

January 11, 1989

LB 341-372
LR 3, 5

able to assist other agencies, other investigating committees, other individuals who are involved. I have pledged my cooperation to some of them with whom I have visited. I know that Senator Chambers feels the same way. I know that other members of the committee feel the same way. I hope that we are all pursuing the same goals, same objectives and that we can work together. I want to say again that this committee will act with propriety, honesty and integrity. We intend to obtain the best counsel we possibly can and we intend to protect the rights of the innocent and to pursue those who might have been less than innocent. Mr. President and members, I ask for a positive vote on the resolution.

PRESIDENT: That was the closing. The question is the adoption of the resolution. All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please. Record, Mr. Clerk, please.

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of LR 5.

PRESIDENT: The resolution is adopted. You have some new bills, Mr. Clerk.

CLERK: Mr. President, I do. New bills. Mr. President, Senator Labedz would like to have a meeting of the Reference Committee now in the Senate Lounge. Referencing Committee in the Senate Lounge, Mr. President, right now. Senate Lounge for Referencing Committee. New bills. (Read by title for the first time LBs 341-355 as found on pages 183-87 of the Legislative Journal.)

PRESIDENT: We will be at ease for a few minutes for referencing and receiving a few more bills.

EASE

PRESIDENT: (Microphone not activated) and capable of transacting business. I propose to sign and do sign LR 3. Would you like to continue, Mr. Clerk, please.

CLERK: Yes, Mr. President, thank you. New bills. (Read by title for the first time LBs 356-372 as found on pages 187-91 of the Legislative Journal.)

Mr. President, I have a new resolution offered by Senator Hall.

February 24, 1989

LB 155, 218, 250A, 329, 330, 335, 346
437, 449A, 478, 504, 809

bill, Mr. President.

SPEAKER BARRETT: LB 155 is advanced. Messages on the President's desk, Mr. Clerk?

ASSISTANT CLERK: First of all, Mr. President, a reminder that the Urban Affairs Committee is having a short Exec Session at one o'clock in the Senator's Lounge. That's from Senator Hartnett. Revenue Committee, whose Chairperson is Senator Hall, refers LB 346 to General File; LB 437 to General File; LB 329 to General File with committee amendments; and LB 504, indefinitely postponed. (See pages 877-78 of the Legislative Journal.)

New A bills. (LB 449A and LB 250A read by title for the first time. See page 878 of the Legislative Journal.)

A series of name additions. Senator Bernard-Stevens to LB 218 and LB 330; Senator Lindsay to LB 478; Senator Hartnett to LB 335; Senators Peterson, Rogers and Beyer to LB 809. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Schimek, would you care to adjourn us until Monday.

SENATOR SCHIMEK: Mr. Speaker, I move we adjourn until Monday, February 27th, at nine o'clock.

SPEAKER BARRETT: Thank you. You've heard the motion. Those in favor say aye. Opposed no. Ayes have it, motion carried, we are adjourned.

Proofed by:

Marilyn Zank
Marilyn Zank

March 13, 1989

LB 346

LR 50

regarding LB 346, to be inserted, Mr. President. (See pages 1069-73 of the Legislative Journal.)

And the last item I have is LR 50 is ready for your signature, Mr. President. And that's all that I have.

SPEAKER BARRETT: Thank you. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LR 50. Before proceeding, Senator Wehrbein is announcing the following guests are visiting the Legislature. In the north balcony we have 50 junior and senior high students of the Senior Government and Business Law class from Palmyra, and their teacher. Would you folks please stand and be recognized. Thank you. We're delighted to have you with us this morning. Mr. Clerk, confirmation report.

CLERK: Mr. President, the Education Committee reports on the appointment of Ms. Demarus Carlson of the Board of Educational Lands and Funds. The report is found on 1035 of the Journal, Mr. President.

SPEAKER BARRETT: The Chair recognizes Education Chairman Senator Ron Withem.

SENATOR WITHEM: Mr. Speaker and members of the body, the Education Committee heard a...had a public hearing on the Governor's appointment of Demarus Carlson to serve on the Board of Education Lands and Funds. We were favorably impressed, particularly when Senator Elroy Hefner came forward to put his neck on the line on behalf of this nominee. The committee reported the recommendation favorably to the floor and the committee urges your favorable consideration of this gubernatorial appointment.

SPEAKER BARRETT: Thank you. Discussion? Senator Dierks.

SENATOR DIERKS: Mr. Speaker and members of the body, I just want to rise in support of the amendment...the resolution. I think that Ms. Carlson is a long-time friend and her husband is a long-time associate of mine in the practice of veterinary medicine. They are very public-spirited, public-minded people, have served in various capacities as state appointees and I think that she is a very qualified individual for this particular appointment. Thank you.

January 3, 1990

LB 346, 520, 707, 923-935
LR 8, 229-233

of LRs 229-233, some of which will be referred to the Reference Committee for referral to the appropriate Standing Committee, others laid over. See pages 123-28 of the Legislative Journal.)

Mr. President, I have amendments to be printed from Senator Hall to LB 346 and to LB 707. (See pages 128-29 of the Legislative Journal.)

Mr. President, I have a proposed rules change offered by Senator Wesely. That will be referred to the Rules Committee. (See page 129 of the Legislative Journal.)

Mr. President, Senator Lynch would like to remind the body that there will be a Rules Committee meeting at one-thirty in Room 1517. And, Mr. President, there will be an Executive Board meeting at two o'clock in Room 1520.

Finally, Mr. President, I have requests to add name to LR 8 by Senator Kristensen and to LB 520 by Senator Smith. (See pages 129-30 of the Legislative Journal.)

PRESIDENT: Ladies and gentlemen, if I could have your attention just a moment, please. We're about out of bills to enter, and if you have some, please bring them up quickly and soon so that we can do this before we adjourn. We're about ready to adjourn, but we don't want to shut anybody off that has one cooking. Incidentally, if you're about ready to introduce one, but not quite, please let the Clerk know that one is coming presently so that we may wind this up. Thank you. We'll not meet this afternoon, of course.

CLERK: (Read by title for the first time, LBs 923-929. See pages 130-31 of the Legislative Journal.)

Mr. President, a reminder, the Rules Committee will be meeting at one-thirty this afternoon in Room 1517 and Exec Board will be meeting at two o'clock in Room 1520, signed by Senators Lynch and Labeledz, respectively.

PRESIDENT: Ladies and gentlemen, please get your bills in if you would like. We're about ready to wind this up. Thank you.

CLERK: (Read by title for the first time, LBs 930-935. See pages 131-33 of the Legislative Journal.)

January 11, 1990

LB 346, 1050
LR 8, 231

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: (Recorder not activated) ...the George W. Norris Legislative Chamber. The opening prayer this morning by the Reverend Richard Scheerer, Pastor of Vine Congregational United Church of Christ, here in Lincoln. Reverend Scheerer.

REVEREND SCHEERER: (Prayer offered.)

SPEAKER BARRETT: Thank you so much, Reverend Scheerer. We hope you can come back again for another day. Roll call.

ASSISTANT CLERK: There is a quorum present, Mr. President.

SPEAKER BARRETT: Thank you, sir. Any reports, announcements, or messages?

ASSISTANT CLERK: Yes, Mr. President, a couple of items. Senator Weihing has designated LB 1050 as his priority bill for this session; Senator Hall, LB 346; and LR 231 is ready for your signature.

SPEAKER BARRETT: Thank you, sir. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LR 231. Further announcement that the Clerk is still receiving new bills, introduction of new bills will continue today. Mr. Clerk, let's proceed to General File, Speaker priority bills from 1989 beginning with LR 8CA.

ASSISTANT CLERK: Mr. President, LR 8 was introduced by the Judiciary Committee. (Read.) The bill was read on January 18 of last year for the first time. It was referred to the Judiciary Committee. That committee reports LR 8 to General File with committee amendments, Mr. President.

SPEAKER BARRETT: Thank you. To handle the committee amendments, the Chair recognizes Senator Kristensen.

SENATOR KRISTENSEN: Thank you, Mr. Speaker, and members. This is the constitutional amendment, if you will remember last year, and I would like to give you a little bit of a background and review of what we did last year with the Supreme Court, and the problem that we had with the backlog in the Supreme Court of appeals in this state. Presently our Constitution gives us the absolute right of appeal to the Nebraska Supreme Court of any

February 12, 1990 LB 346
 LR 253

established the second week in February as Vocational Education Week and is supported by the Nebraska Vocational Association. This resolution proclaims the week of February 11th through the 17th, 1990 as Vocational Education Week, and is the same type of resolution that we have passed many times over the years in the past. I would ask your support for LR 253 and our Speaker, Senator Barrett.

SPEAKER BARRETT: Thank you, sir. Any discussion on the adoption of LR 253? Seeing none, those in favor of the adoption of the resolution please vote aye, opposed nay. Please record, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of LR 253.

SPEAKER BARRETT: LR 253 is adopted. Moving to General File, Mr. Clerk, 1990 priority bills, LB 346.

CLERK: Mr. President, LB 346 was a bill originally introduced by Senators Hall, Labedz, Rogers, Dierks, Lynch, Schmit, Lindsay, Langford, Crosby, Beck. (Read title.) The bill was introduced on January 11 of last year, Mr. President, at that time referred to the Revenue Committee for public hearing. The bill was advanced to General File. I do have....I have no committee amendments pending. I do have other amendments. Senator, you want to offer your amendment, first, or go to the bill?

SPEAKER BARRETT: The Chair recognizes Senator Hall to open on the bill. Senator Hall.

SENATOR HALL: Thank you, Mr. President, members. LB 346, as the Clerk told you, is a bill that was introduced last year and I chose it as my priority bill this year. It is a bill that deals with tuition tax deductions. That is a far cry from a tuition tax credit, which is a form of this bill, had taken prior to the change in our income tax system, prior to 1987. The bill, as you can see from the handout that you all have on your desk, the cream-colored sheet, gives you a run down on the provisions in it, how it would apply, to whom it would apply, and deal with some of the concerns and the issues that opponents have raised with regard to it. The bill would allow for expenses that an individual incurred for education of children that fall from K to 12th grade to be deducted from one's income tax. This is applicable to anyone who has children either in a

public institution, or in a private institution. If you look at the handout on the first page, you can see the expenses that are allowable, the amounts, the total deduction with regard to expenses. You see the tax table income in the example that we give you there on the first page, and then what the economic benefit would be. Mr. President, could I get a hammer.

SPEAKER BARRETT: You certainly may. (Gavel.) The house is not in order, please.

SENATOR HALL: Thank you. The example that we show on the first page has a taxable income for an individual of \$22,700, and they have total deductible educational expenses of \$2,700. They are married, they filed a joint return. The deduction is added in at the top side so that their taxable income, instead of being the twenty-two-seven, now becomes \$20,000. And the economic benefit derived from that deduction is all of \$85, \$85 is the benefit that is derived to those individuals in that family that have filed that joint return on a total education expense of \$2,700. If you turn to the second page, again we talk about the deduction amount, it goes from \$1 up to 1,100 for each student who is in kindergarten through the sixth grade, and \$1,700...from \$1 up to 1,700 for those individuals who are what we would call junior high through high school, seventh to twelfth grade students. Would only apply to approved or accredited schools, those schools, as the bill reads, that fall under the auspices of the Department of Education and Section 79-201. So it's only those schools that first are approved and accredited by the State of Nebraska. You talk about the Minnesota provisions that this piece of legislation is modeled after, you can take a look at that, the types of things that are permitted and are not permitted. Tuition, of course, would be permitted. Tuition, tutoring that is for an individual, for example, who is a member of...in attendance at a public school during the summer time, as long as that tuition is provided by the school, that would be deductible. Rental fees for musical instruments, expenses for shop, home economics, art, biology lab, for example, would be deductible expenses. These are expenses that an individual has whether they are in a public or a private institution. And those would be eligible for this deduction. Expenses for P.E. uniform, for example, any expenses that would be derived from that. Expenses for a driver education course, if it is approved for credit and is taken through that institution. This, again, would probably be something that would be more applicable to a public institution

as opposed to a private one. You then go into the things that are not permitted through the legislation. And those are things that would, I think, primarily be extended to folks in a private institution, but would also be applicable to those individuals who had students in a public. And they would be expenses, for example, if I sent my children to have their drivers education at a private institution, for profit, that would not be applicable. A uniform that would be required, for example, for school, for choir, those deductions, that cost would not be applicable under this legislation. The cost of driving your children to school yourself, the expenses, those again would not be applicable to this legislation. If you look, again, on what I guess would be the third page you can see a real list of types of things that would be able to be deducted, the cost would be able to be deducted from the income tax, the total taxable income, prior to figuring what that liability would be, and those are listed for you, and they're 1 through 14 there on that following page. Again, we go into the fourth page, and we see at the top there Nebraska taxpayers whose children are enrolled in private schools. That shows a breakdown of what the costs are per student in the public and private schools, what the total cost savings, K through 12 is across the state, if these children would then be put into a public institution. We're talking about approximately \$122 million. The savings that is derived from this form of education, this private form of education to the taxpayers of the state is at a minimum \$122 million. And this proposed legislation would, I think, be one of the best types of recognition of that. But, in addition to that, it would be a proposal that would allow those individuals who have their children in a public institution, a public school, but have expenses that are incurred along with the child going to school, have the ability to deduct those expenses from their taxable income. That, to me ladies and gentlemen, is a good policy that lets these individuals reduce the amount of expense they have incurred for educating their children. We've talked long and hard about property tax relief in here for the six short years that I've been here, and this gets directly at those individuals who, in most cases, are very young folks who are educating their kids, who are paying for their property taxes while working. They're at the beginning of their career. They are not at the situation where they have paid their mortgages off, they have a number of expenses. This small token of, I guess, recognition on the part of the Legislature through public policy toward an educational expense deduction, for both public and private parents with regard to

their children, I think sends the right kind of message that we understand that educating children is an important issue. We understand that even though you have your children in a public institution there are other expenses that you incur. The fallacy that education is a free situation in the State of Nebraska, or in any state, for that matter, is clearly that, it's a fallacy. There are the expenses that have to be borne by the taxpayer, and they're borne in this state primarily through property taxes. But there are other expenses that go along with the education of children that are peripheral, if you will, to the basic educational costs that are picked up by some subdivision of government. And those are picked up by the parents of those students, whether they be public or private. This bill would address those.

SPEAKER BARRETT: One minute.

SENATOR HALL: It would recognize that those expenses are over and above the costs. It would recognize that a direct deduction toward the overall tax burden is appropriate. It would allow for those individuals to take that deduction prior to having their taxable income figured. And I think it would have a direct impact on those people who are educating their children who most need the deduction, or at least the recognition for not only the tax savings that, in the case of the private institutions, have I guess extended to the public sector, but also to those individuals who are in the public sector who understand that the cost of education is an expensive one, whether you be in a public or private institution. With that, Mr. President, I would open the discussion on LB 346. And I know that there are at least two amendments to the bill, so I would, at this point, Mr. Clerk, like to take up the first amendment that I've offered.

SPEAKER BARRETT: Thank you, Senator Hall. The Chair would like to take just a moment to introduce some guests of Senator Eernard-Stevens under the south balcony. We have Dick and Pat Sedlacek from North Platte along with their friend, an exchange student from Spain, Andriana Vice. Would you folks please stand and be recognized. Thank you for being with us this morning. Mr. Clerk, have you an amendment on the desk?

CLERK: Mr. President, Senator Hall would move to amend his bill. The amendment proposed is on page 128 of the Journal.

SPEAKER BARRETT: (Gavel.) Senator Hall, please.

SENATOR HALL: Thank you, Mr. President, members. As the Clerk stated in the opening, LB 346 is a bill that was introduced in 1989. The amendment, if you look at the page that I think he spoke, I think 128 of the Journal, is clearly nothing more than an amendment that changes the date and makes it applicable to January 1, 1990. If the bill is adopted at this time and advanced over to Select File, it needs to have the correct date in place in order for it to function. I would urge its adoption.

SPEAKER BARRETT: Thank you. On the Hall amendment, I have a number of lights on. If you'd like to speak on the Hall amendment, please raise your hand. Anyone want to speak on the amendment offered by Senator Hall? Please raise your hand. Thank you. I see no hands. Senator Hall, any closing? Thank you. The question before the house is the adoption of the Hall amendment to LB 346. All in favor vote aye, opposed nay. Record, please.

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of Senator Hall's amendment to the bill.

SPEAKER BARRETT: The amendment is adopted. Mr. Clerk.

CLERK: Mr. President, Senator Conway would move to amend the bill. (Conway amendment is on page 741 of the Legislative Journal.)

SPEAKER BARRETT: The Chair recognizes Senator Conway for the purpose of an amendment.

SENATOR CONWAY: Thank you, Mr. Speaker, members. The amendment I offer to LB 346 today is a very simple, technical one. And as we...as I looked at the bill and saw the situations that were designed, the people it was going to affect, I came quickly to the realization that many of us who live on the borders of the state are in situations where we have a multiplicity of services that are offered back and forth across the border. In my particular area one of the high schools that would be very much participated, many of the Nebraska participants are involved in, is two miles across the border, and it is the only service provider in that particular area that would be involved. So I have suggested on page 3, line 13, after "state" to insert "or

within twenty-five miles of the student's residence if the school is located outside of the state". It's simply a minor technical amendment so that those people who do participate on the border towns and the bordering communities could also take advantage of this particular provision.

SENATOR HANNIBAL PRESIDING

SENATOR HANNIBAL: We still have a number of lights on. I'd like to find out if you want to speak on Senator Conway's amendment or on the bill. If you'd like to speak on the amendment, please raise your hand. Senator Hall, please, you're the only hand that has been raised. Would you like to speak on the amendment?

SENATOR HALL: Thank you, Mr. President, members. Senator Conway offers his amendment in good faith, and it deals with the issue of whether or not an individual would happen to be going to school in another state. And he spelled it out clearly. In his case I think it deals with Sioux City Heelan, which is a private institution, but draws folks...happens to be in Iowa, draws folks from the State of Nebraska over there. It's a fine institution. It's clearly a policy choice with regard to this bill as far as how far should it extend. I think the proposal that he offers, with the 25 mile radius, or the 25 miles from home distinction is one that limits it enough so that you just have to make up your mind. It does not extend it to any other area that I can think of that would very likely have the same possible impact, or the magnitude of impact that Senator Conway finds himself in his district. With that I'll support the amendment, but would ask that each of you take a look at it yourselves. Thank you, Mr. President.

SENATOR HANNIBAL: Thank you, Senator Hall. Are there any others that want to speak on the amendment? Senator Warner, your light is on.

SENATOR WARNER: Mr. President, members of the Legislature, I suppose it's the nature of a question of Senator Conway.

SENATOR HANNIBAL: Senator Conway, would you respond?

SENATOR CONWAY: Certainly.

SENATOR WARNER: The thought occurs to me that that 25 mile, is

that a reasonable constitutional classification? I certainly could see anywhere out of state, but there usually...as...to establish a class, which I assume is what would be necessary here, I'm not sure if I understand the constitutional logic of 25 miles as opposed to 33 or any other given number.

SENATOR CONWAY: Given the question relative to constitutionality, not being an expert in that area and occasionally getting tangled up in it myself, not absolutely sure but I think the classification is the service...where the service is located, not the people, and it is limited to residents of Nebraska who then seek these services across the border. So I'm not sure in terms of any constitutional question in that regard, because it's where they receive the service rather than the people, the people are Nebraska residents.

SENATOR HANNIBAL: Were you finished, Senator Warner? Are there any other lights on for the amendment? We have lights on. Any other lights for the amendment? Seeing none, Senator Conway, would you care to close on the amendment?

SENATOR CONWAY: Thank you, Mr. President and members. Again, it's primarily a technical amendment that would be designed to address the situation where the services could be acquired just across the border, the 25 mile limitation. The residents, in many cases, the 25 miles is probably more aptly the radius within Nebraska, or 20 miles, and they want to move over and secure these services within 5 miles of the border. It's a situation where I understand why one would want to contain it to within the confines of Nebraska simply in the fact that in many cases you would otherwise have people who would be attending an elite military academy, or something of this nature, and that wasn't the idea behind this bill. But by having it restricted and limited in a very close proximity to the borders of Nebraska, I think it would allow all of our citizens to find this particular benefit as they are now receiving, or as they are now being involved in the educational process in these neighboring communities. So, with that, I offer this amendment.

SENATOR HANNIBAL: You've heard the closing, Senator Conway's amendment. The issue before you is the adoption of the amendment. All those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Senator Conway.

SENATOR CONWAY: I would like to request a call of the house.

SENATOR HANNIBAL: Call of the house has been asked for. All those in favor vote aye, opposed nay. Please record, Mr. Clerk.

CLERK: 16 ayes, 0 nays to go under call, Mr. President.

SENATOR HANNIBAL: The house is under call. Please return to your desk and record your presence. All unauthorized people please leave the floor. All senators not on the floor, please report to the Chamber and record your presence. The house is under call. The house is under call. Please return to the Chamber and record your presence. While we're waiting, I'd like to take this opportunity to announce that Senator Carol Pirsch has a guest visiting today under the north balcony, from Omaha, Colleen Mayo. Would you please rise and be welcome to the Legislature. Thank you for visiting us today. Senator Chambers, please report to the Chamber. Senator Landis, please. Senator Rod Johnson, please. We've had a request for a roll call vote. Senator Chambers, please, and Senator Rod Johnson, please report to the Chamber, the house is under call. I understand both Senator Chambers and Senator Rod Johnson are on their way. While we have a moment here I'd like to take the opportunity to introduce a couple special guests. Under the north balcony we have Jason and Rodney Lamb. They are from Anselmo, and they are the grandson's of Senator Howard Lamb and his wife, Jo. Please recognize the Lamb's. Thank you for joining us today. We're all here. Mr. Clerk, please call the roll.

CLERK: (Roll call vote taken. See page 742 of the Legislative Journal.) 18 ayes, 12 nays, Mr. President, on adoption of the amendment.

SENATOR HANNIBAL: The amendment is not adopted. Any further amendments, Mr. Clerk?

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

SENATOR HANNIBAL: The call is raised. For the advancement of the bill, Senator Hall has already opened on the bill. We'll go back to our speaking order on the board. And I will recognize Senator Labeledz, please.

SENATOR LABEDZ: Thank you, Mr. President. I rise in support of LB 346. In fact, I feel so strongly about tuition tax credit

that I introduced an amendment that is printed in the Journal on LB 1059, which is the school finance bill. More than a half a century ago the United States Supreme Court recognized the fundamental right of parents to direct the upbringing of their children. And in 1903, the United States Supreme Court upheld a Minnesota statute which allowed taxpayers to claim a tax deduction for tuition, for transportation, and nonreligious textbooks. LB 346, as you know, is patterned after that statute. In Nebraska more than 34,000 students are enrolled in approved nonpublic schools, and these students and their parents fulfill every educational requirement of the state. They also make great financial sacrifices so that it is possible for them to choose an education for their children in conformity with their religious faith. LB 346 would alleviate the double burden borne by parents of nonpublic school children. I don't know about the rest of you, but evidently there are many, many people in this state that don't realize that I am a co-sponsor of LB 346, because I receive letters almost every single day and calls into my home in regard to LB 346 and asking for the support. I am a co-sponsor, and I believe strongly in tuition tax credit. And I think it's important to recognize that LB 346 is not a bill that will only benefit the parents of nonpublic school children. Because of the increasing cost of education, parents of public school children are also faced with ever-increasing fees and other extraordinary expenses. The right to guide their child's intellectual and moral development is an essential component of parental freedom. One way the Legislature can help assure that this fundamental right is preserved is through a program of educational tax relief. I urge you to advance LB 346 from General File and hope that we will treat our children that are going to private schools equally with the public schools. And, as I said, I do have an amendment on LB 1059, but I would prefer to see LB 346 advance. Thank you.

SENATOR HANNIBAL: Thank you, Senator Labedz. Next is Senator Abboud, followed by Senators Lynch, Beck, Hall, Hefner, Nelson and McFarland. Senator Abboud, please.

SENATOR ABOUD: Yes, Mr. President, colleagues, I rise to support LB 346, and it's probably for a different reason than Senator Labedz or Senator Hall. I think that everyone might have a different reason for supporting a bill. Some may feel strongly because of their constituents that send their children to schools, and those constituents feel that they are entitled

to some sort of deduction for sending their kids to schools. But my perspective is different, and that being that there is a tremendous tax savings to our state institutions, our public schools in particular, with the passage of this particular bill. I, along with a few other state senators, represent the Millard School District. And in that particular area of the city we're facing tremendous growth. There is discussions of a 50 million dollar bond issue to construct high school, grade schools, middle school, it's tremendous the growth that we've had in that area. And, if there is some way, some way that I can help to reduce property taxes by providing a deduction and maybe some encouragement to some of these parents to construct some sort of private schools, it will see a reduction in our property taxes, or at least not as sharp of an increase in our property taxes. And I think that's a big concern to people across this state is property taxes. Now Senator Hall provided information to us of about 120 million dollar savings to the State of Nebraska or savings to local public school systems through the use of parochials and private schools throughout the state. I think that that's probably, probably we're not getting much argument on the floor over that particular figure. It does offer a tremendous savings to public schools throughout the state. And it's a total bafflement to me, a total bafflement that a group, such as the public school administrators, would be opposed to this particular proposal when the only thing I ever hear from them is how high our property taxes are. And this is an opportunity for us to help reduce property taxes. Now, now in addition, I really don't know why they're opposed to it, to be honest with you. I suppose it might result in fewer hiring of teachers, fewer administrators around the state. They may even have to reduce some, some rifting of teachers. Maybe that is their rationale for opposing this particular proposal. But when we have a system that has shown, through its use over these last...over 100 years, that property taxes are reduced, then I think it's probably something that maybe we ought to encourage to reduce the property tax load of our homeowners. Now, why hasn't this come up before? Why, if this is such a great idea to reduce property taxes, why hasn't this come up before? Well, there's always been discussion about the separation of church and state and constitutional prohibitions against it. And in the packet that Senator Hall provided, he cites to a Minnesota case in the back, Mueller v. Allen, that was an '83 case, and then a list of about four different cases that some of our own Nebraska Supreme Court has looked at in examining the issue and the proper role of church and state. Now at this particular

time we have a clear picture of what is required constitutionally. And that's why this bill follows the Minnesota statute nearly to the letter in providing a sure constitutional ground in which we can tread upon. So I feel that there is no constitutional bar at this time. There is no question that it will reduce property taxes for our homeowners, and that's really my top priority this year, is reducing property taxes, and I'm sure it's a majority's opinion in this body that property taxes do need to be reduced. It's a small price to pay.

SENATOR HANNIBAL: One minute.

SENATOR ABBODD: I urge the adoption and advancement of LB 346. Thank you.

SENATOR HANNIBAL: Thank you, Senator Hall. Next to speak will be Senator Lynch. But before I introduce him, I'd like to take this opportunity to introduce a guest of Senator Jacklyn Smith. Under the north balcony, from Hastings, Nebraska, is Mr. Stanley Shuck. Would you please rise and be welcomed. Thank you for visiting the Legislature today. Senator Lynch, please, followed by Senator Beck and Senator Hall.

SENATOR LYNCH: Yes, Mr. President, members, I feel qualified to talk and discuss this bill since I probably spent enough money to buy a couple of houses and a couple of cars on education. I have no kicks about that. I've never asked for any help, it was my choice. Fortunately, I had a better opportunity because I could afford it better than some others, although I couldn't afford it sometimes either, to send my kids to public school...or to private schools. Times have changed. This legislation would make it possible for some people now who absolutely cannot find the means to help support sending their kids to a school that is, in fact, their choice. I think it's a small thing we can do, indeed, to allow this to happen and, in fact, I think it would, in a sense, be almost irresponsible for us not to. We can't talk a lot about education on this floor, about the quality of education, about choices that people should be able to make regarding that education and not consider a small stipend, in effect, in a sense, that would apply as well as this could apply and make a difference in some cases, not all but in some. I think it's important for us to seriously consider this legislation. And I think it's fair for us to consider it as well. You know traditionally we've done things,

interestingly enough, I remember there was a bill, 571, that was intended to help provide some kind of means for people going to medical school, especially family practitioners. It was intended to support both of the teaching schools. By the time a number of people here in this body were finished with that, by the time the university was able to put its political pressure together on the body, it wound up, today, nothing at all like it was intended to do, where people could go to a medical school with the intention of practicing, especially in the areas outside of Omaha and Lincoln, and, in fact, if they went to Creighton be denied that opportunity. Because the way the bill is written now, the way 571 is interpreted, the way the Appropriations Committee has redefined it, of course, money goes generally to the University of Nebraska Medical School and Creighton is generally cut out. Those kinds of things happen, subtly they happen, but it shouldn't happen. I hope that wouldn't happen in this case, that we wouldn't even give it a chance to work, and I would ask for your support for 346.

SENATOR HANNIBAL: Thank you, Senator Lynch. Next to speak will be Senator Beck. But, before she speaks, I'd like to take the opportunity to introduce some guests of Senator Dierks in the south balcony. We have students from O'Neill High School, and they are here from the...government class teacher...from the O'Neill High School. Would you all please rise and let us welcome you to the Legislature. Thank you for joining us today. Senator Beck, please, followed by Senator Hall and Senator Hefner.

SENATOR BECK: Thank you, Mr. Chairman and members of the body. I, too, would like to rise in support of this bill that is the priority of Senator Hall. And I think that one of the things that we haven't looked at is that automatically when we see these kinds of bills we think, well this is just for one segment, but it's not. If you look in the bill, it says, every resident individual. So there are expenses there that public school children could, or their parents could use the deduction. Now, again, this is not a credit, this is a deduction. So it means that their amount would actually be less than a credit, and perhaps not all that great amount. We are talking about concepts, and I think this is a concept that has come time...it's time to look at. I remember in the say yes to the children in the Omaha area when we approved a bond issue for renovating and rebuilding buildings in the Omaha public schools, that some of the very people who were the leaders in that

petition drive and working on that were people from the private sector, their children were in private education, and yet they were getting signatures and helping and supporting a public school measure. And so I look at it, I guess, very narrowly from my own perspective and point of view within the district that I come from, but actually this would be a state benefit. I feel that it's a matter of fairness. We see these folks helping and supporting a public school effort because they are committed to all types of education, and I think that's something we need to bring before the body, we are committed to all kinds of education. We are committed to support public education, and this is a very small amount to consider for those who have...in independent certified schools who have supported public endeavors. And I think that it's time that we consider it, I think it's time that we passed this bill on. And it just furthers a good concept, an open concept of looking at all people's educational expenses and, of course, those in particular probably the private, independent school. And we never, of course, want to diminish our support of public education. That's why I brought forth....I'd like to mention to you I hope that you will look at the material that Senator Hall has distributed to us. This is very fine material and it covers the entire argument. And I think those of you who might be a little bit apprehensive of this type of thing need to really look through this material very carefully, because I think it covers the argument for LB 346. And I know that I have many people have written to me from all across the state, and surprisingly many from public...have their children in public institutions and public schools. And they feel that it's time for this type of thing because it would, indeed, as Senator Abboud so succinctly mentioned, it will help property tax. And so, with that, I would just like to throw my support to Senator Hall's bill and I would hope that we would advance it very quickly. Thank you very much.

SENATOR HANNIBAL: Thank you, Senator Beck. Senator Hall, please.

SENATOR HALL: Thank you, Mr. President and members. There are a number of concerns that have been raised, I think, by some of the discussion that has taken place on the bill. And really probably the most important one that I think ought to be dealt with quickly is the one...the constitutional issue that was raised. I'm sure Senator Hefner, who follows me in the speaking order, will raise that issue when he talks about the March 9,

1989, opinion that he got from the Attorney General's Office that Mr. Mosher wrote. That opinion, and it was requested in good faith by Senator Hefner while the bill was still, I think, at that time in the Revenue Committee, states that in Mr. Mosher's opinion the legislation, LB 346, would be unconstitutional based on Article VII, Section 11 of the Nebraska Constitution. I would disagree, and I would disagree based on at least four different cases that Mr. Mosher did not mention in his opinion to Senator Hefner, four cases in which the Attorney General's Office was involved, four cases that Mr. Mosher was the attorney for the AG's Office, and four cases in which the State of Nebraska lost. They were all in favor of areas of this type, this nature with regard to what we call public aid to nonpublic schools. Each of those cases, the first one being the Lindstrom case, which dealt with the scholarship program for nonpublic institutions, was a case that the Supreme Court said in the scholarship program which involved the granting of money directly to students to use for educational expenses at eligible postsecondary institutions, including nonpublic institutions, was not violative of the literal language of Article VII, Section 11, which we determined clearly prohibited only appropriations made to a nonpublic school. The issue here is the difference, because of a change that was made in the Nebraska Constitution in 1972 by the public, it was voted on, that said the issue was not one of...that anyone opposed or disagreed with, state aid to an institution of private education. That clearly would fall outside the constitutional parameters. But just because the institution might receive indirect aid did not, in this case, in the Lindstrom issue, make that, in their words, in this respect, any benefit that may inure to the nonprofit institution is merely incidental and certainly cannot be deemed to be an appropriation to that institution. So in other words, what they said in the Lindstrom case was that you were not appropriating money to the institution. You were appropriating money to that individual student to use as they please. In the next case, the Creighton University case, the court said this, that we do not rule out the possibility that Creighton may derive any indirect benefit from a research contract with the state, but possible indirect benefit does not transform payments for contract of services into an appropriation of public funds prescribed by Article VII, Section 11 of the Nebraska Constitution. Mr. Mosher didn't mention any of those in his opinion to Senator Hefner. Then we talked about, as Senator Beck mentioned, Mueller v. Allen, which is the case that was heard...the case that was heard in the

U.S. Supreme Court that originated out of Minnesota. It says that in the most...it is most....Excuse me. That the Massachusetts Constitution, that is the basis for Mr. Mosher's opinion to Senator Hefner,...

SENATOR HANNIBAL: One minute.

SENATOR HALL: ...is a different constitutional provision than that which is in the Nebraska Constitution. These different elements, and the most recent...the other one...the other two cases are the case that dealt with the busing issue, and then most recently, which we passed here, the tuition tax credit proposal. Those are the four cases that were dealt with in the 1980s that were all passed, supported because of the change in the Constitution in 1972 that allowed for aid to nonpublic schools, but not what we would call a direct appropriation to those institutions. That, ladies and gentlemen, allows for LB 346 to pass constitutional muster. And I believe that the opinion, although probably done in good faith by Mr. Mosher, is one that is ill-conceived and lacks background, background that can be found very close to home in four decisions over the last ten years by the Nebraska Supreme Court.

SENATOR HANNIBAL: Time.

SENATOR HALL: Thank you, Mr. President.

SENATOR HANNIBAL: Thank you, Senator Hall. Senator Hefner, please, followed by Senator's Nelson, Abboud, Dierks and Schmit.

SENATOR HEFNER: Mr. President and members of the body, the Revenue Committee heard this bill last session. There was very good testimony, there were good arguments for it and against it. I would like to support this bill. And I did advance it out of committee. But I told the committee members then that I did have a few problems with it. I didn't know whether this bill would be constitutional as it was written. And so I did vote it out of committee, I want everybody in this body to know that, I voted it out of committee. But now I have some reservations about it. Like Senator Hall said, I did request an Attorney General's opinion, I received it, and I want to read a few parts of it. And I'm not an authority to say whether it's correct or not. I would like to believe that it is correct. But Harold Mosher wrote, and Attorney General Spire signed the letter, too, but they say LB 346 is unconstitutional because it authorizes a

state income tax deduction for amounts expended on tuition and textbooks for students of private elementary and secondary schools. So I think it's pretty plainly there. And we've been talking about the Minnesota law and that it passed the scrutiny of the U.S. Supreme Court regarding the federal Constitution. But he goes on in his letter saying that our state charter is different...is a different matter because the benefits of the tax deductions would flow to residents who attend private schools, and as a result to the private schools themselves. And then he also goes on to say that the fact that the expenditure here takes the form of a tax deduction rather than a direct payment out of the state treasury does not alter the result, for it has long been recognized that the subsidies or tax expenditure of this sort are the practical equivalent of direct government grants. So I think that's pretty plain. He also goes on to say that in our opinion it is unconstitutional, that's his last paragraph and last sentence in his letter. So, I'll put....I don't believe that at this time I could support the bill because I've taken an oath to uphold our Nebraska Constitution and I feel that the Attorney General's Office is...has issued a written opinion here. I would certainly like to support it because I know that there are many families out there that certainly need it. But, if we pass it and it's unconstitutional, then it just creates more of a hardship.

SENATOR HANNIBAL: Thank's, Senator Hefner. Senator Nelson, please.

SENATOR NELSON: Mr. Speaker, members of the body, I, too, see a lot of merit in this bill for the...particularly religious schools. And I can also see where maybe a little coming in on the tail on the public schools. I guess I can almost see a position for, again, and I somewhat pick this up from the Lincoln Journal back about 1987, when the Journal editorially opposed Governor Orr's LB 773, purporting to establish a state income tax system completely uncoupled from the federal system. This newspaper warned of future political attempts to carve special interest benefits in an independent code. LB 346, in the 1989 session, is a spectacular example of what we're talking about two years ago. This brief commentary merely takes the form of an early warning. I don't have to go by what the newspapers say or the editorials, I have a lot of problems with them very often. However, I do...and Senator Hall I think somewhat addressed the constitutionality of it. I would like to vote a bill on the merits, and no one is saying, I don't think

anyone in this body that in general the private, particularly the Catholic and the Lutheran schools, are not good schools, they're not superb schools. But again I see this as just opening the door. We got our...now and on down the road....And I would be much more comfortable by supporting this more in the neighborhood of the tuition only, \$500 or whatever it is. I'm not even sure what the tuition is. Maybe Senator Hall or someone else could answer that to me. In the...page 3 of the bill, it says, textbooks, and it explains textbooks. Textbooks shall not include books or instruction materials or equipment used in the teaching of religious tenets, doctrines, worship or extracurricular activities. What I'm addressing is extracurricular activities. In the little handout of Senator Hall, I see some very lucrative or things that I could see for possible abuse. Gym clothes, we all could add up gym clothes. Rental fees paid to school for calculators for class, I think everyone's got the five or seven dollar calculators. Field trips, I could see that as an unending amount of money that many of us could justify. Shop class supplies, another one. Taxi charges. I think we're simply opening up this bill too wide. If it was specific for tuition only and no one has any doubt that the Catholic Schools and the Lutheran and other Christian schools do save the taxpayers a tremendous amount of money. But I am wondering that when we open the door where the door ever closes. As I said on a few other bills in the last few days, to me there is no end. And I would like to ask Senator Hall a question, maybe he can answer the tuition for me.

SENATOR HANNIBAL: Senator Hall, would you respond?

SENATOR NELSON: First, what is the average tuition, Senator Hall, you have any idea?

SENATOR HALL: I do not, Senator. The tuition limitations within the bill are spelled out and I...

SENATOR NELSON: I see somewhere about 426 or 420 dollars, one particular school. I just am not knowledge...

SENATOR HALL: Yeah, I would guess...

SENATOR NELSON: Does this apply to the Christian schools, too, or home schooling?

SENATOR HALL: No, it would not apply to home school. It would

not apply to any school that is not approved or accredited by the State of Nebraska, under Section 79-207, I think it is.

SENATOR NELSON: Thank you. With that, I'll just listen to some more debate on the bill.

SENATOR HANNIBAL: Thank you, Senator Nelson. Senator Abboud, please. Senator Abboud waives. Senator... Senator Abboud would like to yield his time to Senator Hall. Senator Hall, please.

SENATOR HALL: Thank you, Senator Hannibal. Thank you, Senator Abboud. Mr. President, members, the issue again... some points that have been raised, Senator Hefner's argument on the AG's Opinion, again, far be it from me to impugn anyone's reputation. But Mr. Mosher has a bad track record with regard to the issues that he's talking about here, the cases that have been before the court, the Supreme Court of Nebraska, and in the opinion that he gives Senator Hefner, on March 9th, mentions none of those cases. Doesn't like to dwell on his 0 for 4 record with regard to this issue. And this issue is one of a change that was made in the Nebraska Constitution back in 1972 by the voters of this state. And the change in the language went like this, it said... the original language said to prohibit the appropriation of public funds to a nonpublic school. And that was the change that then went to, to prohibit the appropriation of public funds to a nonpublic school, that was the change that was made. The original language was to prohibit the appropriation of public funds to aid a nonpublic school. We changed it so that the difference was that there could not be clearly a direct appropriation to a nonpublic institution. Indirect aid has been upheld over and over again, and in this case, there would not... although you can make, I guess, an argument, I think it's a poor one at best that the direct aid that is made flows to the institution. In what way does it flow to the institution? The aid is to the taxpayers of this state. And the argument that Mr. Mosher bases that on is that this aid, in the form of a tuition tax deduction, is going to primarily be lumped into the area of those people who are going to nonpublic schools. Well, ladies and gentlemen, it is eligible to every taxpayer who has expenses, whether they go to a public school or a nonpublic school. And those people can write that off of their income tax before figuring what their tax liability is based on that taxable income. It's very simple, it applies to everyone who has kids in school and who has expenses over and above, in the case of a public school, what the cost that's

picked up through tax dollars would be. What's happened in terms of practical experience? Senator Beck, I think, mentioned an example over in Iowa. Over in Iowa they have a similar program to this. Their experience has been that the costs that have been incurred were approximately a little over 160,000 dollars, I think. And of that, 60 percent of those who use this benefit, this deduction were families who had children in public schools. Now, clearly, because of the difference in cost, those folks who had their kids in a nonpublic institution would derive a larger benefit. But if you'd follow, I guess, Mr. Mosher's opinion and you take his thought process to the end, I guess that then you know the argument could be made that only those individuals in public schools receive the benefit of tax dollars with regard to education, and there could be, based on the constitutional provision that was passed in '72, a problem with somebody who decided to use a public...nonpublic institution, or maybe a home schooler who decided to not go the public route, could make arguments with regard to how their tax dollars were being used and what benefit they derived from that.

SENATOR HANNIBAL: One minute.

SENATOR HALL: I mean it is convoluted logic, at best, and clearly does not stand up to the very recent history, all four of these cases were passed, handed down from the Nebraska Supreme Court in the last six...excuse me, eight years, and Mr. Mosher, in his opinion to Senator Hefner, fails to mention those. He was on the short end of the stick in all of those. I respect his opinion, I respect the hard work that he does on behalf of the Attorney General's Office. But I think he's wrong in this case and the Massachusetts Constitution that he deals with is the broader interpretation of the aid to nonpublic schools that would have very likely applied, prior to the constitutional passage, constitutional change in 1972 in Nebraska. It does not apply, it is not applicable in this case. And I don't think it is an issue in LB 346.

SENATOR HANNIBAL: Thank you, Senator Hall. Senator Dierks, please, followed by Senator Schmit.

SENATOR DIERKS: Thank you, Mr. President, members of the body. I'm, of course, supporting this legislation. I signed on as one of the supporters when the bill was introduced. I have a real good example for you as to why I think this legislation is essential and will help. In my district there is a school known

as St. Mary's High School in O'Neill that has had a tremendous amount of difficulty keeping their school open, to the point that the superintendent had said that it will have to close after this year, this current school year. Well, a group of concerned parents and students formed an organization called SOS, or Save Our School. And in an almost incredibly short period of time they raised, through pledges, in the neighborhood of 500,000 dollars, I'm sorry 300,000 dollars, over a period of about two months in pledges and actual donations. And they have come up with some foundation grants to help. Now I don't know how many students there are in that high school, I'm going to guess in the neighborhood of 120, I'd imagine there were 30 to 35 students per class over there, and it may be more than that. It has been more than that. What do you think would happen to the public school system in O'Neill were that group of students thrust on the taxpayers for education in O'Neill? What do you think would happen to the tax structure of the citizens in O'Neill, Nebraska, if they had to support that entire school system? And that was almost a reality. Fortunately, with the help of those people who have been so concerned, they've been able to come up with...it's a somewhat stopgap measure, but it is keeping the schools open. And I think they have these pledges set up for a period of five years to ensure that the school is going to be viable for that period of time. Now they're not off the hook yet. They still have a lot of work to do to collect those pledges and to gather a few more. So what little amount of tax credit they would receive from this legislation would certainly be a help. I mean they were out collecting dimes and nickels to help this thing work, and we're talking about not much more than dimes and nickels in the way of tax rebate to these type of people. I think it's extremely essential to the citizens of our state. I think when we look at the possibilities of what it could cost the taxpayers of that district without these schools, I think we can see the necessity of giving them all the help that we can. I certainly support this bill and I hope you will, too. Thank you.

SENATOR HANNIBAL: Thank you, Senator Dierks. Senator Lindsay, please, followed by Senators Nelson, Abboud and Hall.

SENATOR LINDSAY: Thank you, Mr. President, members of the body. I think what the...most of this argument today has been going to the constitutionality. I think most of it is brought up by Mr. Mosher's opinion. I think all that Mr. Mosher's opinion does, as far as impact on this body, is gives you an excuse to

vote against the bill, if you don't want to vote against it on the merits. The opinion, as has been said repeatedly, and said best, not by those on the floor, but said best by the Supreme Court, is that this type of legislation is constitutional. Mr. Mosher's opinion is based on Article VII, Section 11 of the Constitution which prohibits appropriations. It does not prohibit tax deductions. If the money never gets into the hands of the state, the state cannot appropriate it. That clause simply does not limit us in this case. We know on numerous occasions we handle, through tax deductions, public policy. We have, right now, numerous tax deductions, for example, for charitable gifts. Those gifts go to churches, those gifts go to a variety of institutions which might, if we use the...if we apply this rationale, it would prevent us from doing that because it would be violative of church and state or something. I don't think that the opinion that has been given is valid. I think the Supreme Court's language is specifically to the contrary. On three separate occasions at least, excuse me, four separate occasions at least, the Supreme...the Nebraska Supreme Court has said that this type of legislation is valid. To use the constitutional argument is just to simply hide behind that, because you don't want to vote on the merits. I think the debate should shift to the merits of the bill, and I think the merits, as set forth by Senator Dierks, is good. The people whom this is going to help are those who are struggling to send their kids to the school that they choose to send their kids to. The education, I don't think, can be challenged. As Senator Nelson pointed out, these are good schools we're talking about. The policy behind it, I think, is sound. We're not talking about a huge, huge gift to the people. We're talking about something to just help them make ends meet. Sure, some of it is going to go to those that may not afford it. But the people that we're concerned about are those that it might make the difference as far as whether or not they'll be able to attend the school that they choose to go to. Thank you.

SENATOR HANNIBAL: Thank you, Senator Lindsay. Senator Nelson, please.

SENATOR NELSON: Senator Hall, I need to ask you a couple of questions here in a minute. Again, the merits of the bill, and as I said the schools and so on, I have had some experience in Nebraska giving credits for another class of people that were asking for some help, some type of credits and so on. I am not an attorney and I do not have the books in front of me. But I'm

very aware of the fact that our Constitution is much stricter than Minnesota. And when I ran into this, it was a point of I think Minnesota helped farmers or something, reduction of loans or interest, or something on the money. Someone asked me, why can't Nebraska do that? I did research that a couple of years ago. Nebraska could not do that. It says very specifically, and so I'm not to say whether Mr. Mosher is right or Mr. Mosher is wrong, I just want to point that out to you that our Constitution is much stricter than Minnesota. Sometimes around here I honestly think that we should just tell Minnesota to come down here and pass our laws for us or just rubber stamp them, and we're going right down the line. I don't know why we're here working anymore even, I guess kind of tongue in cheek. Senator Hall, you...if I read the bill, I'm assuming on your Nebraska income tax return this would be adjustments to income. Right? Nebraska deductions for adjustment to income. By the bill, I have a little question, but I think I have it figured out. Every resident individual shall be allowed to subtract from federal adjusted gross income the actual amount paid to others, tuition, books, so on and so forth. All right. Let's take an average family of, and a lot of these are four children, so we're talking about four or five thousand dollars reduction in their taxable income. Then let's talk about the family that is making \$20,000, we're opening up a bigger area, if that's the case, and I'm not sure the way the bill is written. I'm assuming if it comes off the Nebraska adjusted income, this will not apply, otherwise it will. If our earned income goes from 19,000, I'll say, that's where the last of the credits phase out on earned income credit, if you have a dependent child. Let's go down then to 15,000, or if it goes down to 10,000, then there is approximately \$900 given back as earned income credit. So that actually is far more valuable than the tuition credits. So I....Can you answer that for me now?

SENATOR HALL: All I can tell you, Senator, is that the provision, as I think it's laid out probably more clearly than I can explain it in the handout on the first page of how the expense deduction would work, and you look at the taxable table, look at the income there and you show the twenty-two, seven, and you show that the \$2,700 in income would come off the top with regard to the taxable income. So it would be off the gross income and it would be prior to figuring what the taxable income would be for that...

SENATOR NELSON: But we can't allow taxable income to the

federal, can we?

SENATOR HALL: It would not be...

SENATOR NELSON: This is state, so I don't know as your...it would be back to the...when your Nebraska return, and your Nebraska adjusted income then. This doesn't really address...1040.

SENATOR HALL: Well, Senator, I think the Nebraska return uses the federal adjusted gross income as a base at which it starts.

SENATOR NELSON: It starts and then Nebraska adjustments to that income.

SENATOR HALL: Correct, correct.

SENATOR NELSON: Correct. And I'm assuming that that's where this would be then.

SENATOR HALL: That's correct.

SENATOR NELSON: And the earned income credits, I get in trouble when I assume things, but the earned income credits then, in that case, would not apply.

SENATOR HALL: Not to my knowledge, but in this case, we're dealing with the deduction that would be from adjusted...

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: One minute.

SENATOR HALL: ...federal adjusted gross income, which is the base at which Nebraska income tax liabilities begin. And it would come off the top of that so that it would be prior to any tax liability to the State of Nebraska.

SENATOR NELSON: If that's true, they would not apply, I can tell you that.

SPEAKER BARRETT: Thank you. Senator Abboud, would you care to discuss the advancement of the bill?

SENATOR ABOUD: Yes, Mr. President. Mr. President, colleagues,

I'd like to talk a little bit about the constitutional issue. First off, Mr. Mosher is very knowledgeable on this subject. He's ably represented the State of Nebraska on four previous occasions in which the State of Nebraska has argued against programs for assistance for students attending nonpublic institutions. In these four cases, arguing for the State of Nebraska, he's lost. I'm sure he's done a very fine and admirable job, but he has lost. The first one, in 1981, involving postsecondary scholarship award programs to nonpublic institutions, Mr. Mosher lost that decision. A second one which came in 1982, with the School District of Lincoln, involving school transportation for students involved...attending nonpublic institutions, he lost. A third one with Creighton, in 1984, involving cancer research grants, he lost. And then this last year, in 1989, a case that came down April 7th from the Nebraska Supreme Court again, these are all four decisions from the Nebraska Supreme Court, he lost that decision as well. I think he believes firmly in the philosophy that no money should go to nonpublic institutions for whatever reason. Unfortunately the justices of the Nebraska Supreme Court have disagreed, and they have said in no uncertain terms that these types of policies are, in fact, constitutional. Now, let's take a look at the decision that Senator Hefner requested from the Attorney General's office. In that decision which he requested the opinion and which they came out in that decision on March 9, 1989, he states, once again, that this is in fact unconstitutional. But what is interesting to me is in that time, from March 9, 1989 to February 12, 1990, there has been no additional Attorney General's opinions requested, which is interesting because of the Cunningham decision which came down April 7, 1989. We've had a major...an additional major decision by the Nebraska Supreme Court which further provides that this type of legislation is constitutional. Now this isn't something that the Nebraska Supreme Court is pulling out of the air. They're relying upon the 1983 decision made by the United States Supreme Court which clearly provides that this type of legislation is clearly constitutional. I have no problem supporting this legislation because of that constitutional protection provided by the United States Supreme Court. And in four separate decisions in which our Nebraska Supreme Court has had the opportunity to examine assistance to students...for students attending a nonpublic institution, they have clearly said this is constitutional. This law is modeled after the Minnesota law which was constitutional by the United States Supreme Court and the Nebraska Supreme Court as all 50 states

Supreme Courts follow the United States Supreme Court's decisions. Constitutionally, no problem, but, as I said in the earlier argument, this is an opportunity for us to provide property tax relief to those homeowners that so sorely need that help. And I would hope that you may have different reasons for supporting this piece of legislation. You may feel that it's provided an assistance...

SPEAKER BARRETT: One minute.

SENATOR ABBOD: ...to parents that truly need the money, which might be an important consideration. But my priority for this session has been for providing property tax relief to the homeowners, and this bill will provide property tax relief to those homeowners. We've already been shown where it's provided over 120 million dollars of funding that the homeowner would have had to pay for if we had not had these types of schools across our state. And it's my belief that with the additional funding in the form of this deduction, we will see property tax relief expanded to homeowners throughout the state. I urge the advancement of LB 346. Thank you.

SPEAKER BARRETT: Thank you. The Chair is pleased to take just a moment to introduce some very special guests of the Nebraska Unicameral Legislature. We have guests from Uruguay and Argentina with us today on a one month trip through the United States, studying the U.S. political process. Under the south balcony we have Mr. Gustavo Javier Barrios, Secretary to the Blanco Party Deputy Anza. Mr. Barrios, please stand. We have from Uruguay, from Uruguay, Mr. Leonardo Costa, a member of the Montevideo Youth Committee. Mr. Costa. From Argentina, Mr. Andres Delich, delegate to the National Committee of the Radical Party, Youth Section. Mr. Delich. From Argentina, Mr. Fernando Cesar Meilillo, Undersecretary for Youth, Municipality of the City of Buenos Aires. From Uruguay, Mr. Wilson Daniel Quiro-Saldana, member of the National Committee. Mr. Saldana. Also, these gentlemen are accompanied by two interpreters, Ms. Marta Aragon and Miss Luz Oramas. Would you ladies please stand. Thank you so much. We're absolutely delighted that you're able to spend some time with this unique legislative system in Nebraska. Also, in the south balcony, guests of Senator Schimek, we have 60 third graders from Saratoga School in Lincoln, Nebraska with their teacher. Would you folks please stand and take a bow. Thank you. We're glad you could be with us. Additional discussion on the

advancement of the bill. Senator Beck.

SENATOR BECK: Thank you, Mr. President. As you could see, I was involved there with some other things. I'm sorry. Members of the body, I just wanted to add this to the discussion we've had this morning. We have been in conversations with the Department of Revenue from the State of Iowa. Now Iowa has a bill, has passed it in 1987, it was made effective in 1987, and they have some rather telling figures on what this kind of bill did. It's...their bill is structured more intricately than this one, because in theirs they give not only a deduction, but they give a tax credit of sorts. The only figures that they could give us, and they called just a few minutes ago, and I wanted to bring this material out to put your mind at ease, because going around, I think, in some minds is the fact that, oh my, this is going to cost the State of Nebraska a tremendous amount of money, and they're worried about that, even though others here this morning ably have argued that this would not be the case. And Tim's material, Senator Hall's material that was sent out to you, again I think, supports that. But as a little piece of additional support I'd just like to share this with the body and enter it into the record, and that is that in 1987, when Iowa made this kind of bill effective, those who were afraid of it were projecting the cost at 1.5 million to the State of Iowa. They were very concerned. But they found that actually at the very most that it only cost, in essence, 524,000. But the telling argument here is not the actual dollars that were not received through the deduction, but it was the bulk of money was returned to one segment of the population, the...the...I think it was half...two-thirds. The bulk of the money was given over to the population who fell from...fell within the zero to \$25,000 range. And who needs tax relief more than those people in that range. And this is what the State of Iowa has found, and their bill has had no constitutional problems or anything of this kind. I just wanted to share that with the body as another telling argument for the real reason that we should advance LB 346, because the people who received the benefit, the greater share of the benefit were those who really receive it. And I think that just supports and furthers Senator Abboud's argument that this is tax relief and it's necessary for these folks. And, again, I just want to reiterate, I think it falls within the realm of fairness, and certainly we can see that. And we're going to continue our conversations with the Department of Revenue of Iowa, but they have given us those...that material this morning, and I just really want the body to think about

that. Those people receiving the benefit were, the greater share of those were under \$25,000 range income. Certainly that is our desire, to support and help those individuals as well as all. So thank you very much.

SPEAKER BARRETT: Thank you. Additional discussion? Senator Labedz. Senator Labedz moves the previous question. Do I see five hands? I do. The question is, shall debate cease? Those in favor vote aye, opposed nay. Shall debate cease? Record, Mr. Clerk.

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

SPEAKER BARRETT: Debate ceases. The Chair recognizes Senator Hall for purposes of closing.

SENATOR HALL: Thank you, Mr. President and members. Who benefits? Who benefits under this bill? Taxpayers benefit, taxpayers who have kids in school. That's all it is. It's a bill that benefits those people who most need it, because they're in an age in their lives, like myself, where they're raising a family. They have expenses over and above those of our other property taxpayers who don't have children in school. The benefits are across the board, they're for those individuals who have children in a public or in a private institution. It doesn't make a distinction there. Now the level may be more if you spend more, if you have more of an expense, clearly, the benefit you derive is there. But those individuals who go to a public institution, who have a small income, but yet can write off a, for example, the cost of a PE uniform that they are required to have, we're not talking about any amount of summer clothes that they may want to list, but something that is mandatory, something that is required, like a biology kit for lab, those individuals who can write that off their taxable income derive a greater benefit than somebody who can very likely afford the most expensive, private education that could be found in the State of Nebraska. There's a reason that those people can afford it, they've got the income to justify it. The constitutional issue is one that is moot. I think it's been pointed out by many people here today that the Nebraska Supreme Court understands that this is not direct aid to a private institution. That's where they draw the line. This bill does not step over that line. It's in the same parameters as the four opinions that have been brought down in the eighties that

have upheld this provision that says indirect aid to students is just fine by the Nebraska Constitution. What do we do here? What do we do in 1990 when we're talking about things such as LB 1059, the total refinancing of our elementary and secondary education. We have folks like the NSEA and the school boards who come in and support those measures, but yet they oppose a provision like this. And they do it based on the foot in the door argument, it's a foot in the door argument. Ladies and gentlemen, I don't know if most of you read this or have had the opportunity to, but if you look at LB 247, the postsecondary Education Committee study that has prompted the total restructuring, in this year, of the postsecondary education system in Nebraska, one of the principal things that they point out that is fundamentally wrong with this system at the higher education level is that foot in the door argument, that, well, if we let those other institutions, whether they be within the system or in the college system, if we let them in the door, let them offer postgraduate studies, then, well, who knows what will happen next. What this study says is that those people need to be incorporated into the system. You need to have a system that recognizes the benefits that are derived from every aspect, in this case, of postsecondary education. What does 346 do? LB 346 recognizes the incorporation of every aspect of elementary and secondary education in the State of Nebraska. That's all it does. It does not appropriate aid to institutions of private education. It appropriates the ability for a tax deduction to parents of kids in schools, all schools that are...

SPEAKER BARRETT: One minute.

SENATOR HALL: ...approved and accredited by the State of Nebraska. It is time for this type of recognition to be passed by the Legislature here today. I would urge you to, because I know many of you are up in the air on this, I know that, I've talked to a lot of you, and you've raised the issue saying that it makes good sense, but I just don't know. I would urge you to advance the bill over to Select File. I think it's hypocritical, at best, for us now to say that because the provision allows for a deduction, based on expenses, and it may benefit those in a private institution to a greater extent because their expenses are greater, makes it not workable, not good policy, is not a good way to think. LB 346 does nothing more than incorporate every aspect of elementary and secondary education in the state together,...

SPEAKER BARRETT: Time.

SENATOR HALL: ...recognizes it all, recognizes for what it is, education for our children in this state. It helps everyone who educates their children in the State of Nebraska and happens to pay income tax. I would urge the advancement of the bill. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. The question is the advancement of LB 346. Those in favor of that motion vote aye, opposed nay. Voting on the advancement of the bill. Have you all voted? Senator Hall.

SENATOR HALL: Mr. President, to "expediate" the process, expedite the process, I would ask for a call of the house and I would accept call in votes.

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

CLERK: 21 ayes, 0 nays to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, please record your presence. Call in votes have been authorized. Senator Goodrich, Senator Haberman, Senator Scofield, Senator Lamb, Lindsay, the house is under call. Senator Korshoj. Senator Rod Johnson, Senator Kristensen. Call in votes have been authorized. The question is the advancement of the bill. Senator Scofield, Rod Johnson, Lamb and Haberman, the house is under call. Senator Hall, do you prefer to wait, or what are your desires?

SENATOR HALL: Who are we waiting on, Mr. President?

SPEAKER BARRETT: Senator Lamb.

SENATOR HALL: We can go ahead and call the roll. I'd ask for a roll call vote to advance.

SPEAKER BARRETT: Roll call has been requested. The question again is the advancement of the bill. Mr. Clerk, will you call the roll.

CLERK: (Roll call vote taken. See page 743 of the Legislative Journal.) 23 ayes, 17 nays, Mr. President, on the advancement.

February 12, 1990

LB 93, 100, 346, 369, 454, 461, 517
529, 560, 578, 593, 647, 771, 1008
1010A, 1019, 1022, 1027, 1045, 1048, 1064A
1078, 1081, 1085A, 1110, 1123, 1186, 1199
1243
LR 13

SPEAKER BARRETT: Motion fails. The call is raised. For the record, Mr. Clerk.

CLERK: Yes, Mr. President, I have a series of items. Mr. President, I have a Reference Report referring LB 1243 to the Judiciary Committee. That is signed by Senator Labedz as Chair of Reference. A hearing notice from Banking, Commerce, and Insurance, Mr. President, for February 20, signed by Senator Landis.

Amendments to be printed to LB 1022 by Senator Smith; Senators Warner and Beyer to LB 369. (See pages 744-46 of the Legislative Journal.)

Mr. President, your Committee on Transportation whose Chair is Senator Lamb reports LB 1186 to General File with committee amendments attached, signed by Senator Lamb. Banking Committee reports LB 93 as indefinitely postponed, LB 100, LB 454, LB 461, LB 529, LB 560, LB 578, LB 593, LB 647, LB 771, LB 1008, LB 1027, LB 1045, LB 1078, LB 1110, and LB 1123, all reported indefinitely postponed, those signed by Senator Landis as Chair of the committee. Government Committee, Mr. President, whose Chair is Senator Baack, reports LB 1019 to General File, LB 517 indefinitely postponed, LB 1048, LB 1081, and LR 13CA as indefinitely postponed, those signed by Senator Baack as Chair. (See pages 746-47 of the Legislative Journal.)

New A bills, Mr. President, LB 1010A by Senators Ashford, McFarland, and Chambers; LB 1085A by Senator Wesely; LB 1064A by Senator Wesely. (All read for the first time by title. See page 748 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Mr. Clerk, moving on to the next bill on General File, LB 1199.

CLERK: LB 1199, Mr. President, was a bill introduced by Senator Landis. (Read title.) The bill was introduced on January 18 of this year, referred to the Banking, Commerce, and Insurance Committee for public hearing. I have no amendments to the bill, Mr. President.

SPEAKER BARRETT: Thank you. (Gavel.) The Chair recognizes Senator Landis.

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

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

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

SPEAKER BARRETT: The Chair recognizes Senator Labedz.

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

and an increase in the income tax and sales tax in order to get a small reduction in property tax which, and I'm sure in some cases, there will not be any reduction according to the figures that we received in the last couple days. LB 346 is a very important bill to the parents of 34,000 students and I will not support LB 1059 in any case unless LB 346 is attached to it and I will allow some of my time now to Senator Schmit.

SPEAKER BARRETT: Senator Schmit.

SENATOR SCHMIT: Mr. President and members, Senator Labedz brings to the discussion another very valid point of view. Most of my children attended public schools. Several of them attended private schools. I've always supported both public and private schools. I shall continue to do so. As Senator Labedz points out that there are many persons who support both and do so at a substantial sacrifice. Senator Scotty Moore spoke about how my arguments were in support of LB 1059. I would just like to say this, that so long as you have a system which is based upon property, and that is what this is, then at least you ought to make it honest enough to base it upon all property, not just selective parts of property. There are those individuals who will argue that this is the only way it can be done. Let me tell you, I can clear this floor off very rapidly if I were to call the roll of those individuals on this floor and ask each in turn what their financial support of the school system would be. I can guarantee you that without exception, without exception you will find the average cost for rural taxpayer greater than the urban taxpayer. I'll find also, I think, that in this instance we have a particular problem. The City of Omaha has a high percentage of private schools and those individuals who live in that city pay a substantial amount of contribution toward that school, for the private school systems, yet they continue to support the public school system through their tax dollars, through the tax system based upon principally upon property, and I would have to add that most of those persons who do that do not have a substantial investment in stocks and bonds and CDs. Their investments are in the family, their investments are in the home, possibly a small business. But by the support of those private schools they substantially reduce the burden of the public school system. I believe the town of Bellwood does real well, the Class I district in Bellwood does real well according to 1059, partially because a high percentage of students from Bellwood go to the private school and if those students were in attendance at the public school it would be

SENATOR SCHMIT: I'm going to yield the rest of my time back to Senator Labedz.

SPEAKER BARRETT: Thank you. Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. President. I have one more minute but I do want to say that I am very disappointed in the Association of School Boards for appearing in front of the Revenue Committee opposing LB 346 and also in the material that I received today in the mail saying that they should vote against LB 346. As I said, I cannot vote for LB 1059 without the tuition tax credit amendment on there, but I'm going to respectfully ask the Clerk to withdraw this amendment too, but to immediately put it in as an amendment on Select File if LB 1059 advances. Mr. Clerk, I respectfully ask you to withdraw the amendment and then put it in on the Select File, if this bill advances. Thank you.

SPEAKER BARRETT: Thank you, it is withdrawn.

CLERK: Mr. President, the next amendment I have to the bill is offered by Senator Hefner. Senator Hefner's amendment is on page 649 of the Journal, Mr. President.

SPEAKER BARRETT: The Chair recognizes Senator Hefner.

SENATOR HEFNER: Mr. President and members of the body, this amendment, like the Clerk said, is on page 649, and what it would do is say that we would have this lid that is on the bill for three years. As I interpret this section the way it is written now, the lid of 4 percent is only for one year and I really don't believe that when you put a lid in a bill for one year it's really a lid. I was told that there was a lid in the bill and it was more than a one-year, but by my interpretation I believe it's only for one year. This is a 4 percent lid which would be allowed to go up to 6.5 percent depending on your increase in enrollment, and then you could go up one more percent if it was approved by three-fourths of the governing board. Also, if it created a hardship and you had an emergency, you could go beyond that with a majority vote of the voters in that district. But I really don't think it's a lid when it's only for one year, and this is why I'm offering this amendment. Why do we need a lid? Well, I believe we need a lid because we want to be certain, we want to be sure, we want to be

SENATOR DIERKS: Yes, I would, Mr. Speaker and members of the body. I especially want to thank Senator Smith for her support of my amendment. (Laughter.) And I would just urge the body to advance my amendment, please. Thank you.

SPEAKER BARRETT: Thank you. The question before the house is the adoption of the amendment offered by Senator Dierks. Those in favor of that motion please vote aye, opposed nay. Record, Mr. Clerk.

ASSISTANT CLERK: 32 ayes, 0 nays on Senator Dierks' amendment, Mr. President.

SPEAKER BARRETT: The Dierks amendment is adopted. Anything further on the bill, Mr. Clerk?

ASSISTANT CLERK: Nothing further, Mr. President.

SPEAKER BARRETT: Thank you. We then are proceeding to a discussion on the advancement of the bill. Senator Labedz, you're recognized for a discussion on the advancement of the bill.

SENATOR LABEDZ: Thank you, Mr. President. I waited a long time. I know you passed me up several times. But when I stood before you before on the amendment that I had at the beginning I failed to ask Senator Withem a question. I would ask him now, if he'd yield to one.

SPEAKER BARRETT: Senator Withem, would you respond.

SENATOR WITHEM: Certainly.

SENATOR LABEDZ: Senator Withem, I...at the beginning I mentioned the fact that the Nebraska Association of School Boards sent out information and a score card asking us, and showing our vote on LB 346, and asking us to vote no on LB 346. Unfortunately, it only got 23 votes, because there was some senators absent. But for the record, would you tell me why the Nebraska Association of School Boards would be opposing LB 346 and at the same time asking us to increase the sales tax and the income tax of everyone in the State of Nebraska. Just that question, thank you.

half century ago that the United States Supreme Court recognized the fundamental right of parents to direct the upbringing of their children. And in 1983, the United States Supreme Court upheld a Minnesota statute which allowed taxpayers to claim a tax deduction for tuition, transportation and nonreligious textbooks. This amendment to LB 1059 is patterned after that very same statute. In Nebraska there are more than 34,000 students that are enrolled in the approved nonpublic schools, and these students and their parents fulfill every educational requirement of the state. They also make great financial sacrifices so that it's possible for them to choose an education for their children in conformity with their religious beliefs. This amendment would help alleviate the double burden borne by parents of nonpublic school children. When I was approached to co-sponsor LB 1059, I declined because of the fact that for at least the last two sessions we have been trying to get tuition tax credit for private schools. And I took this opportunity, on LB 1059, because, if you recall, LB 346, which was a bill that Senator Hall and myself and I believe Senator Lindsay and a few others introduced. And I cannot see increasing the sales and income tax without providing some relief for the parents of the children that are going to private schools. I have here, and I'm sure you have, too, and I would like to just hold those up, approximately three, four, maybe even five hundred letters here that I have received since LB 346 was introduced. I'm sure that many of you have received the same amount of letters. It's ironic though that most of these letters I receive ask me to support LB 346. And, in fact, I had to write back and say that I was a co-sponsor and a very strong supporter of LB 346. I have ten minutes for opening? I believe that there might be....Senator Crosby, did you want some of my time? Thank you. Not the rest of my time, I would like to have the last minute.

SENATOR CROSBY: I'll just take about...I'll just take about one minute, because in...

SPEAKER BARRETT: Senator Crosby.

SENATOR CROSBY: ...in....Thank you, Mr. Speaker and members. In general, I am in favor of LB 1059, I want to make that clear at the beginning, because I think that we talk about a tax shift, and we talk about relieving property tax, but we don't really do anything about it that is significant, nor long-term. And I think 1059 is a good beginning or attempt at least to try to address that problem. I think we have to be up front about

had calls from people that belong to the Peace Lutheran and the Trinity Lutheran School, and this is my choice, and, Arlene, don't start down the road because then where do you start and where do you stop. If it were for tuition only, I could certainly feel a lot more comfortable about the bill. But I realize why the others have to be included, and this is a very open-ended bill. I think I've been out speaking where Senator Langford has been speaking, and she's used the figure of \$85 average. I don't know where that one would come from, but if you multiply 1,100 by 3.15 you're more 34, 35 dollars. Not a big amount. It is a help, but I think it would take a lot of the families right out of the Nebraska tax. So, with that, I have no problem, if it was tuition, probably tuition only, but I am hesitant to start down that road, too. And I see this as a very open-ended bill.

SPEAKER BARRETT: Thank you. Senator Hartnett.

SENATOR HARTNETT: Mr. Speaker and members of the body, I rise to oppose the amendment. I do favor the concept. I did in committee, I did vote for the bill, LB 346, when it was on the floor. But I think that, and I have had my children attend both public and private schools, and I think that is a choice, and I guess that's why I favor it. But I do not think that that is an issue that should be tied with this. I think it's a separate issue, and I guess I will continue to support the issue of providing tax relief to private students that make the choice to attend, as was introduced by Senator Hall and LB 346. But I really do not see that this is...should be part of this issue. So I rise to oppose this amendment.

SPEAKER BARRETT: Senator Byars, please.

SENATOR BYARS: Thank you, Mr. Speaker, members of the Legislature. I'm really not standing to oppose the amendment, because I have supported this concept on General File in the form of the bill. But I'm going to stand to ask you to oppose this amendment on 1059. I think that we're dealing with a piece of legislation that obviously is going to have a tremendous impact on the State of Nebraska for many years to come. And, I think, if we call the bill fragile, I think it would be appropriate. And anything of this sort that we add to this bill I think is going to endanger its passage. So I would urge you, please, not to support this amendment, not because the amendment is bad. I would support the concept of the amendment, but not

in this form, not on this bill, not at this time. I would yield the balance of my time to Senator Labedz.

SPEAKER BARRETT: Senator Labedz.

SENATOR LABEDZ: Thank you. Thank you, Senator Byars, I appreciate the fact that you relinquish some of my (sic) time and for your words of encouragement that you will support LB 346 in the future, if it should ever come up again. I respect each and every one of you on this floor. And I know that many of you that are supporting LB 1059 have come up to me privately in the last couple, two or three weeks saying that they will support tuition tax credit on an amendment to any other bill or to LB 346, but they don't want it on LB 1059, and I can understand that. I'm sure that the parents of the children that go to the private schools, the accredited private schools, will be terribly disappointed that I am withdrawing the amendment to LB 1059, because I feel that it should be here inasmuch as you're asking us to pay an additional sales tax and income tax. I cannot and will not support LB 1059 until we recognize the fact that the parents of the children that go to private schools should have some relief also, because you have to remember, they have been paying the high property tax now for as many years as we've had it. Way back in '67 and '68, I've said it many times, I worked for the Department of Revenue. We promised them, at that time, property tax relief. But I think it is the wrong way to go on LB 1059 to increase the sales and income tax at such an enormous amount and not give any tuition credit, tax credit to the private school, to the parents of the private school children. I respectfully ask to withdraw the amendment, only because I respect everyone on the floor that is a co-sponsor of LB 1059. Thank you.

SPEAKER BARRETT: Thank you. It is withdrawn. Mr. Clerk.

CLERK: Mr. President, the next amendment I had was by Senator Hall who is excused until he arrives.

SPEAKER BARRETT: Next amendment, please.

CLERK: I had a second amendment from Senator Hall, Mr. President. The next amendment I have is by Senator Warner. I have a note on this one, Mr. President. Senator Warner is excused until he arrives, but I have a note that he wished to withdraw.

students that are attending parochial schools elsewhere. We...this, as Senator Hefner indicated, the history of this bill is a bill that went through the Education Committee. The Education Committee held up on it awhile saying it sure makes sense but let's do some work on it to find out how much of an impact it is going to be. And we found out in our survey it is a fairly minimal fiscal impact but it seems the fair and just thing to do if the public school is providing education to a student who may be enrolled primarily in a private school but they are receiving some education in a public school, that the public school ought to get credit for the amount of education that they are giving to that person. So I think it is a fair amendment that Senator Hefner is bringing to us.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: An amendment on the desk.

CLERK: Mr. President, Senator Hall would move to amend Senator Hefner's amendment. (See FA414 on page 1507 of the Legislative Journal.)

SPEAKER BARRETT: The Chair recognizes Senator Hall.

SENATOR HALL: Thank you, Mr. President, and members. The amendment is, basically, the General File status of LB 346, which is the tuition tax deduction for students, whether they be in a public or a private institution, it makes no difference. It seems interesting to me that no matter what the impact that we have no problem recognizing private school students, if it means they are going to bring more money into our districts, but we don't want to recognize them for any tax savings or tax benefits that they derive to that public school system by the costs that they pay for their own education outside of the public institution, outside of the public sphere. We want to recognize them for purposes of attracting more dollars to our districts, but we don't want to recognize them for the dollars that they save because 346 had a very minimal financial impact as well. I find it extremely interesting that on one hand we have no problem adopting, it sounds to me like the introducer of LB 1059 has no problem offering this amendment, Senator Hefner's amendment to the bill, and saying that we want to take those private school students who have a very minor portion of their education, if you read Senator Hefner's explanation, it deals with 45 students that took some voc-ag classes and a couple of

foreign language classes and 35 that took home ec. That is fine in Senator Hefner's district. There may be a number of students, 35,000 to be exact, in the state who attend some private institution, who are going to be now counted into those formulas the way I understand this amendment if they take some type of program in a public institution. Now does that also include those students who receive Title I, Chapter 20, Chapter 1, Title XX, whatever the numbers are, do those students then become counted into the formula as well? I don't know. We want to recognize them because it will now bring more money into our district because we do a few things for them. We don't want to recognize the tax savings that those 35 to 40 thousand students provide the rest of the public school system. As a matter of fact, the public school system came out and opposed, the teachers, the school boards opposed LB 346, worked and formed an organization that would come out and oppose the fiscal impact, which is approximately...it was under \$300,000. It was 600,000 on the fiscal note. The experience in Iowa showed that it was going to be under 300, probably right around \$150,000, but we want to oppose that recognition when we see the tax savings that is into the tens of billions...millions of dollars with regard to what the private school people do in educating children and saving those dollars in the public institution, but at this point, now we want to take credit for them. We want to take credit and have more money run into our districts because those kids happen to live in this area even though the bulk of their education is provided for by themselves in addition to paying property tax dollars which support the public school system. If this amendment isn't adopted to the Hefner amendment, I will stand to oppose Senator Hefner's amendment because it is hypocritical at best.

SPEAKER BARRETT: Senator Schmit, would you care to discuss the Hall amendment? Senator Schmit. Senator Abboud, would you care to discuss the amendment to the amendment?

SENATOR ABBODD: Yes, Mr. President, and colleagues, I rise to support Senator Hall's amendment and I think this gets really to the essence of educating our youth in this state. These students would be going to public schools. These students would be resulting in increased classroom size, would be resulting in additional schools having to be built. These students that attend private schools would be costing our public school systems additional millions of dollars if they did not attend these private schools. I think we have to realize that when we

talk about providing additional money to public schools, over \$200 million we are going to be providing to public schools, that even a greater burden could be placed upon public schools unless we provide some support, minimal though it may be as Senator Hall pointed out in this particular amendment. It almost seems like these students, we don't talk about them until there is some way that we can somehow get some money, and I think Senator Hefner's amendment, I plan on supporting the amendment, even if this one isn't attached, because I think it brings up some good points, but it is hypocritical. And if these students were not attending these private schools, they would probably be attending the public schools in Senator Hefner's district. I support the Hall amendment.

SPEAKER BARRETT: Thank you. Senator Hefner, do you care to discuss the amendment to the amendment, followed by Senator Labedz.

SENATOR HEFNER: Mr. President, and members of the body, Senator Hall, I don't think you understand this amendment. What this amendment does is says that if they are going to a parochial school and go to the public school for some classes, then they would be able to get some state aid for that on a fractional basis. If they was there for one class, it probably would be 1/7th, and if they were there for two classes, it would be a little more. But, Mr. Speaker, I would like to ask you to rule on the germaneness of this to my amendment.

SPEAKER BARRETT: Senator Hall, please.

SENATOR HALL: Thank you, Mr. President. The bill before us is LB 1059. It is, basically, a school finance issue. The amendment that Senator Hefner is offering is an amendment that recognizes parochial school children that want to be involved in the school finance system, want to be recognized as a part of that system in terms of the formula for allowing state aid to flow. All LB 346 does is recognize students who are in a parochial or private school, as well as the public school system, with regard to their income tax deductions for expenses. We use income tax in 1059 as a funding formula. We add it to that mechanism to show that we need to restructure our school finance system. We now, with the Hefner amendment, want to try and recognize these students who are in private schools. I think it is appropriate that LB 346 find its way as a germane issue into the Hefner amendment.

SPEAKER BARRETT: Thank you. Anything further, Senator Hefner?

SENATOR HEFNER: Mr. President, I do not believe that it is germane because my amendment says that if they are attending a parochial school and go part-time or take a class or two in a public school, then the public school could claim some state aid. Whereas, LB 346 says that this state aid would go to a parochial school. So I think there is quite a little difference.

SPEAKER BARRETT: Senator Hefner, in the opinion of the Chair, the matter is germane. It speaks to the distribution formula and it occurs to the Chair that it does include all state aid. Any other comment? Back to a discussion, then, on the amendment to the amendment. Senator Labedz, would you care to discuss it?

SENATOR LABEDZ: I thought we finished that this morning but I rise, again, in strong support of Senator Hall's amendment, and I could tell by the tone of his voice, he is serious and he wants this and I want it, so I urge the members of the Legislature to adopt the amendment to Senator Hefner's amendment. It is a good thing to do. Thank you.

SPEAKER BARRETT: Thank you. Senator Bernard-Stevens, would you care to discuss it?

SENATOR BERNARD-STEVENS: Thank you, Mr. Speaker, members of the body. It is getting that time of day where we have been here quite awhile. Tensions, as people have mentioned, the levels of frustration have been pretty high, particularly with 12 days remaining. A lot of times you don't get this type of frustration until you get to the last three days. And if I were someone opposed to 1059, I would be hoping for a moment like this. I would be hoping that there they have gone, they have done it now. Those that are in support of 1059 are starting to fight among themselves. There it is, if I don't get mine, I might be off the bill. If I don't get this, I might be off the bill, and if I were in opposition to the bill, I would say, hooray, hooray, we found our way, 1059 come again another day. My point is this, on LB 346, Senator Labedz's argument this morning were a valid argument, and as she knows, I voted in favor of LB 346 and would continue to vote if given a chance to vote on LB 346 up or down by itself in favor of that, or if it was attached on another particular bill. However, on 1059,

obviously, in my opinion, and I may not be correct but the votes aren't there because of the nature of the bill, and Senator Hall has a very, very good point. He has a right to be a little bit upset because, in essence, what we are, basically, saying is though we did not support LB 346 on one side, here we go for a different reason saying that because of public schools taking some private schools, we want to make sure that they can have some increased state aid, but we are not willing to recognize the other benefits. And I can see and share his frustration on that, but I also, Senator Hall, understand that the politics of division can bring down the mightiest of goals, and the picture of 1059 is one of those where we have a chance to refinance our public schools, give an equal opportunity for education, to be a little proactive instead of waiting for the courts to decide that our system is unconstitutional and we lose that local control, the goals of what we are trying to accomplish in 1059 are still the same. Senator Hefner offers an amendment, it gets Senator Hall very upset, and I can certainly understand that. I think if the situation were reversed, Senator Hefner would probably be a little bit steamed right now as well. But what I would ask for people on both sides is that maybe this is not the time to solve this particular issue. Maybe this is one we can pull back from a little bit so that the attempts and the goals of 1059 are not compromised to the point that we gain nothing, lose everything, and for particular pieces that were not in the long run that important. And, Senator Hefner, I might just put a thought out there that the impact is small, no question about it. We are looking at about \$30,000, and I understand that, but for so small a gain, if, in fact, we may begin to lose a great deal, I wonder if maybe now is the time that we could go back, maybe have some discussions with Senator Hall, maybe withdraw the amendment at a time, at this point, and maybe we would be able to get together and see if we can work on some type of...

SPEAKER BARRETT: One minute.

SENATOR BERNARD-STEVENS: ...finding some common ground on this, and I think that way we can move forward on the bill, and we can try to take care of some of these difficulties that have arisen. Thank you, Mr. President.

SPEAKER BARRETT: Senator Landis, on the amendment to the amendment.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I am

going to vote against the Hall amendment and the I am going to vote against the Hefner amendment. I was not here at the time of the vote on General File on LB 346, and I have not supplied a vote explanation to the Clerk. Had I been present, however, I would have voted no. Let me tell you why. If you were running a program, a state program, for education and you had 40 percent administration costs, you would have a tough time with your constituents. You would have a tough time with the public, I think, and LB 346, or in this case, the Hall amendment, has that kind of phenomenon in it. It is not 40 percent for administration, but according to even the proponents' allegations under LB 346, about 60 percent of the users of that tax credit are public school parents who receive about 40 percent of the tax credits. Now the whole purpose of LB 346, basically, is as a rationale to give money to private school students' parents, but to do that constitutionally, you have to create a system that gives 40 percent of your benefit to the public school parents. That is not part of the rationale. It is not part of the justification. It is not part of the theory that says, listen, private schools are saving you a lot of money in tax dollars. Let's have a recognition of it. Basically, you have constructed that and you take 60 percent of the recipients who receive 40 percent of the money and they are really for public school parents receiving tax credits for sending their kids to school. I don't think we ought to get a tax credit for sending our kids to public schools, and yet that winds up being 40 percent of the money spent under that bill. It would be much the same thing as if it was 40 percent spent for, let's say, administration, where you are spending money not for the actual good that you want to accomplish by the bill, but by a necessary obligation for bookkeeping to do the job. Now, certainly, the private school advocates have a tough time because they can't get a rifled tax credit just to go to private school parents because that winds up being unconstitutional, and LB 346 would stand federal constitutional muster in my estimation. It is constitutional under the U.S. Constitution. That doesn't ensure, however, that it is a wise idea or a wise way of appropriating money. Secondly, there can be no doubt that over time there will be immense pressure to raise that sum, and to raise that credit. We are looking at the beginning of an expensive program. Third, we have moved away from linking our income tax system to the federal system only about three years ago. One of the virtues of that old system, besides its progressivity, was the fact that by being linked to the federal tax forms, state tax credits were uniformly unsuccessful. In

and then they are a part of the system. But any other time, we treat them like the bastard child, and they have no father on the birth certificate as far as we are concerned. We don't want to recognize them. We don't want to recognize the fact that they are being educated in this state, that there are savings for those school boards. I have time and time again said let's close them all down if we don't want to recognize them to the tune of 150, 165 thousand dollars in a textbook loan program, approximately the same amount in a tuition tax deduction, 300,000, maybe five in a single year, a million dollars over a budget biennium. We don't want to recognize them to that extent...

SENATOR LABEDZ: One minute, Senator Hall.

SENATOR HALL: ...even though they save hundreds of times that amount of money in terms of what they do. It is simply the recognition factor, not the benefit that is derived. The benefit derived is a very small portion of what we do in this amendment as we did in the textbook loan program, and that was 18 years of trials and tribulations through the court system to get that recognition passed. All we do in LB 346 is recognize that these people are part of the system. I referenced the higher education study when we dealt with this on General File, and how we had to bring in every aspect of that from community colleges all the way through the university system. Now recognize fully what we do in elementary and secondary education with our private institutions, because, ladies and gentlemen, this is not just a private bill. It is for public school parents who have expenses as well. I would urge the adoption of the Hefner amendment.

SENATOR LABEDZ: We are voting on the amendment to Senator Hefner's amendment. All those in favor vote aye, opposed nay. Have you all voted?

SENATOR HALL: May I have a call of the house and a roll call vote.

SENATOR LABEDZ: Yes, you may, Senator Hall. All those in favor of the house going under call vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 26 nays, 1 nay to go under call, Madam President.

SENATOR LABEDZ: The house is under call. All those unauthorized on the floor, please leave the floor, and all senators in their offices, please return to the floor and record your presence. Senator Bernard-Stevens, would you please record your presence. Senator Peterson, Senator Pirsch, would you please record your presence. Senator Owen Elmer, would you please record your presence. Senator Wesely. We are looking for Senator Scofield and Senator Peterson. Please return to the Chamber, the house is under call. Senator Haberman, would you return to your seat, the house is under call. Senator Hall, did you request a roll call vote? Mr. Clerk, proceed.

CLERK: (Roll call vote taken. See page 1509 of the Legislative Journal.) 22 ayes, 20 nays, Mr. President.

SENATOR LABEDZ: The amendment fails. We are now back on Senator Hefner's amendment. Senator Withem, on the Hefner amendment. The call is raised.

SENATOR WITHEM: Yes, Mr. President, and members of the body, when Senator Hefner brought this amendment to me this morning, it seemed to be a small, rational thing to do. It does, and to correct some of the comments that were made on the floor about the previous amendment, it doesn't count students simply who live in public school districts for the purpose of giving dollars to the public school system. It only counts them to the extent that they are served by the public school. I think that is one keen distinction. I did vote for the last amendment, though, because I think Senator Hall maybe tweaked my conscience a little bit on the whole question of how we deal with private education in our state. I think LB 346 is one way of doing that, to give a recognition to the fact that public schools, the public school system is served by having a competent, capable, well-funded, well-financed private system out there. That private system has to function on contributions, tuition, pickle cards, bingo, all of those other types of things in order to function. The public school system has taxpayer dollars. Both of them are funded unfairly and inadequately, and it has been one of my frustrations as the Chair of the Education Committee that those two entities have to square off against each other instead of putting their differences together and coming forward with proposals that will fund education fairly and honestly for everybody in our state. They fight over the crumbs that are at the bottom of the table that are left after the other entities that feast on our tax dollars are through feasting. One of the

purposes of 1059 is to get a much more rational system for funding elementary-secondary education in our state. LB 346 is a small step forward toward funding private education or at least giving some recognition to the contributions that private education gives. It doesn't fund private education at all, and Senator Hall and Senator Labedz would take exception to the way I started to characterize and they would be right. I think we need to do something with that and, unfortunately, I think that is going to be one of the unfinished pieces of business that is left at the end of this session. I hope that we get a chance to address LB 346 straight-up one more time and I plan on being a more vocal, more active supporter of that legislation than I have been to date. We are back though, what is left now is the Hefner amendment. The Hefner amendment does not give a windfall to the school district that happens to have a private school in that district. It gives benefit recognition to those school districts that service students that are attending private schools primarily, that to the extent to which they serve them. It is a fair, legitimate thing to do I think, if you look at it on its surface. I know people are getting frustrated now with the amendments that are coming on this bill. Ideally, a lot of these things would be published in the Journal and would be allowed to be laid over, so we could all analyze and we could do some analysis of them. We attempted to do that with the amendments on 1059 the other day. We had a briefing session on the amendments on 1059. I know there is frustration that there are things being thrown up on the desk and we have to make decisions on them. We have our staff available over here to give you as much input on what the effects of these will be.

SENATOR LABEDZ: One minute, Senator Withem.

SENATOR WITHEM: Pardon me?

SENATOR LABEDZ: One minute.

SENATOR WITHEM: Okay, one minute, thank you. So I guess I am apologizing to people here also for these amendments coming up. I don't know what else to do with them, when you have 11 days left in the session, you have a bill on Select File, one that it is going to be very difficult to move back from Final Reading to offer new amendments; you throw your amendments up when they come, when they are available, and if they aggravate some people, I apologize for that. The Hefner amendment, though, I think is...this isn't anything new to us on the Education

SENATOR NELSON: Okay, that's my question.

SENATOR HALL: And it should be \$750,000 and not 75 million, because we only raise approximately 7 million dollars, total, in the area of this tax. So, it's a typo that was brought to my attention by Senator Byars this morning.

SENATOR NELSON: Thank you. I just thought maybe I missed something.

SPEAKER BARRETT: Thank you.

SENATOR HALL: No, I...

SPEAKER BARRETT: Senator Labeledz, followed by Senator Schmit.

SENATOR LABEDZ: Thank you, Mr. President. I rise in support of amendment B, I guess, according to the division of the question. I don't have too much to add to what Senator Hall had to say, but I do know that the bingo tax is very, very important to many of the organizations in Omaha, and I'm sure in the rest of the state. We have a problem, as you know, we have LB 346, which is a tuition tax credit for any parent that sends their children to private schools, and unfortunately that did not advance the other day. Many of the private schools do depend on their bingo proceeds to support the schools. And in most cases the parents are having to come up with the high tuition, in addition they also have to pay a high property tax. As Senator Hall mentioned, the city itself will be the one is...that will be the loser. And, if I remember correctly, and I said this before on the floor, when I was the bingo tax inspector for the Department of Revenue, way back in the sixties and early seventies, the State of Nebraska did all the work, and the city...the cities and counties were the ones that got a great cut of the proceeds from bingo. Bingo to the organizations, the Little League's, the senior citizens centers, and the schools and many other organizations worthwhile, the Veterans, the UNO, I believe they probably only sell pickles, I don't think they have bingo, but I am speaking for both, I support both the decreases, not only for the bingo tax but for the pickle tax. And I urge you to adopt this amendment, and I will be speaking on the pickle amendment later on. And, of course, I also support the definite tax break to continue for Ak-Sar-Ben. I have a letter, that I will read later on, from a young...not a young man, a man that has been working for Ak-Sar-Ben for many years, and there are at least

bingo. So, you hit us at a good time. Thank you for being here. Mr. Clerk, where were we?

CLERK: Mr. President, the Legislature was discussing the committee amendments to LB 1055. The amendments, pursuant to a request from Senator Chambers, had been divided. The first portion of the committee amendments, Mr. President, dealt with the bingo tax. That is currently before the Legislature.

PRESIDENT: Thank you. Senator Hall, you're up next, if you...

SENATOR HALL: Just...thank you, Mr. President, members. Just briefly, refresh the memory of the members of the body. This portion of the committee amendments deals with the reduction in the bingo tax from the current 10 percent of gross to 8 percent. The 2 percent portion that would be reduced would come out of the local city or county portion which makes up, currently, 40 percent of that overall tax. It would be a total overall statewide cost of \$440,000, nearly 300,000 of which would come out of the City of Omaha and the City of Lincoln, it...the balance of which, approximately 130 to 140 thousand dollars, spread across the rest of the state. It is a question of whether or not we feel that these dollars should go back to the charitable organizations, because the reduction in the tax itself would mean that the 2 percent on the gross that was not collected would go back or flow back into the hands of those charities, the schools, the parishes, the not for profits, the VFW's, the volunteer fire departments across the state that currently use these funds to provide for operating expenses. I would urge the adoption of the first portion of the committee amendments.

PRESIDENT: Thank you. Senator Landis, please, followed by Senator Smith and Senator Lynch.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I intend to support LB 1055 and all three of the portions of the amendments. I have historically voted against, as you know, this session LB 346, that is the idea of private school tuition tax credits. In fact, that measure is not only for private schools but for public schools as well, and my argument on that point has been, not only that it has been found to be unconstitutional by the State Attorney General, but that it gives six of every \$10 of tax credit in relief to the private schools, but that \$4 of every \$10 would not go to private