher ed are probably a basis of that fact, and I think your question, I think that there are some. I think we lost a couple of private institutions last year, did have to close down because they just don't have the student base coming into them with...in order to keep open. It's my hope that we as a Legislature will be taking a very critical look at our higher education system in our state. You'll get an opportunity, maybe as early as tomorrow when LB 247 comes up, to begin addressing some of those issues. I think we need to look very seriously at them. We have difficulty though as a Legislature in dealing with those. We have difficulties across the state in dealing with those. Last year we had a recommendation from the Board of Regents that we shrink the University of Nebraska program by eliminating the program at Curtis, and we as a Legislature chose not to honor that request. We, instead, funded that particular program. So

it is very difficult to contract higher education but I think the basis of your question is accurate, that we probably do have more institutions out there than a state our size can support.

SENATOR SCHELLPEPER: Thank you. I agree with you. I think it's, although very unpopular, it's something that we are going to have to face one of these days. With one and a half million people, we just have too many colleges to fund out there and we're going to have to face it one of these days. Thank you.

PRESIDENT: Senator Schellpeper, have you finished? Yes, okay. Senator Korshoj, please, followed by Senator Warner.

SENATOR KORSHOJ: Mr. President and members, I would like to ask Ron a question. I'm sorry, I haven't heard the whole conversation because Senator Schmit and I was talking about racehorses and I got my mind in the wrong...

SENATOR WITHEM: I'm glad we have our priorities in the right spot, Senator Korshoj.

SENATOR KORSHOJ: That's right. Last year I was on the floor asking questions about this aid program. Is it to students or is it to higher, private against public?

SENATOR WITHEM: It is my understanding that is a program of aid to students.

SENATOR KORSHOJ: Well, that was what I thought last year but the response to me was not such as that. But it is to students?

SENATOR WITHEM: That is my understanding of the program, that it is aid to students.

SENATOR KORSHOJ: And that's the way it should be and, therefore, that's the way I would support the bill. And I'd say that's fine with me, I'll just pass at this time.

PRESIDENT: Okay, thank you. Senator Warner, please, followed by Senator Wesely.

SENATOR WARNER: Mr. President, I only rose again to...because I may have used the word "institution" earlier, since several have referred to it later, and obviously the aid does go to the student, but the manner in which you determine eligibility for

the aid materially affects the choice of institution or can for the simple fact that need is based on tuition. So, yes, the aid is for students but, no, there is not a neutral impact depending on formula as to how the funds are distributed in the sense of what sector the individual might go to. So I don't want to get in the argument of between those two things, but there is a significant difference in how you determine need. But in any event, I appreciate the comment that there is no change in the distribution between sectors, or the eligibility of students to go to different sectors if that is a more accurate way to say it, although I have a strong suspicion that the bill as amended will...may have a material impact as to the distribution of those funds. So I just wanted to say that and, Senator Hall, you probably are correct. I don't particularly care to attempt to amend 651, but obviously if LB 468 is not reached too, we, as you indicated, will have the argument at some future date, so...

PRESIDENT: Thank you. Senator Wesely, please, then Senator Elmer.

SENATOR WESELY: Thank you, Mr. President, members, I have reservations about the bill. Senator Hall has indicated it doesn't make a shift, it's a clarification. Of course, if that's the case, I'm not sure we need to proceed with the legislation, but I have suspicions that it is more than that, but I guess we have to have that confirmed. Let me get down to the basics once again on what we're dealing with here because it will come up with the tuition tax credit issue and I think we're going to have to debate this eventually. We talked with the Jefferson-Hamilton people once again, but this is a basic fundamental question, been around a long time about the role private education and the government and what interaction there ought to be between the two. And I have long felt and held to this view that private education is free to do what they want to do and ought to be able to proceed with as little interference from the government as possible, but at the same time, we're seeing in recent years the desire in private education to get public funds involved. And as a result, they have come in for different efforts to bring in more public money, more public money into private education. I think they do so at their own peril as Jefferson would have said, that anytime you go into the government and ask for money there are strings attached and there is potential for developments that they can't even foresee at this time, that I don't think they really want to see happen, don't expect to happen but could happen down the road. And I

really think, as we talk about public funds and their priorities and where they ought to go to and private education and their desire and need to be independent, these sort of constitutional and fundamental questions need to be brought up and thought about by all of us. And so I have real reluctance to support the bill at this point, but I understand the feeling that there is nothing here to be worried about and so I'm reluctant to oppose it as well, but I think these concerns need to be expressed as we get into it, perhaps on Select File.

PRESIDENT: Thank you. Senator Owen Elmer, please, followed by Senator Withem.

SENATOR ELMER: Mr. President, I have similar reservations to what Senator Wesely has, but reading the change that is being made to the statute, the money is currently distributed at the discretion of the commission and this would change the wording to, based on the order of greatest substantial financial need. Now I would ask, doesn't this restrict the commission to only financial need? Is that the way you would interpret this, Senator Hall?

SENATOR HALL: I'm sorry, Senator Elmer.

SENATOR ELMER: Pardon me, I'll rephrase the question. The way this bill was presented it appears that the commission who grants these scholarships must grant it based only on financial need. Is that correct?

SENATOR HALL: Primarily.

SENATOR ELMER: It seems to be a tremendous narrowing from the discretion of the commission to only financial need. Now what about the student who would apply that patently is unable to complete a four-year college course?

SENATOR HALL: You mean an individual that would not have the background, so to speak, or the educational base to complete the four-year program? Somebody who wasn't smart enough...

SENATOR ELMER: Somebody that has not the mental capacity to earn a B.A. degree at a college level.

SENATOR HALL: I guess, Senator Elmer, if they are eligible to enter the college, then they would be eligible to apply for one

of these grants. And I guess if they were smart enough to fill out the grant, they would probably be able to come close to completing that B.A. degree.

SENATOR ELMER: Okay, thank you. But it still points out one thing. It narrows the discretion of the committee tremendously by basing it only on financial need and I'd wonder a little about that. With that, thank you.

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

SENATOR WITHEM: Senator Elmer, I'd like to take a shot at the question you just asked to maybe add some further clarification. The SSIG program is what we're talking about here. The SSIG program is a program that is based on need. That's federal standards. It doesn't deal...we've got other programs out there that deal with regents scholarships, merit scholarships, athletic scholarships, scholarships based on other rationale. The SSIG program is a program based on need. This bill doesn't change that. We can't change that on the local level. It is a need-base program. The change that would take place if 651 were to pass would be how we define that need. Currently...the current statute, it's arguable, says that you'd have to include the cost of the institution in determining the need. As a matter of fact, it's not only arguable, it is stated that you have to consider the cost of the institution. In practice what has been done is that the commission, because they're under...in fairness to them, because they're understaffed, because we don't appropriate a whole lot of money to them, have tagged onto a federal program, I believe it's the Pell grant program that defines need. It defines need, however, without using the cost of the institution, attending the institution. This bill would clarify and after this bill was drafted we also got an Attorney General's Opinion, it interprets current law as saying that you can't do that. You can't just piggyback on this federal program because our current statute says that you've got to include the cost of the institution in determining what need is. What this bill does is it reiterates that and states it again as legislative policy because the current practice has been to not use the cost of the institution. Now it is true, and I maybe get over to Senator Wesely's remarks here, it is true, and I think that if you look at what the current statute says is supposed to be going on versus what 651 says, and Senator Hall is absolutely correct, there would be no change. If you look at

current practice of what is going on versus what 651 says and what current statute says needs to be going on, then there will be somewhat of a shift of aid to students attending private institutions versus aid to students that are attending public institutions, and we get into the question, is that good public policy? I would argue it probably is, that the state...we currently spend approximately \$210 million in assistance to students that are attending public institutions. We provide that in assistance by appropriating General Fund monies to the university, to the community colleges, to the state colleges for assistance programs, merit scholarship, regent scholarship, athletic scholarships, all of those kinds of things. Senator Hall just gave me some numbers here indicating that I'm grossly underestimating my figure. It's closer to \$283 million. Currently, students that are attending private schools get 245, \$250,000 of aid from the state to further their state, their education. We, in Nebraska, again, I know you get tired of hearing particularly the Chair of the Education Committee talking about Nebraska's ranking, but we are way, way, way, way, way at the bottom of the scale of how we support students to get higher education that happened to choose to go to a private institution. What this bill would do, if this passed and no other piece of legislation passed, I should clarify that, there would be more aid going to students that choose to attend private colleges and I think that's a good public policy and I support that. That's not because I don't support public institutions. My vote supports 250 plus million dollars a year of aid to public institutions and students attending public institutions. I just think a little piece of that pie can go to those that choose to go to the private institutions. That is why I am supporting the bill.

PRESIDENT: Thank you. Senator Pirsch, please, followed by Senator Jacky Smith.

SENATOR PIRSCH: Thank you, Mr. President. I have a question for Senator Hall if he would yield. I guess, Senator Hall, philosophically I have no problem with this, but I do have some questions about the fiscal note. The expenditure, ongoing expenditure, as I see, is 99,000 the first year, 89,000 the second year, and looking under the review analysis, that goes strictly for staffing for financial aid, administrators, for data processing applications and word processing specialists. I guess my question is, why do we need this kind of increase in staffing and you might also comment on the amount of aid that

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actually gets to students will remain the same? And you might assure me of that.

SENATOR HALL: Okay, Senator Pirsch, with the adoption of the committee amendments that A bill or that fiscal note that you see there is wiped out.

SENATOR PIRSCH: Okay.

SENATOR HALL: All right? And we're talking about I think \$10,000 that would be the new fiscal note. That's my understanding that with the adoption of the committee amendments, that goes away.

SENATOR PIRSCH: Okay, I didn't understand that. So the aid remains the same that will reach our students, so the main argument is not then for this money being needed for more staff to determine who shall get it, but indeed, the aid, the amount of aid will still go to the students that is presently coming in. It will just be spread on a wider base. Is that an assessment?

SENATOR HALL: The bill doesn't change what is currently in statute. It changes what is being done, but it doesn't change what is currently in statute and with the fiscal note the way it will be drafted, I guess for Select File, will not harm the amount of money that is...will not touch the money that's going to the student aid program at all.

SENATOR PIRSCH: And the \$10,000 is for what? Rules and regs?

SENATOR HALL: I've not seen the fiscal note so I can't tell you what their explanation is.

SENATOR PIRSCH: Okay, but we can rest assured that it will not be the 99,000 then.

SENATOR HALL: That is my understanding, yes.

SENATOR PIRSCH: Okay, thank you.

PRESIDENT: Thank you. Senator Jacky Smith, please, followed by Senator Dierks.

SENATOR SMITH: Thank you, Mr. Chairman. I would like to ask

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Senator Hall a couple of questions.

SENATOR HALL: Mmmm, hmmm.

SENATOR SMITH: Senator Hall, when Senator Nelson asked the question about whether this changed anything or not, what you said was that it's not changing the law. What you were trying to say is that the Constitution says something different than what we're doing in law? Is that what you're...?

SENATOR HALL: No, the statutes currently provide, Senator Smith...

SENATOR SMITH: Excuse me, the statutes, I meant to say that instead of the Constitution.

SENATOR HALL: Right, sure, I understood you. The statutes currently provide for basically the same thing that LB 651 contains. What LB 651 does is clarify that in the statutes, and with the committee amendments that Senator Withem and the Education Committee adopted to the bill, it protects some of the interests or some of the problems that the public institutions felt were there or they were threatened by with 651. What's happened is the Postsecondary Education Commission has basically ignored what is in statute to a certain extent and it's never been a problem until there was money there. Since there was never any money there until we appropriated money into the fund, there has never been a fight. And now that we have money there is a fight, and so one side is bringing in language to clarify it the way it was originally...

SENATOR SMITH: Intended.

SENATOR HALL: ...put into statute, the other side saying, no, we like it better the way it is.

SENATOR SMITH: Okay, in other words then what this would do would be, by putting it the way, by confirming what is in statute, you would be...a larger percentage could possibly go to private institutions because even though it is need based, in my understanding it is based on the cost of the tuition rates and so on which necessarily are much higher in private institutions because they lack that public support.

SENATOR HALL: That's correct. Hastings College as an example.

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LB 651

SENATOR SMITH: Yes. Yes, and I would just say that, of course, I was not necessarily going to mention Hastings College, but I was going to say that it also then allows local people, those who have needs, since it is need based, those people that have a choice, that they could attend the local college then, if they had that choice, where otherwise they may not be able to afford to.

SENATOR HALL: That's correct. Many of the students who are in these private colleges cannot get to a public institution. They don't have the ability, they are not located near one, they are sometimes housewives working, parents, they don't have the ability to go to the public institution in Lincoln or Omaha or Kearney, for example.

SENATOR SMITH: And it would open the door then for these kind of people to be able to take advantage of an education.

SENATOR HALL: Well, I thought the door was open. All we're going to do is prop it open.

SENATOR SMITH: I see what you're saying, all right, and I'm very supportive of you, of course. Thank you.

PRESIDENT: Thank you. Senator Dierks, please.

SENATOR DIERKS: Mr. President and members of the body, I just would like to stand in support of LB 651. I was present, of course, at the committee hearing when it was heard and we did hear opposition and it was a very lively debate that day, very lively committee hearing. The committee amendments, of course, take away the problems that the opposition had, and as I understand it, everybody is pretty well contented with what has happened here with the committee amendments and I just want to urge your support in advancement of this bill. Thank you.

PRESIDENT: Thank you. Senator Hall, please, followed by Senator Lynch.

SENATOR HALL: I'll just close.

PRESIDENT: Senator Lynch, please.

SENATOR LYNCH: I'll pass.

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LB 84, 95, 468, 651

PRESIDENT: Senator Abboud.

SENATOR ABOUD: Question

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

CLERK: 27 ayes, 0 nays, Mr. President, to cease debate.

PRESIDENT: Debate has ceased. Senator Hall, would you like to close on the advancement?

SENATOR HALL: Thank you, Mr. President, just briefly, LB 651 in my opinion is a clarification of the statutes. With the committee amendments, it protects all those involved but the bill as well as the statutes deal with aid to students. Whether those be students in a public or a private institution, they are students. They are students that are looking for an education and the ability to achieve some financial support in that process. It is not a threat to anyone and it's not a threat to anyone I guess unless they think that education in one institution is a threat to students who choose to seek their education in a different institution. I don't think education is a threat to anyone. I would urge the body to advance LB 651 to Select File, knowing full well that should LB 468 not come up on General File discussion, that we will fully discuss the merits of both sides of this issue on Select File at that time. Thank you, Mr. President.

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

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB 651.

PRESIDENT: The bill is advanced. Mr. Clerk, something for the record.

CLERK: Mr. President, Senators Hall, Chizok and Moore have amendments to be printed to LB 84, and Senator Landis, amendments to LB 95. (See page 1540 of the Legislative Journal.) That is all that I have, Mr. President.

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LB 84, 319, 541, 611, 630, 640, 646
651, 653, 653A, 705, 710, 762, 811
812

now and Select File. I will try and answer your questions, but now I just ask that we advance the bill.

SPEAKER BARRETT: The question is the advancement of LB 611 to E & R Initial. All in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: 36 ayes, 1 nay, Mr. President, on the advancement of LB 611.

SPEAKER BARRETT: LB 611 is advanced. Anything to read in, Mr. Clerk?

CLERK: Mr. President, Enrollment and Review reports LB 319 to Select File with E & Rs, LB 640, LB 651, LB 541, LB 653, LB 653A, LB 630, LB 811, LB 812, LB 710, and, LB 646, all to Select File, some have E & R amendments attached. (See pages 1615-22 of the Legislative Journal.)


Senator Conway has amendments to LB 84 to be printed; Senator Hall to LB 762. Senator Abboud would like to add his name to LB 705 as co-introducer. (See pages 1622-28 of the Legislative Journal.) Mr. President, that is all that I have.

SPEAKER BARRETT: Thank you, and the Chair would like to remind members of the briefing on the pharmacy school to be held at this hour in Room 1019. Senator Chizek, please.

SENATOR CHIZEK: Mr. Speaker, I would make a motion we adjourn until April 11th at 9:00 a.m.

SPEAKER BARRETT: You have heard the motion to adjourn until tomorrow morning at nine o'clock. Those in favor say aye. Opposed nay. The ayes have it. Motion carried. We are adjourned. (Gavel.)

Proofed by:


LaVera Benischek

allows for figuring in the cost of the institution in determining whether a student is needy or not needy. Nebraska, we piggyback on the Pell Grant program which does not figure in cost of the institution. LB 65...last summer an Attorney General's Opinion came down indicating that that method of distribution is incorrect, that we must distribute dollars with a factor determining the cost of the institution. LB 651, which is an Education Committee priority bill brought to us by Senator Hall, in effect restates existing statute, clarifying legislative intent that we want a formula that will take into account the cost of the institution, the cost of attending the institution. LB 468, which is a bill that was referred to the Appropriations Committee, has a committee amendment and if that committee amendment is adopted, it will create a new scholarship program. It will leave the SSIG program with a paltry sum of money in it, the bare minimum we need to receive the federal match, that will be distributed based on the cost of institution and will create a new program, create a new program that we can distribute the money any way we want to with, I think, the intent being that it will be distributed, as it has historically been distributed, with a bias to students that attend public institutions. The amendment to LB 812, as I best understand it, the Section 11 of LB 812 is designed to be a retroactive appropriation. It's a design to reappropriate dollars that have already been spent, to put them into a program that does not yet exist. Now why would we be doing that? Again, as near as I can figure out, it is because the federal government has what they call a maintenance of effort requirement. In order to qualify for your matching dollars for this program that goes to aid needy students, you must maintain a level of appropriation. You cannot deviate below, I believe it is your three-year average. Last year this Legislature did appropriate an overmatch, \$750,000 more than we had in any previous year to this particular program. If that is maintained, if we continue to count that as dollars that went into the SSIG program, we will not be able to lower our appropriation if it goes into the SSIG program. In other words, we won't be able to fund this new program, LB 468, with existing dollars, we'll have to create and put new dollars in and the dollars we do have will then have to go into a program that is less advantageous to students that attend public schools. So what, again, supposition, what I am assuming that this bill is doing, it's attempting to go back to satisfy the federal government, make an accounting change to correct the appropriation we made last year to make it appear as though the dollars didn't really go to this SSIG program, they

programs, budget accounting programs, has no effect on how it is distributed. It would have no effect next year on how it's distributed. If LB 651 is the only bill that passes or none passes at all, the fact that the money is in two programs within the budget bill the accounting program has only one impact and that is the one about maintenance of effort. And the question is on the overmatch if you want to lock the state into a distribution formula for scholarships that is determined by the federal government or if you want to have the flexibility for the state to distribute the overmatch in whatever form that the Legislature and the state decides here, that's the only issue. Both programs in the budget could be distributed the same way but you're locked in if you do the other and I can appreciate some perhaps would like to lock it in. But I don't think that is the best public policy. I think it's much better that the state has the flexibility to use on into the future whichever of the distribution formulas that the majority of this body select without being encumbered with a maintenance of effort type of requirement. I can appreciate that those...well, let me rephrase that. When you have worked...if you work with budgets over a period of time, you become very leery of maintenance requirements of the federal government and they creep in all over the place. And what means of effort does, of course, is it restricts what states might do to meet changing conditions within that state and you have to always stay in compliance with whatever the feds do because you cannot reduce your level of match. And it always creates a problem and, as a matter of fact, I would suggest that sometimes it's a very adverse result of that maintenance of effort because you are hesitant to participate in some programs because once you start you can't get out. I'm not talking about the scholarships, I'm talking about the requirement of maintenance of effort in general. But the same policy issue is in existence here. So I would urge that you reject the amendment. It is not going to have any impact as to what is eventually done...

SPEAKER BARRETT: One minute.

SENATOR WARNER: ...in the way of substantive distribution legislation, does not affect it, doesn't prevent maintenance of maintaining the existing distribution, it merely does not lock the state into a maintenance effort from this time forward which they cannot do differently if they chose to do so. The argument on distribution ought to occur on the basic legislation because that is what will govern, not this, but the state ought to want

SPEAKER BARRETT: Senator Wehrbein is announcing some guests in our north balcony, seven members of the Cottage Homemakers Group from Elmwood, Nebraska. Would you ladies please stand and be recognized. Thank you. We're glad you could be with us. Also, Senator Moore has some guests under the south balcony, Don and Cybil Beller from Omaha. Would you folks please take a bow. Thank you for visiting. Senator Hannibal, discussion on the Withem amendment, followed by Senators Scofield and Withem.

SENATOR HANNIBAL: Mr. Speaker and members, I rise to oppose the amendment and I have no quarrel with what has been said at all by any of the speakers before me. Senator Hall, Senator Warner and Senator Withem, I think they have all made very true and accurate statements. I think it's important that you understand that this amendment precludes us from making a policy decision later and I think that all three have admitted that that is correct and what Senator Warner has said is correct that it precludes us from making a statement, a policy decision later. All we are doing with this particular program is allowing us to have two separate areas so we can continue as a body to make a policy statement and that statement may come down in the form of LB 468 or in the form of LB 651 or in the form of no action whatsoever, in which case I believe it's accurate to say that 651 will essentially be the policy that we will have. I'm going to take it one step further and say that maybe it is time to make a policy decision on this issue because it will be a signal as to whether we do want to have our emphasis on scholarships to go towards...more towards private institutions or more towards public institutions. I have made that decision and I do recognize, I recognize all the good arguments that the private institutions do make and they make some excellent arguments and the fact that the private institutions play a vital role in our state higher education system is not insignificant. It is very significant. As a matter of fact, Mr. Oberg argues at length about the...about the fact that what if we didn't have our independence? Our state institutions, the university, state colleges and the technical community colleges would...the enrollment would vastly increase, I assume. And if it did so because every student that we have in our institution is subsidized by taxpayers' dollars, then our taxpayers' dollars would go much more towards our public institutions. So the private institutions do honestly play a very valuable role in our taxpayers' decisions, not just the role of education but in the taxpayers' decisions as well. However, on the other side of the coin, we are making a significant effort to educate

that is traditionally used in the Appropriations Committee, and that is Senator Withem was concerned about the possible creation of a new program which, in fact, would require statutory authority and sometimes when you get to talking appropriations jargon it doesn't come across perhaps as clearly as it should. All that's being done in the section that Senator Withem is concerned about is it uses program as an accounting convention and it gives us maximum flexibility in this state then to make whatever choice, whatever policy choice you as individual senators would choose to make either on LB 468 or LB 651. So...in fact, the actual effect of striking this language would mean that then we would need to go in and recalculate that maintenance of effort figure and would raise that maintenance of effort level. Now that may not seem all that serious until you realize the implications of this which Senator Hannibal has started to discuss, and the implications of that are that we're going to effect then a major shift of our state's resources to public institutions. Now I'm perfectly willing to support a program that gives some help to students at...I'm sorry, that will make a major shift to private institutions and I'm perfectly willing to comply with federal law and to support at some level students going to private institutions, but my philosophy is our first obligation is to the poorest students in this state. And I want to maintain maximum flexibility as an individual senator then to allocate whatever money we decide to put out there as a body towards scholarship funds. I want to make sure that I am indeed helping the poorest students in the state and I don't want my hands tied by federal maintenance of effort language. Maintenance of effort language is a custom that has come down from us with the blessings of Washington and a lot of areas and it really limits the kinds of flexibility that we have in this state and that's always a consideration. It doesn't matter what area it is. If you have a maintenance of effort level to take care of, you've always got to continue that level. That is what maintenance of effort means. That ties your hands in terms of making the kinds of shifts in these, whatever additional funds we might want to eventually allocate for purposes of scholarships, depending on the choice you make on this particular bill here. And let me just throw out a couple of figures here that I think illustrates the real problem here and why we have to be so sensitive about this. Right now, total public sector of SSIG awards of income levels, in '86-87 in public institutions 76 percent of those students who got assistance came from a family with income under 20,000. Only 6 percent had an income over 30,000, contrasted with private

colleges and universities where 54 percent of those students came from a family of under 20,000 but 18 percent had over 30,000. Figuring in the need factors into this, if you define need as how much it costs to go to a particular institution, then that is, obviously, going to skew where the distribution of these funds go. My preference is to send, to help as many students as possible in this state and to certainly help the students who need the help most and I think we need to be very cautious as we make these decisions because you could unwittingly I think end up making a shift that none of us, and I suspect Senator Withem would not with his history of support for public education, while he is probably as willing as I am to do something for private institutions I would guess that his priority is public education.

SPEAKER BARRETT: One minute.

SENATOR SCOFIELD: And we will make those decisions under LB 468 and LB 651, one or the other, but I want to maintain a maximum flexibility here to make sure the money goes to that poorest group of students. So the issue, Senator Hall, isn't, in fact, do we follow the statutes or change them? The issue is who do you want to emphasize and do you really want to help the poorest students? As I said, those policy choices will actually be made in either LB 651 or LB 468, and the decision being made here is whether you're going to strike that maintenance of...what are you going to do with that maintenance effort language? Are you going to tie your hands as a legislator then to make choices about where you want to direct the funds? So I would urge you to recognize that the use of the term program in here is, in fact, an accounting convention that gives directions to DAS, gives us maximum flexibility as a body then to decide where you want to put it. If you want to put the majority of the funds to private institutions, you have that option on whatever bill we deal on. I will not do that. I will choose to try to strike some kind of equitable balance between private and public institutions and so...

SPEAKER BARRETT: Time.

SENATOR SCOFIELD: ...I would urge you to reject the amendment. Thank you.

SPEAKER BARRETT: Thank you. Senator Withem, followed by Senator Schmit.

what is required for a dollar for dollar match which is about 530,000. The additional money, whether or not that is to be distributed under a formula determined by the state or if it is to be distributed in the future in the same fashion as the federal funds, the budget bill, the appropriation bill does not affect that. All it does is maintains, as it is drafted, the flexibility to choose without being encumbered by a maintenance of effort requirement that would otherwise be avoided. You know, if there is a concern, I don't know, I have seen a number of figures of how redistribution using greater emphasis on the cost of an institution may affect, may affect distribution. It's my understanding, for example, when Missouri went to a cost of distribution formula, and it may be different than what is proposed in LB 651 but, nevertheless, 8 percent of their money then all went to students attending private institutions and Missouri, as a result of that, Missouri established a separate program for those students that were in hardship positions, they established a separate program for state institutions, as I...public institutions, as I understand it. All we're trying to do is maintain that flexibility for the state. You know, so frequently we hear arguments that we get tired of being mandated by the federal government as to what the state can do. All we're doing with this language that the appropriation bill has proposed is to provide for the state the flexibility to choose how the distributed funds over and above what is required for match are to be distributed. That's all it does. If you act, makes no change in the law. If you pass LB 651, this language will still fund that program in its entirety. The only thing that you will not be encumbered with is that maintenance of effort that the federal government then would dictate what Nebraska may want to do. And it seems very difficult for me to believe that we are striving to let the federal government determine how state funds, total state funds, are to be distributed. It would seem to me that would be a privilege that the Legislature and the state ought to want to retain for itself.

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Thank you, Mr. President, and members, I would just like to read what the statutes do say about this scholarship award program. And I'm going to...if you would like to pull it out, it's in 85-97...excuse me, 85-980, it's on 804 of the book and it reads, Legislative Findings. And I'm going to skip a couple and just go down to the four that I think are

asking you to vote on. Section 11 of the bill is, in my opinion, an attempt to reappropriate dollars that have already been spent by students attending colleges and universities in our state. A bookkeeping reappropriation to a new program that the Legislature has not yet authorized, has not yet created, will create when and if LB 468 passes, which I, frankly, hope it does not, but the sole purpose of this amendment is to convince somehow the federal government when they look at maintenance of effort that we didn't really spend this money the way we did. And I still have not heard where that's ever worked before, where we have been able to tell the federal government that we didn't really mean to spend those dollars that way, kind of a king's X to them that we didn't really mean to do that. Beyond that is the larger policy question and that policy question is that the dollars that we appropriate to help students, that we help students go to the universities and colleges in this state, whether students that choose to attend private institutions...keep in mind these aren't all wealthy kids that attend private institutions, but students that attend private institutions, whether they ought to be able to compete for those scholarship dollars on an equitable sort of basis. Also, keep in mind that LB 651, Senator Hall's bill, the Education Committee amendments have...give the Secondary Coordinating Commission an opportunity to cap, based on student resources, so the students...the wealthy students wouldn't qualify for this particular program. So we're not talking about giving dollars just to wealthy students as opposed to poor students, we're talking about students that attend those institutions that the state doesn't spend a quarter of a billion dollars a year in operating ought to have the same opportunity to qualify for those dollars. If you amend LB 812 by striking this language, you will be going a long way toward accomplishing that objective. For that reason, I urge you to adopt the Withem amendment to LB 812 which will strike Section 11 from the bill.

SPEAKER BARRETT: Thank you. And the question is the adoption of the Withem amendment to LB 812. Those in favor please vote aye, opposed nay. Voting on the Withem amendment. Have you all voted? Senator Withem.

SENATOR WITHEM: Yes let's do a call of the house and a roll call vote, please.

SPEAKER BARRETT: Clear the board, Mr. Clerk. Members will vote on placing themselves under call. Shall the house go under

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LB 468, 651, 812

with educational telecommunications funding of \$70,000 of General Funds, \$210,000 worth of Cash Funds that will allow us to go into a contractual arrangement to purchase a transponder for telelearning, that will put us into the satellite communications program and this program, we feel, needs to go on very quickly as well. Back to the pharmacy school, if the pharmacy school program does not start until the first of August, then those that want it not to go ahead, those that want it to be delayed will be successful and that's fine if that is your goal. But to not have the emergency clause on it will be the same thing as just voting against it, in my estimation. Now I...I don't know exactly what contractual things could happen there but I believe that's the case and I think we ought to be up front about that. There are two other sections in here. I don't know that they would be...well, even the SSIG funds, the program that Senator Withem was concerned with and I believe that there is agreement now that what we are trying to do is do a budgetary accounting process. It needs to be done before the end of the fiscal year so that we don't lock ourselves into an inflexible position with regards matching of federal funds or having, once you put funds into a program that you are bound by that program to keep those funds there, a maintenance of effort situation, that if we can move the funds and put them in two different programs, it gives us the flexibility to be able to make the policy decisions that the body wants to make. I believe that all the parties that are part of that that have been on both sides realize that we are not trying to establish a policy position with 812, merely leaving us in a position to establish a policy position whether it be with LB 468, LB 651, or with no passage of any...with passage of no law at all and have the current law stay in effect. For those reasons, if...if you can...if you are trying to voice a frustration for this process, you don't have to feel alone. We are all having frustrations with it. But to not...not vote for the E clause would be seriously damaging not only the pharmacy school but several other programs that I would hope you would reconsider.

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

SENATOR HALL: Thank you, Mr. President, and members, I rise in opposition to the reconsideration motion. I appreciate Senator Hannibal's concern to have this issue behind us as soon as possible but the fact of the matter is that there really is no good reason to rush into any of these things. And I think what

those funds in the Coordinating Commission. Makes no effect, impact whatsoever on distribution or any of those discussions. It's necessary, depending on what happens to LB 651, whether this passes or doesn't pass, it's necessary as we are now situated that those funds be placed in the Coordinating Commission for subsequent distribution, which will be determined on...a later bill, most likely LB 651. This is not an argument that deals with the distribution. It's a necessary amendment because, as the appropriation bills were drafted, some weeks ago I guess now, there was not a determination as to what distribution might be or if any change was going to be made and so the bills were drafted as they have always been in the recent years. So I'd move adoption of the amendment that places those funds that are necessary for the match in the Coordinating Commission where they will have to be no matter what happens on other legislation. I move adoption of the amendment.

SPEAKER BARRETT: Thank you.

SENATOR WARNER: LB 6...if there's to be an argument on distribution, I don't know if there will be, but if there is it would occur on LB 651 and this is...in no way affects that.

SPEAKER BARRETT: Thank you. Senator Hall, discussion?

SENATOR HALL: Mr. President, I rise in support of Senator Warner's amendment to the bill dealing with the appropriation of the SSIG money. As he stated, the...we have continued to talk about the distribution formula, what form that will take, and hopefully we'll be able to resolve that before LB 651 comes up and amend that into that bill at that time, but, as he stated, this is an amendment that needs to be adopted to the bill in order so that the funds that are out there can be, no matter what happens, be appropriated by the Postsecondary Coordinating Commission. I would urge adoption of the amendment.

SPEAKER BARRETT: Thank you. Any other discussion? Seeing none, Senator Warner to close. Thank you. Shall the amendment offered by Senator Warner be adopted? Those in favor vote aye, opposed nay. Record.

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of the amendment as offered by Senator Warner.

SPEAKER BARRETT: The amendment is adopted.

May 17, 1989

LB 84, 187A, 429, 525, 651, 651A

SPEAKER BARRETT: Thank you. The question before us is the bracketing until LB 739 is read. Those in favor vote aye, opposed nay. Have you all voted? Record. Record vote has been requested.

CLERK: (Read record vote as found on page 2494 in the Legislative Journal.) 15 ayes, 27 nays, Mr. President, on the bracket motion.

SPEAKER BARRETT: Motion fails. Items for the record, please.

CLERK: Very quickly, Mr. President, LB 429, read earlier on Final Reading this evening has been presented to the Governor. I have amendments to be printed on LB 187A, to LB 525, and to LB 651 and LB 651A. (See pages 2494-97 of the Legislative Journal.) That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Next item, Mr. Clerk?

CLERK: I have nothing further at this time, Mr. President.

SPEAKER BARRETT: Back to the bill. Members take your seats. Senator Hannibal.

SENATOR HANNIBAL: I move we adjourn until eight o'clock tomorrow morning.

SPEAKER BARRETT: You've heard the motion offered by Senator Hannibal to adjourn until eight o'clock. Request for machine vote. All in favor of the motion to adjourn, please vote aye, opposed nay. Record, please.

CLERK: 11 ayes, 25 nays, Mr. President, on the motion to adjourn.

SPEAKER BARRETT: Motion fails. Mr. Clerk.

CLERK: Mr. President, I have a bracket motion by Senator Hannibal until Friday, May 19, until 1:30 p.m.

SENATOR LAMB: Mr. President, was that motion up there before?

CLERK: Senator, it was.

SENATOR HANNIBAL: I heard there was nothing else on the bill,

May 18, 1989

LB 272A, 651

Bankers Licensure Act which this body passed to Select File last week. In that act, we created a Cash Fund raised from fees which we exact from mortgage bankers. It is necessary, however, to have the authority for the Banking Department to spend the money which is in the Cash Fund. LB 272A is that authority to spend the money raised for the Cash Fund by fees from licensed or registered mortgage bankers. It does not have any dollar figure, no General Fund impact, it is merely the authority to spend the Cash Fund. I move its advancement.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Any discussion? Seeing none, those in favor of the advancement of 272A to E & R Initial please vote aye, opposed nay. Have you all voted? Please record.

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of 272A.

SPEAKER BARRETT: LB 272A is advanced. Moving to Select File committee priorities. Mr. Clerk.

CLERK: Mr. President, LB 651 is on Select and I have Enrollment and Review amendments, first of all, Mr. President.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 651.

SPEAKER BARRETT: Shall the E & R amendments to 651 be adopted? All in favor say aye. Opposed no. Carried. They are adopted.

CLERK: Mr. President, I now have an amendment from Senators Hall, Withem and Warner to LB 651, AM1910, copies are being distributed to the members.

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Mr. President, I would yield to Senator Warner.

SPEAKER BARRETT: Senator Warner, on the amendment to 651.

SENATOR WARNER: Mr. President and members of the Legislature, this is, being handed out to you, a distribution of student

scholarships and what the bill...the amendment does, it establishes two scholarship programs. The one program I suppose could be most accurately described briefly as similar conceptually to the way LB 651 is now. The other scholarship program is conceptually similar to what has been done in the past, that is based on previous year Pell grants. In order to accomplish, though, a hold harmless position for those students attending public institutions, the A bill will need to be increased by 250,000. What is now being handed out to you is the calculations which show the percent of distribution to each of the different types of systems and the results if 250,000 is not added. There were other options that we have looked at, talked about. Some of those would require substantially more than the 250,000, if one wanted to have a hold harmless cause. The other important thing I should point out, too, included in the amendment is that as increases are made in these two funds for scholarship programs, those increases are to be equal in both scholarship programs, which would be required by the statutory provisions of the amendment. I suspect this is the kind of thing that those of us who might perceived to be, at least, on two different sides have both given into what probably is a reasonably equitable treatment for students, whatever choice of institution they are making. If I have any time left, I would give it to Senator Withem.

SPEAKER BARRETT: Senator Withem.

SENATOR WITHEM: Yes, Senator Barrett. In some ways...I thank you, Senator Warner, for the additional time. In some ways I am sorry this happened because we were having such a good time fighting about this issue and now we will get this issue resolved in maybe 15 minutes as opposed to taking all morning on it, and I apologize for that to those of you who were looking forward to working in your offices while we were fighting about this. This is a, I think, a good approach towards this issue. It is one that probably you are not going to see all sides ever satisfied with. There will be those that think that most of the money that goes into the scholarship programs should go to students that attend private institutions because we spend so many tax dollars on public institutions. Then there will be those on the other side who feel equally strongly that those people made a choice to go to private institutions and it is not the state's responsibility to even support those institutions indirectly. It is one of those issues where the feelings run so deeply that you are going to have dissatisfied people on both

sides, but I think this set of amendments do a couple of things that I think are very worthwhile. Number one, it tends to answer most of the concerns of most people on both sides. Senator Warner had a very real legitimate concern about maintenance of effort, and by creating the two programs, we are able then to deal with the maintenance of effort approach. There were some concerns that if we had two different programs, then the Legislature through the Appropriations Committee would simply recommend funding for one program that is favorable to the publics over the one that is favorable to the privates, and we have a provision here indicating that, in Section 30 of the bill, that the two programs will be funded substantially equal amounts, and it otherwise would then become a violation of the statute, and I would not just say it is not intent language, it goes into the statute. What we are doing is the program that many of you maybe were lobbied on in LB 468 that set up the separate program, and the way 468 was originally written, the lion's share of the dollars would be appropriated to that fund and, frankly, they would be appropriated in a manner probably preferable to...favorable to the public schools. That portion of the bill is put in; also some changes in 651 to lock into the statute a distribution formula that was proposed, substantially proposed by the independent schools. I think it is a good way of resolving this issue. It is one that takes an inordinate amount of legislative time, particularly when you look at the total numbers of dollars involved with this, so I think it is a good idea, and I would urge you to adopt this. Being this is Senator Hall's original time, I would cede back any time that he may...to him more time than he may wish to use.

SPEAKER BARRETT: About 3 1/2 minutes, Senator Hall.

SENATOR HALL: Thank you, Mr. President and members. The amendment before you as has been stated by both Senator Withem and Senator Warner is a compromise proposal that the three of us agreed on. Now you may be lobbied by the independents who I brought LB 651 to the body for, and they are not very happy with the proposal that is before you, but at this point in time, I am willing to support this amendment that Senator Withem, Senator Warner, and myself have come to terms on because of, specifically, the things that both of those gentlemen have pointed out. The increased funding does hold the individuals harmless with regard to the public institutions. There is an influx of an additional \$117,000, roughly, a little over that, into the private independent sector, and there is put into

statute provisions with regard to the SSIG monies, the funding formula that I think was the original intent of that program when it was established in law 11 years ago. The first or the division with regard to two separate programs, two separate funding formula, has always been the crux to the issue. I am willing to let that work and to see how that operates for a couple of years, and if, at some point down the road, that that does not work in a fair and open manner, I think it will, but if it doesn't, then I guess I will be back and try to address it at that time, but I think now it is time to put this issue behind us, adopt this amendment that allows for a shift, and a shift to a great extent, virtually half of the \$250,000 of additional monies will flow into the independents. I think it is due them based on the Attorney General's opinion that was rendered in relation to the way the commission had been handling this issue, and I think what we do is we resolve this issue for today, and should it be necessary to take it up in the future, fine, we will always be around to do that, I guess, someone will. But at this point in time, I think that this is a compromise that both sides should live with. Thank you.

SPEAKER BARRETT: Thank you. Senator Warner, your light is on, followed by Senators Moore, Hall, and Nelson.

SENATOR WARNER: Yeah, Mr. President and members of the Legislature, a thought occurred to me. There is one other point that would not be shown on the handout. This only deals with the General Fund distribution. All of the federal funds would be distributed under the program that is I guess described more favorable for the independents. So, they also would have additional federal funds than what they currently have if this amendment is adopted, but the General Fund distribution, which is the only thing the state would have any control over, is as portrayed on the sheets here.

SPEAKER BARRETT: Senator Moore.

SENATOR MOORE: Yes, Mr. Speaker and members, like I said yesterday, you know, in this business, nobody gets everything, nobody gets nothing. Eventually, everybody gets something. In this case, that is finally what we have agreed on here and I compliment Senators Hall, Withem and Warner for coming to the table because, obviously, if you'd have passed LB 651, in the public sector's mind, they would have got nothing. If you'd have passed LB 468 in its pure form, the private sector would

have felt that they would have got nothing and the other side got everything. With this agreement, we, basically, we're going to do all of 651, we are going to get the bill passed, and, most importantly for me, we are going to increase tuition assistance to the tune of a quarter of a million dollars and get that figure up to \$2 million in the State of Nebraska. I think it is important that we mention that we are far from finished on trying to add money to these particular programs. I think the goal we had a few years ago was to try to get to \$5 million. That still is my goal but, obviously, if we'd have just sat here this session and battled it out with each side trying to get everything and denying the other side anything, we would have gotten no additional money into this program. Fortunately now we are going to increase it, and with the language in Section 30 of the bill, we have some very strong language there that as we continue to increase this, hopefully, in the years to come, we are going to increase it in the different programs in proportionate amount, and now maybe that we finally got our little squabble solved for the time being, in the years to come, we can add to this fund and set it on a more acceptable level, in my opinion, in comparison to the other states as we try to address the problem of tuition assistance to the students in both the public and private sectors. And so with that, as I said, I know not everyone is happy with this particular amendment but I think it is the best all sides can do, and most importantly, the best beneficiary of all is all of the students in the State of Nebraska, because they all are going to get a little bit. With that I simply move for the adoption of the Warner, Withem, Hall amendment. Hopefully, we will get that attached to this bill and then the corresponding amendment to increase by \$250,000 the appropriation to this all-important program.

SPEAKER BARRETT: Senator Nelson, please.

SENATOR NELSON: The question.

SPEAKER BARRETT: That won't be necessary. We have only one other light and I presume Senator Warner is prepared to close. Thank you. Senator Warner.

SENATOR WARNER: Mr. President, first, I thought this sheet was General Funds, this is total funds, state and federal, that was handed out. I indicated differently, so it would be the total picture, but I would just move the adoption of the amendment. I

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think it has been described as a reasonable compromise but I do, again, want to indicate that to make it work so that no institutions receive less, the A bill needs to be increased by 250,000.

SPEAKER BARRETT: The question is, then, the adoption of the amendment offered by Senators Hall, Withem and Warner to LB 651. Those in favor vote aye, opposed nay. Voting on the advancement of 651. I am sorry, the amendment to 651. Please vote if you would care to vote. Please vote if you would care to vote. Record, please.

CLERK: 25 ayes, 5 nays, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: The amendment is adopted.

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

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Mr. President, I would move that LB 651 be advanced to E & R for Engrossing.

SPEAKER BARRETT: Any discussion? If not, those in favor say aye. Opposed no. The ayes have it. The motion carried. The bill is advanced. The A bill.

CLERK: Mr. President, LB 651A, I have no E & R. I do have an amendment to the bill from Senators Hall, Withem and Warner. The amendment is on page 2496 of the Journal, Mr. President.

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Mr. President, this is the amendment that Senator Warner alluded to to the A bill that would increase it by the \$250,000 figure so that the distribution formula that would be put in place by the amendment that was just adopted to 651 would not have any detrimental effect on any of the public institutions that were receiving SSIG monies under the old formula. I would urge the adoption and yield any time to Senator Warner.

SPEAKER BARRETT: Any discussion? Senator Warner, please.

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LB 89, 137, 137A, 211, 215, 228, 279
289, 289A, 352, 639, 651, 651A, 761A
762A, 815A, 817A

Teachers buy books. Teachers buy supplies for kids that don't have them. They take money right out of their own pockets and give it to kids. And so it's...I guess that's one of the reasons why I feel very strongly about giving the money directly to teachers. Senator Warner's remarks struck a chord with me and reminded me of all the contributions that I know that individual teachers make to kids. And so I would urge us to get on with it. Let's pass this bill. It's time we did something for teachers.

SPEAKER BARRETT: Senator Schellpeper.

SENATOR SCHELLPEPER: I will give my time to Senator Moore.

SPEAKER BARRETT: Senator Moore.

SENATOR MOORE: Yes, Mr. Speaker. just to say I guess it's time to withdraw this. I apologize to the...to the original supporters of this bill, at least, because I think some of them wanted to read it tonight and because if my amendment was adopted, they couldn't, but I think it makes it a better bill, obviously, a bill that I can now support and I think there has been some fights among some varying entities on this bill. I think now we've got a bill that really does help education in the state. And, with that, I withdraw the amendment. The last things I will say on LB...the last things that all of us will say on LB 89 and come Monday we'll pass the bill over to the Governor.

SPEAKER BARRETT: Thank you. It is withdrawn. Anything further, Mr. Clerk?

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

SPEAKER BARRETT: Yes, for the record.

CLERK: Mr. President, amendments to be printed, Senator Scofield to LB 761A; Senator Chizek to LB 279. (See pages 2546-47 of the Legislative Journal.)

Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 137, LB 137A, LB 211, LB 215, LB 228, LB 289, LB 289A, LB 352, LB 639, LB 651, LB 651A, LB 761A, LB 762A, LB 815A and LB 817A, Mr. President. (See pages 2548-50 of the Legislative

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LB 588, 651, 651A, 695

of the Legislative Journal.) Vote is 26 ayes, 17 nays, 6 present and not voting, none excused, Mr. President.

PRESIDENT: LB 588 passes. LB 651 with the emergency clause attached.

ASSOSTAMT CLERK: (Read LB 651 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 651 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read as found on pages 2711-12 of the Legislative Journal.) Vote is 49 ayes, 0 nays, Mr. President.

PRESIDENT: LB 651 passes with the emergency clause attached. May I introduce some guests, please, in the north balcony? Senator Morrissey has 45 third and fourth grade students from the Johnson-Brock School at Johnson and their teachers. Would you folks please stand and be recognized by the Legislature, students and teachers both? Thank you for visiting us today. Senator Wehrbein has a couple of guests in the north balcony, Laura Cutter, Laurie and Connie and Melissa of Nebraska City. Would you folks please stand and be welcome. And thank you for visiting us today. LB 651A with the emergency clause attached.

ASSISTANT CLERK: (Read LB 651A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 651A pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read as found on pages 2712-13 of the Legislative Journal.) Vote is 48 ayes, 0 nays, 1 present and not voting.

PRESIDENT: LB 651A passes with the emergency clause attached. LB 695, please.

ASSISTANT CLERK: (Read LB 695 on Final Reading.)

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LB 525, 566, 588, 651, 651A, 695, 706
781

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 695 pass? All those in favor vote aye, opposed nay. Have you all voted at least once? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read as found on page 2713 of the Legislative Journal.) Vote is 46 ayes, 1 nay, 2 present and voting, Mr. President.

PRESIDENT: LB 695 passes. LB 706 with the emergency clause attached.

ASSISTANT CLERK: (Read LB 706 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 706 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read as found on page 2714 of the Legislative Journal.) Vote is 46 ayes, 0 nays, 3 present not voting, Mr. President.

PRESIDENT: LB 706 passes with the emergency clause attached. Senator Robak has some visitors in the north balcony. I believe they're just leaving. Have 19 eighth grade students from Holy Name School at Lindsay, Nebraska, and their teacher. Wave to us so that we can recognize you folks. Thank you for visiting us today. LB 781 with the emergency clause attached.

ASSISTANT CLERK: (Read LB 781 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 781 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read as found on page 2715 of the Legislative Journal.) 44 ayes, 3 nays, 2 present not voting, Mr. President.

PRESIDENT: LB 781 passes with the emergency clause attached. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 525, LB 566, LB 588, LB 651, LB 651A, LB 695, LB 706, LB 781. Mr. Clerk.

May 24, 1989 LB 95, 132, 134, 158, 158A, 175, 175A, 182, 182A
183, 183A, 198, 228A, 228, 261, 261A, 280, 283
285, 285A, 302, 303, 303A, 305, 309, 309A, 310
312, 312A, 335, 335A, 340, 340A, 469, 525, 566
588, 651, 651A, 695, 706, 727, 781, 816, 816A

PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber. We have with us on our closing day as our Chaplain, Reverend Harland Johnson. Would you please rise for the invocation.

REVEREND HARLAND JOHNSON: (Prayer offered.)

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

PRESIDENT: Do we have any corrections this morning?

CLERK: Mr. President, one small correction. (Read correction found on page 2719 of the Legislative Journal.)

PRESIDENT: Okay, do you have any messages, reports, or announcements today?

CLERK: Mr. President, I do. I have a series of communications from the Governor. First of all, Mr. President, the last few bills read on Final Reading yesterday afternoon have been presented to the Governor as of 2:48 p.m., yesterday. (Re: LB 525, LB 566, LB 588, LB 651, LB 651A, LB 695, LB 706, LB 781. See page 2720 of the Legislative Journal.)

Mr. President, a series of communications from the Governor. (Read. Re: LB 228A.) A second communication to the Clerk. (Read. Re: LB 134, LB 158, LB 158A, LB 175, LB 175A, LB 182, LB 182A, LB 198.) A third communication. (Read. Re: LB 95, LB 261, LB 261A, LB 280, LB 283, LB 303, LB 303A, LB 312, LB 312A.) A fourth communication, Mr. President, to Mr. President, and Senators. (Read. Re: LB 183, LB 183A.) A fourth, Mr. President, to the Clerk. (Read. Re: LB 132, LB 285, LB 285A, LB 302, LB 305, LB 309, LB 309A, LB 310, LB 335, LB 335A, LB 340, LB 340A, LB 469, LB 727, LB 816, LB 816A.) The last letter I have received, Mr. President, with respect to signing of bills. (Read. Re: LB 228. See pages 2720-22 of the Legislative Journal.)

SENATOR CHAMBERS: I understand wood against wood. Mr. Chairman and members of the Legislature, this is an amendment that is not going to cost the state any money whatsoever, it's only intent language. And if you turn to page 1325 of the Journal, you will see it. But I'm going to read it into the record. But I will tell you what it attaches to. Yesterday we added \$125,000 to each of two student aid programs, one the Scholarship Assistance Program, the other the State Scholarship Award Program. Both are need based. If you cannot establish substantial financial aid, you cannot qualify for the programs. So I think there is no category of student having established this need who ought to be denied this aid as a condition to participating in intercollegiate athletics. So what my amendment says is the following. "In the distribution of any funds appropriated under this section to Program No. 300, Scholarship Assistance Program and Program No. 301, State Scholarship Award Program, there shall be no discrimination against any student in the awarding or withholding of aid based on participation or nonparticipation in any intercollegiate athletic program or activity." Both of those programs contain findings by the Legislature and intent language. The most recent bill passed pertaining to these programs was last year, 1989, and the bill number was LB 651. It passed without a dissenting vote, 48 to 0, and that bill contains those findings which indicate that these two programs are designed to give access to higher education to all of the citizens of this state, that those who, because of financial difficulties, may not be able to go to school will be enabled or assisted by virtue of these two programs, such being the underlying basis for the programs, in other words, demonstrated financial need. I think there should be no allowance for any discrimination. So I'm asking that this intent language be added.

SPEAKER BARRETT: Thank you. Discussion? Senator Warner.

SENATOR WARNER: Mr. President and members of the Legislature, my comments and perhaps Senator Chambers will want to react to them if he chooses to do so. But I would only point out first that Senator Chambers indicated this was to be interpreted as legislative intent and that certainly is done from time to time during an appropriation bill and I assume it is not meant to be substantive statutory language on that basis. Whether or not...if this is put into the appropriation bill and it is...funds, of course, are appropriated to the Coordinating Commission that subsequently do the distribution which is