

Commission for Postsecondary Education, again, filed pursuant to statute; a report from the Nebraska Games and Parks Commission filed pursuant to statute; the annual report of the Division of Telecommunications; a communication from a series of Natural Resources Districts, Mr. President, with respect to payment of attorneys fees incurred during this past year. (See pages 88-89 of the Legislative Journal.)

Mr. President, I have a series of appointment letters from the Governor, appointments to the Board of Health, to the Rural Health Manpower Commission, the Foster Care Review Board, the Job Training Council, the Oil and Gas Conservation Commission. Those will all be referred to Reference for referral to the appropriate Standing Committee, Mr. President. (See pages 89-97 of the Legislative Journal.)

Finally, I have received a communication with respect to the siting for the low-level radio active waste disposal facility. That communication was received from US Ecology, Mr. President. (See page 88 of the Legislative Journal.) All of those reports will be on file in my office subject to review by members upon their request. That is all that I have, Mr. President.

PRESIDENT: Thank you. (Gavel.) Ladies and gentlemen, we're ready to begin the introduction of bills and some of you I understand would like to hear what the bills are about, so while I don't wish to spoil your fun and visitation with each other, kindly hold it down so that those that wish to listen to the introduction of the bills may do so. We anticipate that this will probably go on until about noon and, of course, free to do whatever you would like to do. Thank you. Mr. Clerk, the introduction of bills.

CLERK: Mr. President, new bills: (Read by title for the first time, LBs 818-878. See pages 97-109 of the Legislative Journal.)

I have amendments to be printed from Senator Rod Johnson to LB 163, LB 39, LB 37. (See pages 110-14 of the Legislative Journal.)

Mr. President, new bills. (Read by title for the first time, LBs 879-922. See pages 114-23 of the Legislative Journal.)

Mr. President, I have new resolutions: (Read brief description

January 4, 1990

LB 818-880
LR 230

PRESIDENT NICHOL PRESIDING

PRESIDENT: Good morning, ladies and gentlemen, welcome to the George W. Norris Legislative Chambers. We have with us this morning as our Chaplain of the day, Pastor Robert Nowak of the Faith Evangelical Lutheran Church in Lincoln, Nebraska. Would you please rise for the invocation.

PASTOR NOWAK: (Prayer offered.)

PRESIDENT: Thank you, Pastor Nowak, we appreciate your being here this morning and announcing the invocation. Please come back and visit us again. Roll call, please.

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

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

CLERK: Mr. President, I do. I have a reference report referring LBs 818-880, signed by Senator Labeledz as Chair of the Reference Committee. I have also a reference report regarding certain gubernatorial appointments made since the last special session. That's all that I have, Mr. President. (See pages 135-37 of the Legislative Journal.)

PRESIDENT: We'll move on to number four, the temporary rules.

CLERK: Mr. President, I have a motion. Senator Lynch as Chair of the Rules Committee would move that the rules be adopted for today only, January 4.

PRESIDENT: Thank you. Senator Lynch.

SENATOR LYNCH: Mr. President, members, I couldn't have said it any better. I move the adoption of the (inaudible)...

PRESIDENT: Thank you. Is there any discussion? You've heard the motion. All in favor say aye. Opposed nay. They are adopted. We'll move on to the legislative resolutions, LR 230. Mr. Clerk.

CLERK: Mr. President, LR 230 was introduced by Senator Withem. It is found on page 124 of the Legislative Journal. (Read brief

January 9, 1990

LB 534, 747, 840, 843, 845, 895, 911
913, 935, 960, 1014, 1060

SPEAKER BARRETT: Senator Haberman.

SENATOR HABERMAN: Mr. President, I request a call of the house.

SPEAKER BARRETT: A call of the house has been requested. Those in favor of the house going under call please vote aye, opposed nay. Record, please.

CLERK: 26 ayes, 1 nay to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, please return to your seats and record your presence. Those outside the Legislative Chamber, please return. Senators Ashford and Lindsay, Senators Chambers and Scofield, the house is under call. Senators Chambers and Scofield, the house is under call. Senator Chambers, please check in. All present and accounted for. Request for a roll call vote and the question again before the house is the adoption of the bracketing motion. Mr. Clerk, proceed with the roll call.

CLERK: (Roll call vote taken. See pages 235-36 of the Legislative Journal.) 25 ayes, 16 nays, Mr. President, on the adoption of the bracket motion.

SPEAKER BARRETT: The ayes have it. LB 747 is bracketed to a day certain. The call is raised. Any bills to read in, Mr. Clerk.

CLERK: Yes, sir, I do. Mr. President, new bills. (Read for the first time by title: LB 1060. See page 237 of the Legislative Journal.)

Mr. President, I have notice of the Education Committee for the week of January 16, and again for January 22 and 23. That is offered by Senator Withem. (Re: LB 845, LB 935, LB 1014, LB 843, LB 895, LB 960, LB 913, LB 840, LB 911.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Proceeding then to item seven on the agenda, 1989 Speaker priority bills beginning with LB 534, Mr. Clerk.

CLERK: Mr. President, LB 534 was a bill introduced by Senator Withem and Senator Barrett. (Read title.) The bill was introduced on January 18 of last year, at that time referred to

January 26, 1990

LB 87, 843, 845
LR 247

PRESIDENT NICHOL PRESIDING

PRESIDENT: We have with us this morning Pastor Doug Olsen as our chaplain of the day. He is with the Sheridan Lutheran Church in Lincoln. Would you please rise for the invocation.

PASTOR OLSEN: (Prayer offered.)

PRESIDENT: Thank you, Pastor Olsen, we appreciate your being here this morning. Please come back. Roll call, please.

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

PRESIDENT: Thank you. Any corrections this morning?

CLERK: No corrections, Mr. President.

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

CLERK: Mr. President, your Committee on Education, whose Chair is Senator Withem, to whom was referred LB 843, instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with committee amendments attached; LB 845, General File with committee amendments attached, both signed by Senator Withem as Chair. (See pages 515-16 of the Legislative Journal.)

I have two appointment letters from the Governor. Those will be referred to Reference Committee for referral to Standing Committee for confirmation hearings. Received a report from the Department...Nebraska Energy Office and the Nebraska Investment Council, both will be on file in my office, Mr. President. That's all that I have, Mr. President.

PRESIDENT: Ladies and gentlemen, may I direct your attention to the north balcony. Our doctor of the day is Dr. Donald Larson of Lincoln. Would you please welcome him to our midst and thank him for his services today. Thank you. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LR 247. Would you please return to your seats, ladies and gentlemen, we're about to begin Final Reading. (Gavel.) Would you please return to your seats so we can begin Final Reading. Please return to your seats so we can begin. Mr. Clerk, LB 87.

February 2, 1990

LB 42, 164, 632, 750, 794, 831, 841
843, 861, 881, 902A, 925, 932, 952
956, 1028, 1059, 1219
LR 250

CLERK: Mr. President, I do. Revenue Committee, whose Chair is Senator Hall, reports LB 831 to General File; LB 932, General File; LB 1219, General File; LB 952, General File with amendments; LB 1028, General File with amendments; LB 750, indefinitely postponed; LB 794, indefinitely postponed; LB 841, LB 861, LB 881, all indefinitely postponed. Signed by Senator Hall as Chair. (See pages 648-49 of the Legislative Journal.)

Amendments to be printed by Senator Hefner to LB 1059; Senator McFarland to LB 632; Senator Ashford to LB 164; Senator Withem to LB 843; Senator Moore to LB 925; Senator Wesely and Schmit to LB 956. (See pages 649-55 of the Legislative Journal.)

Mr. President, LR 250 offered by Senator Withem. (Read brief description of LR 250 as found on pages 655-56 of the Legislative Journal.) That will be referred to the Executive Board.

Mr. President, new A bill, LB 902A by Senator Hall. (Read by title for the first time as found on page 656 of the Legislative Journal.)

Mr. President, Senator Kristensen has designated LB 42 as his priority bill for the session.

And, finally, Mr. President, a report has been filed by the Appropriations Committee pursuant to Rule 8, Section 3, of our rules. I believe copies of the report have been distributed to the members. That's all that I have, Mr. President.

SENATOR HANNIBAL: You have before you a motion to adjourn until Monday morning at 9:00 a.m. All those in...excuse me. All those in favor say aye. Opposed nay. We are adjourned.

Proofed by:

La Vera Benischek
LaVera Benischek

February 7, 1990

LB 551, 843, 901, 958, 1007, 1039, 1071
1087, 1105, 1119, 1133, 1243
LR 253

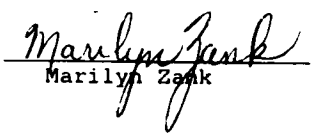
registered lobbyists for the present week. New bill. (Read LB 1243 by title for the first time.) New resolution. (Read brief summary of LR 253.) Your Committee on Retirement, whose Chairperson is Senator Haberman, reports LB 1105 to General File; LB 1039 to General File with amendments. Committee on Transportation reports LB 1119 to General File; LB 958, General File with amendments; LB 1007, indefinitely postponed; LB 1071, indefinitely postponed; LB 1087, indefinitely postponed; LB 1133, indefinitely postponed. Senator Baack would ask to name LB 843 as a priority bill. Senator Abboud offers explanation of vote on the bills that were read on Final Reading this morning. And unanimous consent request to add names, Senator Byars to LB 551, Senator Kristensen to LB 551 and Senator Chambers to LB 901. That's all that I have, Mr. President. (See pages 717-24 of the Legislative Journal.)

SENATOR HANNIBAL: Thank you. Senator Byars, for what purpose do you rise?

SENATOR BYARS: Mr. President, I would move that we adjourn until Monday, February 12, 1990, at 9:00 a.m.

SENATOR HANNIBAL: You've heard the motion. Those in favor say aye. Opposed same sign. We are adjourned.

Proofed by:


Marilyn Zank

March 6, 1990

LB 226, 843, 1059

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

CLERK: 12 ayes, 0 nays to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, please return to your desks and record your presence. Those outside the Chamber, please return and record your presence. The house is under call. Senator Labedz, would you record your presence. Senators Ashford, Landis, Lindsay, Chambers, Goodrich, Korshoj. Senators Schellpeper, Schmit and Wesely, the house is under call. Senator Robak, would you check in, please. Senator Chambers, Senator Schmit. Senator Landis, please check in. Senators Schmit and Chambers, the house is under call. Apparently Senator Schmit is on his way, Senator McFarland. Senator Chambers is not...cannot be located. May we proceed?

SENATOR MCFARLAND: Yes.

SPEAKER BARRETT: You did request a roll call?

SENATOR MCFARLAND: Yes.

SPEAKER BARRETT: Thank you. The question is the advancement of LB 226 to E & R initial. Mr. Clerk, call the roll.

CLERK: (Roll call vote taken. See page 1196 of the Legislative Journal.) 19 ayes, 18 nays, Mr. President, on the advancement.

SPEAKER BARRETT: Motion fails. The call is raised. Anything for the record, Mr. Clerk?

CLERK: I do, Mr. President. Mr. President, amendments to be printed from Senator Baack to LB 843; Senator Byars to LB 1059; Senator Withem to LB 1059. That's all that I have, Mr. President. (See pages 1197-98 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. Senator Dierks.

SENATOR DIERKS: Mr. Speaker, members of the body, I would move that we adjourn until 9:30 a.m., March 7th.

SPEAKER BARRETT: I believe the motion was to adjourn until nine o'clock?

March 8, 1990

LB 183, 642, 843, 1031, 1059
LR 239, 277

please. We're having a roll call vote on the advancement of the bill. If you'd hold it down so the Clerk can hear your response, please, we'd appreciate it. Mr. Clerk.

CLERK: (Read roll call vote. See page 1284 of the Legislative Journal.) 21 ayes, 21 nays, Mr. President, on the advancement of the bill.

PRESIDENT: The bill fails to advance. Anything for the record at this time, Mr. Clerk?

CLERK: I do, Mr. President.

PRESIDENT: The call is raised.

CLERK: Mr. President, new resolution by Senator Robak. (Read brief description of LR 277. See page 1285 of the Legislative Journal.) That will be laid over.

Amendments to be printed to LB 1031 by Senator Chambers. (See page 1285 of the Legislative Journal.) Senator McFarland to LR 239 and Senator McFarland to LB 1059, Mr. President. (See pages 1285-88 of the Legislative Journal.) That's all that I have.

PRESIDENT: Thank you. We'll move on to LB 843.

CLERK: Mr. President, 843 was a bill originally introduced by Senator Baack. (Read title.) The bill was introduced on January 3 of this year, Mr. President, at that time referred to the Education Committee. The bill was advanced to General File. I do have committee amendments pending by the Education Committee.

PRESIDENT: Move on to LB 843, please. Senator Withem, are you handling the committee amendments?

SENATOR WITHEM: Yes, I will, Mr. President. LB 843 is a bill brought to us by Senator Baack. It deals with some of the things we learned last summer when we did the study on the impacts of the enrollment option legislation that was passed last year. If you remember LB 183 that we passed last year, made Nebraska one of four states to pass the choice legislation. Part of that legislation involved a study that the Education Committee was to conduct. Primarily under the leadership of

Senator Baack, we did travel around the state, received input. I know he had many meetings with many people over the summer and we did discover some things that needed to be changed in the Open Enrollment Act. Primarily because this bill was drafted by Senator Baack and his office, there are some needs for some improvements in the bill. So that's what the committee amendments do. They are primarily clarification in nature, clarifying that the choice period for a parent is September 1st through January 1st, that the proration of the reimbursement option districts is based on enrollment, not on actual attendance. Those are difference that make...they're like tax liability and tax receipts, they make a big difference to the people that administer the programs and we got the wrong one referenced here, and those kind of things. They are purely technical in nature and I would urge you to adopt the committee amendments. I do have one that is slightly more than...more than clerical in nature which I will be offering as an amendment to the committee amendments.

PRESIDENT: We have an amendment to the committee amendments. Shall we take those up now? Okay, Mr. Clerk.

CLERK: Mr. President, Senator Withem's amendment to the committee amendments is on page 651 of the Journal.

PRESIDENT: Senator Withem, please.

SENATOR WITHEM: Okay, the amendment to 843 that is on page 651, this is a problem, frankly, in the original drafting of the choice legislation. It was brought to our attention by Jim Cunningham from the Nebraska Catholic Conference. If you remember last year, we made to eliminate shopping around via school districts, we made it clear that they only had one choice. They could...a student could choose or a parent could choose to send a student to a district other than the student's own once. They could make that choice once and then at the conclusion of that they had to, if a student didn't like that choice, the only option they had was to go back to their home district. A very literal reading of that would take away the option of that student who had gone to a neighboring district, decided they didn't like that neighboring district but wanted to then attend a private school, a parochial school, that they wouldn't be able to do that. Now this amendment gives them what we all know is their right to attend, using their own money, using their own expenses, to opt out of the public system into

the private system. Some people from NSEA read this amendment and were concerned that somehow we were, by this amendment, we were opening up the choice option to be one where public dollars would follow students into private schools. Doesn't do that at all. Does not do that at all. What it does though, it preserves the right that everybody in the state has to, if they don't like the public school they're going to, to opt into, by paying their own tuition or their parents paying tuition or getting scholarships or some other form to attend a private school. A literal reading of Section 79-3406 might lead someone to believe that the only thing they could do after they had gone to an option district and they didn't like it is go back to their home school district. This is clarification in nature. It should have been in the committee amendments but we didn't get it drafted into the committee amendments. Would urge you to support this amendment.

PRESIDENT: Thank you. Senator Hefner, did you wish to speak about this? Senator McFarland, did you wish to speak about the amendment to the amendment?

SENATOR MCFARLAND: No, thank you.

PRESIDENT: How about Senator Hall? Senator Nelson, the amendment to the amendment? Senator Baack. No. Senator Withem, do you want to close on the amendment to the amendment?

SENATOR WITHEM: No, thank you.

PRESIDENT: Okay. The question is the Withem amendment to the committee amendment. Is that correct? All right. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 14 ayes, 0 nays, Mr. President, on Senator Withem's amendment to the committee amendments.

PRESIDENT: It is adopted. Do you have another one, Mr. Clerk?

CLERK: Mr. President, Senator Baack would move to amend the committee amendments.

PRESIDENT: Senator Baack, please.

SENATOR BAACK: Yes, Mr. President and colleagues, I am going to explain a little bit what 843 does before I talk about my

specific amendment, because we do need some of this background information. As Senator Withem has stated, when we passed LB 183, the open enrollment bill last year in the Legislature, part of that bill on an amendment put in by Senator Schellpeper was that we would do a study of the...and take some hearings around the state, which we did last fall. We had four hearings around the state. They were attended by approximately 800 people across the state. We had excellent hearings, I think, and got a lot of good input from the people at these hearings. That is what 843 is meant to address is those concerns that they had. And, first of all, 843 is going to change the funding mechanism because many schools felt that there were not...there were not enough dollars transferring with these students to allow them to properly educate those students. So we're going to change that in 843. The funding mechanism of 843 is meant to tie in very well with LB 1059 which we have already talked about. And what it does is it would transfer an amount equal to the statewide average per pupil cost or the district's per pupil cost, whichever is less, that is the amount of money that would transfer with an open enrollment or choice student. This...and under LB 1059 we are considering that if 1059 is going to pass, and I'm assuming that it will, then this would just be part of the way that those funds in 1059 would be distributed. They would just be part of that...part of that distribution formula. So, in the bill, we tried to make it very clear that any monies that they receive for an option enrollment student will be...will be called an accountable receipt and also an expenditure of equal amounts so that it's an absolute wash, so that there are no equalization funds that would go with option enrollment students. They would receive purely their cost per pupil or the statewide average cost per pupil and no more dollars for that. That would not enter into their equalization part of their formula. We also had to make a couple of changes in the way that we do the special education funding just because we're changing the dollar amounts and changing the way that we're going to fund the rest of the bill. We had to make the changes in the special education funding to correspond with those. We do that. Another criticism of the open enrollment was that some students would not be able to take advantage of it because transportation would not be available to them to transfer to other districts, thus making it more of an elite kind of system. In an effort to try and address that, I have put in this bill that there is available through the state transportation based on need and need is based on the same thing that the schools now have the statistics to base need on free or

reduced price lunches. If people are going to transfer and their...and their families fit into those categories, they can also apply for some transportation aid from the state. It also gives another option to someone who transfers into a Class I district because there are people who do want to transfer into the smaller districts from larger districts and then when that Class I district, at the end of their grade level that they offer or at the...upon completion of the grades that they offer, then this student would be given one more option to attend where they're going to go to school for the rest of their...for the rest of their grades. This simply gives another option that would...that makes it more attractive for people to option into Class I schools, which I think is a good idea. We also define "capacity" and that was something that they wanted. They wanted a better definition of "capacity." We define that as being the capacity of the classroom, the capacity of the programs to handle option students. Last year Senator Withem put in a provision that said the schools couldn't advertise. They couldn't advertise what they had available. This was very confusing to school districts. They said, well, what are we allowed to do? If we have good programs, are not we allowed to tell people that we have these good programs? So, with Senator Withem's permission, I am taking out those provisions. We are going to allow schools to advertise what they have and what they have to offer to students and this is going to clear that up for them. The other thing that came under a lot of criticism was the one-year athletic ineligibility that we put into the bill. And, if you recall, that was put in by the body, over my objection. I didn't care for that. I didn't want that one-year ineligibility. I would have preferred that the School Activities Association govern ineligibility if they're making it for athletic reasons. That's what the schools would also prefer. They would prefer...the School Activities Association said they are willing to take on that responsibility and they will govern what happens if they think that a student is transferring for athletic reasons only, that student would then be ineligible for 90 days, which is what covers all kinds of transfers now. So I think it makes it much easier for them to govern because the big question that came up, because in the original bill it said if school districts wanted to waive that ineligibility, they could do that, because there was a one-year ineligibility, but if both school districts agreed to waive that, then would the child still be eligible for athletics? And the answer had to be, no, because the School Activities Association still had a 90-day ineligibility rule sitting behind

that and we can't preclude those. So I think it's better for them to govern the ineligibility for athletic reasons and they are willing to do that. Jim Riley came in and testified at the hearing that they would much prefer that because this makes it too confusing for schools when we have one thing in statute and they have another set of regulations. Their plan is to put in a set of regulations dealing specifically with open enrollment students and I think that we should allow them to do that. Now, we'll get to my amendment. My amendment is purely a clarifying one because it does make sure that when I talk about the funding it makes sure that it clarifies that the amount received and the amount expended are exactly the same so that it's a wash as far as dollars go. It doesn't figure any more of the equalization formula. They accept option enrollment students and their per pupil cost is higher. That doesn't have anything to do with the monies that they will receive. It's only they get so much money and they expend so much money so it's an absolute wash in their books. It also says that there is a little bit of change in the definition of "capacity," because it says that if your school district right now contracts for students and you have existing contracts for students who are coming in, say, for a special ed program or some other program that your school has, you can use those students when you're defining capacity. Because this contract has existed before open enrollment came into place, you can still use those, it's to help some co-ops out there that don't fit under some of our definitions in statute for special ed. But they have been contracting with a number of school districts. They have had a very good co-op that's working very well together. This says you can keep doing that and the school district that's accepting all those students can count those students when they're counting capacity. It doesn't just have to be resident students, it can also be contracted students when you're counting capacity. Oh, there is one other thing that my amendment does and this was a bill that was brought by Senator Lowell Johnson to the Education Committee. And there was a problem in his area where a...there was a...there's an old sta...there's a couple of statutes, a couple of sections of statute which say that a Class VI high school, if a student lives in a Class VI high school and he actually resides closer to another Class VI high school, then he can go to this other Class VI high school and the other district has to pay his expenses. It's only being used in one case that we know of in the state that's in Senator Johnson's district. Both of the schools agreed they would like to have that repealed because they have got a contract between them and it gets confusing as

to the amount of dollars they have to transfer, so this simply repeals those two sections. The Education Committee had a public hearing on this specific issue because we didn't want to do something that there may be some other problems across the state that we would be creating. There was no testimony against the bill. The only districts that came in were the ones that are involved in this specific case in Senator Lowell Johnson's district and so there was no opposition to this. I just agreed with Senator Johnson to put this as part of my amendment to the committee amendments. With that, Mr. Speaker, I would be happy to try and answer any questions that people might have. Thank you.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Thank you. Discussion on the Baack amendment to the committee amendments. Senator Nelson, followed by Senators Baack and Wehrbein.

SENATOR NELSON: Mr. Speaker, I guess just for the record, I think that I will be supporting LB 843. I do have a problem in this respect and I appreciate Senator Baack and the work of the Education Committee and so on and so forth to try to clean up the problems. And my problem still is the fact that the state reimburses, which is state money, the receiving school for these students. I know I have, in my area, and I know most of you do around your small towns or so on, or I will take the area maybe east of Lincoln here as an example. This is not basically the only reason but one of the main reasons that people live in these areas surrounding some of our towns is the fact that they're living in a Class I rural district that may have a tremendous amount of agricultural land and a small subdivision of just simply urban residents. Therefore, they are living out of town a mile or two miles, maybe three miles, but usually two or three, and paying probably maybe 30 percent less on their real estate. Then with this option, they then can go the two miles into town, or the three miles, and have those students educated within the town that they're saving on the real estate dollar and tax and I know we can't get around that. But I have a problem with the state then picking up that reimbursement that in many instances that I can...or one subdivision or two that I know of around Grand Island, it's a 1,000 or \$1,500 less per year on their real estate tax. So I have a little problem by then the state coming around and kind of a being a good Joe and picking up that difference. I guess, just for the record, and I

March 8, 1990

LB 843, 1059

probably will support the bill because I think it is needed but I have a problem with that part of it. I would give some time to Senator Baack if he wants to address that.

SPEAKER BARRETT: Senator Baack.

SENATOR BAACK: Yes, Senator Nelson, we have...we have talked about this numerous times and there are some of those problems out there but if those people are living in a Class I district, under the new amendments that we have here, if they live in a Class I district and that Class I district does not offer certain grade levels, they cannot use the option enrollment program. And if they do use the option enrollment program and they don't offer those grade levels there, the resident district will pay the price, not the state in those cases because we do clear that up in this bill.

SPEAKER BARRETT: Senator Baack, your light is on, did you care to speak to it next? Thank you. Senator Wehrbein.

SENATOR WEHRBEIN: Yes, Mr. President and members, I guess I have a reservation about that same issue and is the fiscal note on this somewhat accurate now, over a million? Is that right, Senator Baack, if you would answer that question?

SENATOR BAACK: Yes, Senator Wehrbein, it all depends on LB 1059. It depends on that more than anything. The fiscal note is a little bit difficult to define on this because we don't know yet how many students are going to actually make the transfer, because, you know, we know how many have applied but we don't know how many are going to be accepted by both districts and we also don't know what level of state aid that each of these districts gets right now. But, under the assumption that...I think the department made the assumption that approximately 200 to 250 of these students would be allowed to transfer and then they just took it times the statewide average per pupil cost and they came up with around a million dollars. That's what it would cost. But, right now, if you notice that the A bill that's following this isn't for...doesn't have that million dollars in it because we're assuming that this will just become part of the distribution formula of LB 1059 if LB 1059 passes. If LB 1059 does not pass, then I will have to change my A bill and reflect that million dollars in the A bill.

SENATOR WEHRBEIN: That's what I...I, frankly, hadn't supported

this earlier, not that I was opposed to the concept, I felt it was coming plenty fast. I do feel that these cleanup amendments are needed to make the bill work now. I acknowledge that, but I am a tad bit frustrated because in order to make this thing hold we're going to throw potentially a million dollars in aid now, assuming LB 1059 which was not around a year ago at this time. And so that's my little bit uncertainty as to what to do here because we are going to increase by a significant amount of money adding to our A bills this year if, in fact, you would have to preclude LB 1059. So I do have a concern in this area that simply to make the bill work we're going to have to throw more state aid to it and I will be listening carefully. If you have any other comments, you may make the comments, Senator Baack.

SENATOR BAACK: Yes, Senator Wehrbein, that's also a concern of mine. But as we went around the state with the hearings, the concern was that...and one of the things that I didn't want to do with choice is I did not want to so harm a resident district's budget that they couldn't make the changes that were necessary to keep offering a good quality education for the students that are left. I think Senator Lamb brought that up last year. And so this was one way to address that. They are going to...they're still going to lose, the local district is still going to lose under this because if they have any kinds of state aid, if they receive state aid in any form, those dollars will come off of the payment that the state makes to them. That's why it's also difficult to define the numbers, the total numbers that go into it. But I have the same concern that you do. But I don't want to...the goal of this thing is to make for better education for all kids in the state and if we hurt the resident districts' budgets too heavily, we might harm some education for some kids and that's why I'm willing to propose this solution to the problem.

SPEAKER BARRETT: Thank you. Senator Lynch. Thank you, that won't be necessary. Senator Baack, would you like to close on the adoption of your amendment?

SENATOR BAACK: Very briefly, Mr. Speaker. I appreciate the questions and I wish that all of you could have been at the hearings. I know a number of senators did attend the hearings as we went around the state and to listen to the input that we had on this bill and I think that we have addressed most of their concerns with this bill and are still continuing to work

March 8, 1990

LB 843

on that. We still have some things that we're dealing with on special education. I may have an amendment on Select File to deal with something on special education, depending on an answer we get back from the US department. But, so far, I think we're doing the right things that we need to do to make the implementation of the open enrollment bill go smoothly. And, with that, I would encourage your adoption of the amendment. Thank you.

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

CLERK: 29 ayes...I'm sorry, 19 ayes, 0 nays, Mr. President, on adoption of Senator Baack's amendment to the committee amendments.

SPEAKER BARRETT: The amendment is adopted. Back to the committee amendments, Mr. Clerk. Is there discussion? Any discussion on the adoption of the committee amendments? Senator Baack, would you care to make any closing statement? Thank you. The question before the body is the adoption of the committee amendments to LB 843. All in favor vote aye, opposed nay. On the adoption of the committee amendments, have you all voted? Have you all voted? Record, Mr. Clerk.

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

SPEAKER BARRETT: The committee amendments are adopted. To the bill itself, Senator Baack, would you care to open?

SENATOR BAACK: Yes, Mr. Speaker, just very briefly. I think what I will do now is I will try and answer any questions anybody has. I pretty much went through the mechanisms that are involved in 843, as we were doing the amendments. I think, with that, I will just turn it over and see if there are any questions that people have on it, then I'll be happy to try and answer those. Thank you.

SPEAKER BARRETT: Thank you. The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President and members of the Legislature, I probably need to...would like to ask Senator Baack a couple

questions maybe, I guess.

SENATOR BAACK: Yes.

SPEAKER BARRETT: Senator Baack.

SENATOR WARNER: This average state per pupil cost, as the bill is drafted, that would be annually determined? Or is there a built in increase, presumed increase from a base year?

SENATOR BAACK: No, it's annually determined.

SENATOR WARNER: So it...okay, so it would vary from time to time. Is there a limit on how many...this is going to be a little farfetched, but is there a limit on how many students after an initial period could transfer out of a school?

SENATOR BAACK: No, there is not.

SENATOR WARNER: Is it conceivable that two school districts could get together and exchange their students a 100 percent and have it be totally funded with the state?

SENATOR BAACK: I suppose it might be conceivable but I don't...

SENATOR WARNER: This could be a fantastic property tax relief bill in that circumstance.

SENATOR BAACK: It certainly could be. Yes, it could be. It could be even more massive than LB 1059 at that point, if they would do that. But I suppose...I suppose in the worst case scenario or best case in their...from their point of view, it could possibly happen, I suppose.

SENATOR WARNER: Well, it was more of a curiosity question, but I didn't think it was possible.

SENATOR BAACK: That is true. They...my...the legal counsel and my staff just reminded me, you cannot count students as the ability to stay open. Choice students cannot be counted in your numbers of your school to stay open so, therefore, if they choiced all of them from each district, each district would be depopulated.

SENATOR WARNER: Would be depopulated.

SENATOR BAACK: They would have no students.

SENATOR WARNER: They would have to maintain a minimum of 70 students, I think, for a K to 12 system now. I don't...it used to be in that vicinity. I don't remember what the population for...you would have to have some left.

SENATOR BAACK: Yeah, you do have to, otherwise you would be depopulated.

SENATOR WARNER: Right. And the other thing, the rationale for tying transportation to the eligibility of school lunch payment, I assume, is a criteria for ability to pay.

SENATOR BAACK: That's correct. That was the easiest mechanism that we knew in existence to somehow have a reference as to ability to pay and it's something that schools have ready access to because those forms and stuff are sent out to every parent.

SENATOR WARNER: That's the federal criteria?

SENATOR BAACK: Yes, it is.

SENATOR WARNER: Right. Okay, thank you.

SPEAKER BARRETT: Any other discussion? Anything further, Senator Baack?

SENATOR BAACK: Yes, Mr. Speaker and colleagues, I do appreciate the questions and I think that the things that we're doing here are the results of the interim study that we did in the hearings that we did around the state. And right when they were coming up I know I felt like, gosh, I wish we didn't have to do these since we had already passed the concept, but I very, very pleased with the hearings and I was very glad that Senator Schellpeper had put that as part of the bill, because it forced me to do those hearings and I think it also allowed the citizens of this state, there were approximately 800 that attended the four different hearings, it allowed them an opportunity to ask the questions and to listen to...we had brought...we brought in some speakers from Minnesota and some from the US Department of Education and we had a school superintendent on and they all gave their views as to how they saw choice being implemented. I think it gave people a much better picture of how the open

March 8, 1990

LB 843A, 843, 1059

enrollment program can function in this state and I think it gave them a much better understanding of it and it also gave them an opportunity to have their input into changes that were necessary. And I think, through 843, we answer most of those problems that they had with choice and I think it's going to work very well as we implement it. So, with that, I would urge your advancement of the bill. Thank you.

SPEAKER BARRETT: Thank you. The question is the advancement of LB 843 to E & R Initial. Those in favor of that motion vote aye, opposed nay. Shall LB 843 be advanced? Have you all voted? Please record.

CLERK: 25 ayes, 0 nays on the advancement of 843, Mr. President.

SPEAKER BARRETT: LB 843 is advanced. The A bill, Mr. Clerk.

CLERK: LB 843A, Mr. President, introduced by Senator Baack. (Read title.)

SPEAKER BARRETT: Senator Baack, please.

SENATOR BAACK: Yes, Mr. Speaker and colleagues, the A bill, as it presently is written, is purely funds for the Department of Education as they implement the open enrollment program. They did, during last summer, they put in an 800 number for people to call in to ask questions about choice, served a very useful purpose. It took a lot of the pressure off of my staff from having to answer a whole lot of questions. And they have done an excellent job in implementing the open enrollment bill. And this just calls for some salaries and some continuation of the funding to implement this legislation. And, as I stated earlier, if LB 1059 does not pass, then at that point I will have to make the adjustments in 843A to reflect the actual cost of the transfers that are taking place. Hopefully, by that time we'll have a better idea of how many transfers are going to actually take place and I will be...if 1059 does not pass, I will be offering the amendment to add the dollars in to implement the open enrollment bill. With that, I would just urge its advancement. Thank you.

SPEAKER BARRETT: Thank you. Discussion on the A bill? Seeing none, those in favor of its advancement please vote aye, opposed nay. Shall LB 843A be advanced? Record, please.

March 13, 1990

LB 551A, 656, 843, 843A, 1031, 1059, 1059A
1063A, 1141, 1244

that we can do a lot to help these children in their classrooms and stir continued interest in the Legislature and in the legislative process, and perhaps give a lot of people, including civic clubs and others, a deeper understanding of our process, what we go through and how we labor in the vineyards. And so, as I said, we can do it all in-house. There will be an oversight committee. And I have no doubt that the video production will be an enormous hit, and I would urge the body to adopt the amendment. Thank you.

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

CLERK: 25 ayes, 9 nays, Mr. President, on adoption of Senator Barrett's amendment.

PRESIDENT: The amendment to the amendment is adopted. Something for the record, Mr. Clerk, please?

CLERK: Yes, Mr. President, I do have some items for the record. Senator Nelson has amendments to be printed to LB 656; Senator Schmit to LB 1031; Senator Warner and Withem to LB 1141. Enrollment and Review reports LB 1059, LB 1059A, LB 1244, LB 843, LB 843A, LB 551A, LB 1063A all to Select File. (See pages 1333-39 of the Legislative Journal.)

Mr. President, the next amendment to the committee amendments I have is offered by Senator Withem. (Withem amendment appears on page 1339 of the Legislative Journal.)

PRESIDENT: Senator Withem, please.

SENATOR WITHEM: Mr. President, members of the body, this is an amendment somewhat similar to the last one dealing with our legislative process. Increased appropriation to the Legislative Council to the tune of \$20,000. The purpose of this is to fund ongoing telecommunication, actually it says television, maybe it should say telecommunication, if people are interested in changing that, we can do so, if this gets adopted, with another amendment or a Select File amendment...televise legislative hearings. Over the past year we have had two major interactive teleconferences with legislative leadership hearing people testifying on issues of concern to the public, we questioning

to be printed to LB 843 and LB 931 by Senator Baack. (See pages 1585-86 of the Legislative Journal.)

Mr. President, Senator Lindsay would now move to amend. All of them....Okay. Mr. President, the next amendment I have to the bill is by Senator Hall. (Hall amendment appears on page 1586 of the Legislative Journal.)

SPEAKER BARRETT: Chair recognizes Senator Hall.

SENATOR HALL: Thank you, Mr. President and members. The amendment that I filed in this case is, Mr. Clerk, AM...

CLERK: Yes, sir, AM3155.

SENATOR HALL: ...3155.

CLERK: Yes, sir.

SENATOR HALL: And the amendment deals with having the hearing that shall be conducted in accordance with the petition. And that was in the original 799, shall be accorded the rights prescribed in the Administrative Procedures Act. There is no need to offer the amendment at this time, because it's not appropriate to LB 799 in its current form. The....I'd just take a little exception with what Senator Kristensen said about there are more important things to deal with, and that, to me, is that I don't think there is anything more important to deal with. And I think the reason we're sent down here by our constituents is to make sure that they are protected. Yes, they need to be protected from drunk drivers. But they also need to be protected from a system that doesn't address things that aren't necessarily what they seem. And we shouldn't do things, we shouldn't put together a system that allows for convenience sake, saving of time, saving of money. As Senator Beyer said, a few people's rights get stepped on. I don't think any system that we put in place should step on anyone's rights. I don't think people should drive drunk. I don't think they should drive under the influence of drugs. The fact of the matter is they do. And no matter what law we pass, they'll continue to do that, unfortunately. Whether we outlaw drugs or outlaw alcohol, it's going to happen. We ought to have a system that protects the individuals, innocent individuals from those people. But we also ought to protect innocent individuals from laws that aren't appropriate, that out of convenience, or whatever sake, trample

April 2, 1990

LB 843, 1064, 1064A

SENATOR WESELY: I move the bill be advanced, Mr. Speaker.

SPEAKER BARRETT: Thank you. Any discussion? If not, those in favor of the advancement of the bill say aye. Opposed no. Ayes have it, motion carried, the bill is advanced. The A bill.

CLERK: LB 1064A, Mr. President, I have no E & R. Senator Peterson, you had an amendment printed, Senator. I have a note that you wish to withdraw. Is that correct?

SPEAKER BARRETT: It is withdrawn.

CLERK: Mr. President, I have nothing pending to LB 1064A.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 1064A be advanced to E & R for engrossment.

SPEAKER BARRETT: Any discussion? If not, those in favor of the advancement of 1064A please say aye. Opposed no. Ayes have it, motion carried, the bill is advanced. LB 843, Mr. Clerk.

CLERK: Mr. President, 843, first item, Senator, are Enrollment and Review amendments.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 843.

SPEAKER BARRETT: Any discussion? If not, shall the E & R amendments to LB 843 be adopted? All in favor say aye. Opposed no. Carried, they are adopted.

CLERK: Mr. President, I now have an amendment from Senator Baack. Senator, with a note this is to be withdrawn. It was one printed on page 1585 of the Journal. To be withdrawn?

SPEAKER BARRETT: Withdrawn.

CLERK: The next amendment, Mr. President, is by Senator Baack. Senator, I have AM3234 in front of me. (Baack amendment appears on pages 1793-94 of the Legislative Journal.)

SPEAKER BARRETT: Senator Baack, please.

SENATOR BAACK: Yes, Mr. Speaker and colleagues, this is an amendment to the bill which does a couple of things. One of the things that it does is it says that if...it allows for proration of money in case there are not enough dollars available to fund all of the choice bill, then this would prorate those dollars, and the other thing it does is it actually fits in with 1059. It also says that it provides the mechanism so that the funding for choice would come out of the monies in LB 1059. And another thing that it does is when we were passing 1059 we inadvertently put in a date that would not allow the final payment under the present equalization foundation formula for state aid. This repeals that and changes that date so that we can allow for the final payment of...under the equalization foundation formula that we presently have. I'd be glad to answer any questions if anybody has any.

SPEAKER BARRETT: Are there questions? Is there discussion on the Baack amendment? Apparently not. Senator Baack, anything further? The question is, shall the amendment be adopted to LB 843? All in favor vote aye, opposed nay. Record, please.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of Senator Baack's amendment to the bill.

SPEAKER BARRETT: The Baack amendment is adopted.

CLERK: Mr. President, I now have a second amendment from Senator Baack. Senator, this is 2989 I have in front of me. (Baack amendment appears on page 1795 of the Legislative Journal.)

SPEAKER BARRETT: Senator Baack, please.

SENATOR BAACK: Mr. Clerk, could you read me that...what is the essence of that amendment? Can you...?

CLERK: Mmmm, talks...

SENATOR BAACK: Okay, I've got it here.

CLERK: Okay.

SENATOR BAACK: Thank you. Yes, Mr. Speaker and colleagues, this is an amendment...we discussed the special education issue as we passed the option enrollment bill last year and we had contacted the U.S. Department of Education to find out how the things that we did with special education fit in with their rules and regulations. We got an answer back from them between General and Select File and they said that we still have to provide transportation for handicapped kids under the option enrollment program. What this amendment does is it says that the resident district that the student lives in will be responsible for the transportation. Those costs are reimbursed at a 90 percent rate by the state, but the resident district would still be in charge of those, would still file the papers and things as far as the reimbursement for transportation goes for handicapped kids. And the reason that we left it with the resident district, this was one of the suggestions that the U.S. Department made, was that you would, by leaving that cost with the resident district you would encourage them to offer those programs in their local district rather than trying to send them off to another district because they would be responsible for the transportation costs. So, with that, I would be glad to answer any questions if anybody has any.

SPEAKER BARRETT: Any discussion? Senator Schellpeper, please.

SENATOR SCHELLPEPER: Thank you, Mr. Speaker and members. I'd like to ask Senator Baack a question.

SPEAKER BARRETT: Senator Baack.

SENATOR SCHELLPEPER: What is the funding now with this amendment? How does that affect the bill, Senator?

SENATOR BAACK: Well, this amendment only deals with special education transportation for special education. That's all that this amendment deals with, and...(interruption)

SENATOR SCHELLPEPER: So this has nothing to with the funding of the actual bill then?

SENATOR BAACK: No, no, it does not. All this says is that the resident district that the student lives in will be responsible for the transportation and that transportation can be reimbursed at the 90 percent level which is for all handicapped kids in the state.

April 2, 1990

LB 843A, 843

SENATOR SCHELLPEPER: And the funding for the bill is still about 1.1 million?

SENATOR BAACK: Well, the funding for the bill will be coming up in the A bill, and we'll be talking about that in a little bit, but what it will do is it will provide that the funding in 1059, this will be part of the distribution of the funding in 1059, so if 1059 passes, survives the veto, survives the referendum, whatever may be, if it does that then this will just be part of the mechanism. If it does not, if something happens to 1059, then there would be a half a million dollars appropriated for doing choice and if a half a million, which is what they figure it will take for next year for about 150 kids are going to be approved for choice, that's how many dollars it should take. If there is not enough money in the 500,000 that would be appropriated, then it would be prorated, the \$500,000 would simply be prorated. Each one would be reduced an equal amount so that each school would receive the same amount of money.

SENATOR SCHELLPEPER: Thank you.

SPEAKER BARRETT: Any other discussion? Seeing none, Senator Baack, any closing? Thank you. The question is the adoption of the Baack amendment to LB 843. Those in favor vote aye, opposed nay. Record, please.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of Senator Baack's amendment to the bill.

SPEAKER BARRETT: The amendment is adopted.

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

SPEAKER BARRETT: The Chair recognizes Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 843 as amended be advanced to E & R for engrossment.

SPEAKER BARRETT: Is there discussion? If not, shall LB 843 be advanced? All in favor say aye. Opposed no. Motion carried, the bill is advanced. To the A bill, Mr. Clerk. (LB 843A)

CLERK: Mr. President, the first item on the A bill is an amendment to the bill by Senator Baack. Senator, I have your

April 3, 1990

LB 843, 1059

situation we're now in, and if you do approve Senator Barrett's motion, we can read some things on Final Reading, get back to General File, tomorrow get back to Select File and get at least part of the work we're sent here to do by the Constitution done. And...is my time up?

PRESIDENT: Yes, sir.

SENATOR MOORE: My time is up.

PRESIDENT: Just up.

SENATOR MOORE: Okay.

PRESIDENT: Thank you. Senator Hannibal, please.

SENATOR HANNIBAL: Mr. President and members of the Legislature, I rise to oppose the suspension motion. I have not been filibustering and I don't like filibustering although I have been perceived on the side that wins by a filibuster on the abortion issue and I also have made it no secret that I am not in favor of LB 1059 for which this motion applies. I was going to speak against the suspension motion when I saw it on the agenda this morning for just kind of pure process reasons that I don't think we need to do this. I don't think we want to do this. I think it is not the best procedure although I do understand the reasons why it's been brought up and I certainly understand why the Speaker would like to have this done and I can't argue against the motivations of that. But since that time, and I was not going to vote for that suspension motion, but since that time I have had a chance to talk with some people in the budget office on LB 1059 and unbeknownst to me, and it's my ignorance and I apologize for that, that we passed a bill or passed an amendment to a bill on LB 843 yesterday that dealt with LB 1059 and I haven't been paying too much attention to the amendments on 1059 because I was feeling fairly secure that I was not going to be supporting it anyway. But this amendment did pass but it passed on LB 843. And I was just talking with Senator Baack because I didn't know who was the prime maker of the amendment, his name was on it but he did point out to me that actually maybe someone more expert at answering the question that I had would be Senator Withem so I would like to ask Senator Withem a question if he would respond. Senator Withem, the amendment we passed on LB 843 yesterday dealt with state aid payments as to how state aid would be distributed in

April 3, 1990

LB 843, 1059

the event that LB 1059 passed. Is that right or am I phrasing the question correct?

SENATOR WITHEM: The amendment, as I understood it, and I didn't handle the amendment on the floor, I think it was on Senator Baack's bill...

SENATOR HANNIBAL: That's correct.

SENATOR WITHEM: ...but, as I understood it, LB 1059, in its current form, could be read to repeal the continuation of the currently appropriated state aid payments and the amendment onto LB 843 was an attempt to clarify that that wasn't the intent of it.

SENATOR HANNIBAL: Okay, and I appreciate that answer and the question that I had posed to me was what would happen if LB 1059 did pass and LB 843 did not pass, would there at least be a question as to whether state aid payments for the last three months of this fiscal year whether they could be paid out or not because 1059 does repeal the state aid formula, as we have it? Would there at least be a question on that?

SENATOR WITHEM: There would be a question that would be open to debate, yes.

SENATOR HANNIBAL: Then my question is, why are we not amending LB 1059 with this same kind of amendment, as opposed to using LB 843?

SENATOR WITHEM: Because LB 1059 is on Final Reading and LB 843 deals with the same subject matter and it was on Select File.

SENATOR HANNIBAL: Okay, and I appreciate your forthrightness there. One other question that I have on LB 1059 is because maybe they won't have a chance to speak on 1059 if the suspension motion does pass, is that we had it seems amendment on Select File that changed how we were going to formulate the state income tax distribution. Again, I was not paying too much...

PRESIDENT: One minute.

SENATOR HANNIBAL: ...attention, but did we not have an amendment that changed how we come up with the state income tax

at least an opportunity to tell you why I have some problems with it. But, most importantly, now we have got a bill here with LB 843 which is the choice bill that had an amendment put onto it to correct the problem of LB 1059 and why? Because people at home wanted to have 1059 pulled back and discussed some more, for some obvious reasons, because it's going to be amended or at least it's going to be attempted to be amended or it may be harassed or maybe filibustered and I certainly understand why they wouldn't want to bring it back. But, for us as a Legislature, to pass a bill, LB 843 with amendments, that I think are fairly necessary to another bill and say, well, 843 has got a million and a half dollar hit and you've got a real problem if we're trying to look at a total budget, maybe you love 1059, maybe you love 843, but maybe you like 1059 and you don't like 843, all of a sudden we have got a million and a half dollar issue over here that if it's not passed, we have got a state aid formula that may not be paid out the last three months of this fiscal year. Now it could be corrected, maybe, if we pass 1059E without the E clause, because then if you pass it without the E clause, it doesn't go into effect right away, it takes three months to go into effect and we go pass the end of the fiscal year. And so maybe that is the option that the 1059 supporters will say is, well, we can't have this E clause we put on there because it won't work real well for us, we amended 843, we can't take a chance that 843 is going to pass or not pass so let's vote for it but let's get that E clause off. And my only point is we're really kind of messing around with things that is a major, major piece of legislation. I grant that the next speaker to get up and talk in favor of 1059 are going to say, Hannibal, you've got sour grapes written all over you, and that's fine. But I think for those people that do have some legitimate concerns with 1059, you ought to know some of the problems with it and you ought to know that there are some of us that feel that it is not the best we can do and that it doesn't mean we don't want to try to change our financing structure, it's just not the best and I don't think it's been thoroughly thought out as much as we would like. We won't have a chance to talk about that if we have the suspension motion. I am not in favor of the suspension motion because I think each of the bills ought to have a chance to be discussed and I understand that I'm probably somewhat blowing into the wind here but I wanted to have my thoughts known. And thank you, Senator Wesely, for yielding my time. If you want any back I will...if I have any, you can have it back.

get it...until you put it into play. We have been honest and forthright in coming forward, when we see these problems we bring forward proposals to change them. The easiest way to change the one that we solved was to use another bill that was there on Select File. Select File bills were up. Final Reading bills weren't up. I hope that Senator Hannibal wasn't implying that there is some skullduggery going on here. Gosh, if we...any time somebody used another vehicle to carry an amendment that was out of bounds, a big proportion of our legislation passed each year wouldn't count for some reason or another. I just indicate that the concerns that Senator Hannibal raised about LB 1059, I think, are unfounded. Sure, there are some problems with any time you make a change. We will be back. We were back on choice last year. That's what LB 843 is. We went ahead and passed it last year and we worked to clean it up. There will be clean-up on any major piece of legislation. That's all we are doing with the amendments and somewhat resent, I guess, the implication that there is some skullduggery going on here because there certainly isn't. With that, I would like to give the rest of my time to Senator Baack who I think can shed a little more light on the questions.

PRESIDENT: Senator Baack, two and a half minutes.

SENATOR BAACK: Yes, Mr. President and colleagues, what Senator Hannibal brings up is legitimate. I mean, we are...we did put an amendment on LB 843 dealing with the problem of LB 1059 and I mentioned that on the floor yesterday. We didn't try and hide that. I mentioned on the floor yesterday that we were dealing with the final distribu...with the final payment for distribution of state aid. That's what we were dealing with because there was a repealer in the original 1059 that caused some problems there. They are not problems that are insurmountable. If LB 843 should not happen to pass, I would...I would guess that either the courts would probably have to rule in this case as to whether or not that payment could be made. There is no doubt in my mind that the courts would rule that that payment could be made because the things were in place to do that. It's just that we inadvertently put that in there, a wrong date that repealed something too early. That was the only problem there. The courts would have definitely done that. All that...all that this does is it makes it a lot cleaner way of dealing with this issue and that's all that we were trying to do. There was no...there was nothing that we were trying to hide in this. I mentioned on the floor yesterday this is

exactly what we were doing in the bill, calling for the last payment to be made in a timely fashion and that's all that we were doing with that. I think what Senator Hannibal brings up are some of the other strawmen have been brought up about along this bill...about this bill all the way through and there are problems with that and I think that the choice bill last year, the open enrollment bill, shows that. There were some problems with that. We came back...I came back in with a bill this year to correct those problems. Any time you make these kind of major changes you are going to have a certain amount of problems come up that you don't anticipate. This is not a major problem. This is...this is certainly one that's a very minor and if LB 843 didn't pass, I don't think it would make a bit of difference whether this...whether this was in place or not. It's just a cleaner way of dealing with that issue. Thank you, Mr. President.

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

SENATOR LAMB: Yes, Mr. President and members, I want to give my version of the difference between the motion we passed this morning and the one this afternoon which is exactly opposite of Senator Barrett's. Senator Barrett says it's okay to suspend the rules when you're on Final Reading. It's not okay on General File. I think Senator Hannibal brought up the reason why the opposite is true. You know, we're on Final Reading, if there's a mistake, if there's an error, if there's something wrong with a bill, this is the last chance and so you don't have a...you don't...you don't have an opportunity even to bring that to the attention of the body. And I wish Senator Barrett would listen. Senator...could I ask Senator Barrett if he would respond?

PRESIDENT: Senator Barrett, would you respond? Senator Withem, for what purpose do you rise.

SENATOR WITHEM: Well, I just think it's inappropriate for one member of the body to call another one to attention on the floor, as Senator Lamb did. I...

SENATOR LAMB: Okay, I...

PRESIDENT: Well, he does have a right to request a response.

April 5, 1990

LB 571, 571A, 843A, 843

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 571 pass? Those in favor vote aye, opposed nay. Have you all voted? Record, please.

ASSISTANT CLERK: (Record vote read. See page 1976 of the Legislative Journal.) The vote is 34 ayes, 0 nays, 3 present and not voting, 12 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 571 passes. The A bill, please.

ASSISTANT CLERK: (Read LB 571A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 571A become law? All in favor vote aye, opposed nay. Record, please.

ASSISTANT CLERK: (Record vote read. See page 1977 of the Legislative Journal.) The vote is 35 ayes, 0 nays, 2 present and not voting, 12 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 571A passes. LB 843E.

CLERK: (Read LB 843 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 843 with the emergency clause attached pass? All in favor vote aye, opposed nay. Have you all voted? Record. Oh, excuse me, do not record. I am sorry. Have you all voted? Please vote if you'd care to vote. Thirty-three votes are necessary to pass it with the emergency clause. Have you all voted? Please record.

CLERK: (Record vote read. See pages 1978-79 of the Legislative Journal.) 33 ayes, 0 nays, 4 present and not voting, 12 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 843 with the emergency clause attached passes. LB 843A.

CLERK: (Read LB 843A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 843A pass?

April 5, 1990

LB 220, 220A, 571A, 571, 843A, 843, 958
1064A, 1064, 1241, 1244

All in favor vote aye, opposed nay. Have you all voted?
Record.

CLERK: (Record vote read. See page 1979 of the Legislative Journal.) 29 ayes, 0 nays, 8 present and not voting, 12 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 843A passes. LB 958.

CLERK: (Read LB 958 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 958 pass? All in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: (Record vote read. See page 1980 of the Legislative Journal.) 31 ayes, 1 nay, 5 present and not voting, 12 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 958 passes. LB 1064E.

CLERK: (Read LB 1064 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 1064 with the emergency clause attached pass? All in favor vote aye, opposed nay. Record, please.

ASSISTANT CLERK: (Record vote read. See page 1981 of the Legislative Journal.) The vote is 36 ayes, 0 nays, 1 present and not voting, 12 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 1064E passes. And while the Legislature is in session and capable of transacting business I propose to sign and I do sign, LB 571A, LB 571, LB 1241, LB 1244, LB 220, LB 220A, and LB 843. Mr. Clerk, would you read LB 1064A.

CLERK: (Read LB 1064A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 1064A pass? Those in favor vote aye, opposed nay. Have you all voted? Record, please.

April 9, 1990

LB 42, 42A, 571A, 834, 843, 843A, 855
855A, 880, 880A, 896A, 920, 1004, 1004A
1019, 1019A, 1043, 1059, 1059A, 1030A, 1090
1109, 1222, 1222A, 1241

Mr. President, I have received veto messages on the following bills: LB 1059, LB 1059A, LB 42, LB 42A, LB 880, LB 880A, LB 1004 and LB 1004A, LB 1019 and LB 1019A, LB 1080A, LB 1222 and LB 1222A, LB 571A, LB 834, LB 843 and LB 843A, LB 855 and LB 855A, LB 896A, LB 1043, LB 1090 has a line-item reduction, LB 920 has a line-item reduction, LB 1241 has a line-item reduction. (See Messages from the Governor as found on pages 1985-98 of the Legislative Journal.) All those, Mr. President, as I indicated, are available to the members on their desks. Have an Attorney General's Opinion addressed to Senator Schmit regarding LB 1059 and I believe that's all that I have, Mr. President.

PRESIDENT: Thank you. We have a motion from Speaker Barrett. Speaker Barrett.

SENATOR BARRETT: Thank you, Mr. President and members. I offer the motion to suspend Rule 6, Section 7, subsection (b), and Rule 5, Section 6, to permit these bills to be read on Final Reading this morning. The first part, of course is to waive the two-day limitation, and the second is to allow the A bills to be read. I would urge the body to adopt the motion. Thank you.

PRESIDENT: Thank you. Any discussion? If not, the question is the adoption of the suspension of the rules motion. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 32 ayes, no nays, Mr. President, on the suspension of the rules to permit reading of the bills this morning.

PRESIDENT: The rules are suspended and we'll begin Final Reading. If you will find your ways to your own desk, why, we would start Final Reading. (Gavel.) Please return to your desks so we can begin Final Reading. Senator Haberman, would you come home, please? Mr. Clerk, LB 1109, please.

CLERK: Mr. President, I had amendments from Senator McFarland.

PRESIDENT: Is anyone prepared to handle Senator McFarland's motion on this bill? Senator McFarland, you had a motion on this first bill.

SENATOR MCFARLAND: Mr. President, could you read the motion for me?

of thought about any further overrides beyond where we are now.

PRESIDENT: Thank you. Senator Rod Johnson, did you wish to close?

SENATOR R. JOHNSON: Mr. President, and members, annually we get to this point where after a big bill has passed and a lot of money has been expended, we suddenly realize that there is little left in the cupboard for the remaining bills coming up behind those more important votes, and that was the case that happened to me last year with this same proposal, and almost every year since, and I guess I just would say I would like to complete I guess my term in this body by getting something reestablished that I have worked five years to try and do, and I appreciate the votes you gave me today on LB 163, but this one is more...we did one for environment, I guess I am asking can we get one done for agriculture on the other side here today. I thought the Governor was going to sign this bill. I misread that but it is my hope this body will choose to reinstate this program and I hope we get a statewide enforcement program rather than individual counties contracting as we do. I think 25 counties currently are contracting for the services in their counties, but we have a lot of counties outside of that area that the animal damage control specialists work in and those counties are being unprotected. And with a number of rules and regulations that prohibit the kinds of control mechanisms or methods that I use as a farmer or livestock person, you need the help from these folks to deal with some of the problems they might have with animals that cause damage to others. So I would ask for the override.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Thank you. The question is, shall LB 855 become law notwithstanding the Governor's veto? All in favor vote aye, opposed nay. Have you all voted? Have you all voted? Record, please.

CLERK: (Record vote read. See page 2045 of the Legislative Journal.) 23 ayes, 21 nays, Mr. President, on the override.

SPEAKER BARRETT: Motion fails.

CLERK: Mr. President, Senator Baack would move that LB 843 become law notwithstanding the objections of the Governor.

SPEAKER BARRETT: Senator Johnson. Senator Baack, the floor is yours.

SENATOR BAACK: Yes, Mr. Speaker, and colleagues, I will be very brief. The Governor's veto message, the reason for the veto message was that it called for some additional state funding, had LB 1059 not been overridden. Now after the override of LB 1059, there are no additional state dollars for this LB 843. The open enrollment bill simply becomes part of the distribution of the monies that we are collecting under LB 1059. With that, I would urge you to override the veto. Yes, I do have to have the language in there. This is the implementing language. We need both this bill and the A bill because they talk about the implementing language. Thank you.

PRESIDENT NICHOL PRESIDING

PRESIDENT: Okay, Senator Withem, please, followed by Senator Warner.

SENATOR WITHEM: Yes, Mr. President, and members of the body, Senator Baack I think gave an accurate description, that the veto message was predicated on the need to, if LB 1059 didn't pass, there was the need for a potential of up to a million dollars more to fund the program. As I understand it with LB 1059 going into effect, LB 843 really becomes a distribution factor, another factor in distribution that choice students, the money for choice students will be paid out of the 45 percent level. I would also point out, and I don't remember if Senator Baack did, but there are a number of other clean-up items in the choice legislation from last year that are included in 843, and to make choice work like a majority of this Legislature wanted it to last year, you really need to do the items in 843. So I would urge you to sustain the...to override the veto, override...put up, you know, a big cheat sheet here for me, override, sustain. We want to override the veto on this case. I am sorry.

PRESIDENT: Senator Warner, please.

SENATOR WARNER: Mr. President, I was listening to both Senator Baack and Senator Withem and I did not...they both explained the impact of LB 1059 but I did not hear whether you said that the...what is left in this bill for additional spending is at

April 9, 1990

LB 843A, 843, 1059

57,000. There is a small portion of some additional cost, but the 500,000, million point one that you see on your sheet, the actual amount will be...additional appropriation will be 57,000 only.

PRESIDENT: Thank you. Senator Baack, are you going to close on this?

SENATOR BAACK: Yes, just briefly, Mr. President. Senator Warner is correct, there is some dollars in there for the Department of Education as they implement this bill and they have the right kind of staff people to do it, but those are the only dollars that are left in this bill. The rest of the money is going to be part of the distribution formula for LB 1059, but we do need both 843 and the A bill, even. We need both of those because they talk about the implementing language as to how this is to be done. With that, I would urge you to override the veto.

PRESIDENT: Thank you. The question is, shall LB 843 become law notwithstanding the Governor's veto? All those in favor vote aye, opposed nay. Ladies and gentlemen, we are on Final Reading. Please return to your seats and vote if you'd care to, but please return to your seats. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See pages 2045-46 of the Legislative Journal.) 36 ayes, 0 nays, Mr. President, on the motion.

PRESIDENT: LB 843 becomes law notwithstanding the Governor's veto. LB 843A.

CLERK: Mr. President, Senator Baack would move that LB 843A become law notwithstanding the objections of the Governor.

PRESIDENT: Senator Baack, please.

SENATOR BAACK: Yes, Mr. President, and colleagues, this is the A bill that talks about the implementation language of making the choice as part of the distribution of the monies under LB 1059. It does contain \$57,000 I think for the Department of Education as they implement choice. They have set up a hot line and they have hired some people to make sure that choice is implemented properly across the state, and they have put out handbooks so the parents know about choice, and they can make

April 9, 1990

LB 42, 42A, 163, 163A, 164, 164A, 503
503A, 536, 834, 843, 843A, 1004, 1004A
1031, 1043, 1059, 1059A, 1126, 1170, 1222
1222A

employee is 21, State Patrol is 21, other school employees in Omaha, no age limit and the judges are no age limit. So, therefore, I would ask that you override the veto of 834. It doesn't cost any more money. It doesn't cost any money. It will keep young people in Nebraska. It will want them to help work for the state and do a good job for the state and I ask for your override. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Discussion? Senator Elmer, followed by Senator Schellpeper.

SENATOR ELMER: Thank you, Mr. Speaker. To be very brief, and Senator Haberman said it and said it well, all private businesses are required to allow their employees to participate when they're 19. I think the state should go at least as low as 20 to give consideration, allow these young people to accumulate a little more for retirement. It's not going to cost the state any money. I would urge your override. Thank you.

SPEAKER BARRETT: Thank you. Senator Schellpeper.

SENATOR SCHELLPEPER: Thank you, Mr. Speaker, and members, I also rise to support this override. We have some very dedicated employees in this state and I think this is just another thing we can do for the employees. So I think Senator Haberman said it all and I would just move for the override.

SPEAKER BARRETT: Thank you. Anything further, Senator Haberman? If not, the question is, shall LB 834 be overridden? All in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: (Record vote read. See pages 2054-55 of the Legislative Journal.) 31 ayes, 0 nays, Mr. President, on the override of LB 834.

SPEAKER BARRETT: LB 834 is overridden. And let the record show that the Chair is certifying that the Legislature has overridden the following vetoes, notwithstanding the objections of the Governor, LB 834, LB 1043, LB 1222 and LB 1222A, LB 1170, LB 1004 and LB 1004A, LB 843 and LB 843A, LB 1059 and LB 1059A, LB 1126, LB 11...excuse me, LB 536, LB 42 and LB 42A, LB 164 and LB 164A, LB 1031, LB 503, and LB 503A, LB 163 and LB 163A, and LB 834. Anything for the record at all, Mr. Clerk?