

Transcript Prepared by Clerk of the Legislature Transcribers Office

Floor Debate March 7, 2023

Rough Draft

**KELLY:** Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the 40th day of the One Hundred Eighth Legislature, First Session. Our chaplain today is Senator Dorn. Please rise.

**DORN:** Good morning. Please join me in a word of prayer. Lord, we come before you today realize--realizing that you have placed us in this position of the public trust. We ask that we may serve with wisdom and justice, promoting the well-being, dignity and freedom of every person we represent. In the words of Saint Francis of Assisi, lord, make us instruments of your peace. Where there is hatred, let us sow love. Where there is injury, pardon. Where there is discord, union. Where there is doubt, faith. Where there is despair, hope. Where there is darkness, light. And where there is sadness, joy. Grant that we may not so much seek to be consoled as to console, to be understood, as to understand, to be loved, as to love. And we pray, give us such an awareness of your love and mercy that we remember to give thanks not only for our words, but in our lives by giving ourselves to your service and by walking uprightly before you all of these days through Jesus Christ, our Lord. To Him, the honor and glory throughout the ages. Amen.

**KELLY:** I recognize Senator DeKay for the Pledge of Allegiance.

**DeKAY:** Would you proudly join me in saying the Pledge of Allegiance? I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

**KELLY:** I call to order the 40th day of the One Hundred Eighth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

**KELLY:** Thank you, Mr. Clerk. Are there any corrections for the Journal?

**ASSISTANT CLERK:** One correction this morning. On page 684, line 2, strike "Ann" and insert "Janet." That's all I have.

**KELLY:** Thank you. Are there any messages, reports or announcements?

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**ASSISTANT CLERK:** Mr. President, your Committee on General Affairs reports LB452 to General File with committee amendments. I have notice of committee hearing from the Government, Military and Veterans Affairs Committee. Amendments to be printed: Senator John Cavanaguh to LB277 and to-- two amendments to LB 277-- and Senator Brewer to LB256. That's all I have at this time. In addition to that, the Business and Labor Committee will have an Executive Session under the south balcony at 10:00.

**KELLY:** Thank you. Senators Hunt and Vargas announce the following guests in a north balcony: 75 students, seven teachers, three sponsors from the Nebraska Thespians, school theater students from all over the state of Nebraska. Please stand and be recognized. Senator Hunt, you're recognized for an announcement.

**HUNT:** Thank you, Mr. President. Hi, everybody. Welcome to the Nebraska Legislature. Today is Theater in our Schools Day and theater was such an important thing to me growing up, from when I was little. My parents actually met doing community theater. Dan and Mary Beth Hunt met doing a production of Peter Pan at Blair Community Theater, so. And I was a member of Troop 3142 in Blair High School. And, you know, support for the arts, whether that comes from the people in our communities who are our supporting the artistic endeavors that we do and the creative work that we do, or from the state in the form of support for public schools and support for programs that make these programs accessible to, to kids all over the state is so important for young people building relationships, finding who they are, exploring interests, learning about history and literature through theater and performance. And all of those things were very formative for me and so important for all kids in Nebraska to have access to. So I want to recognize everybody who was able to come here today to the State Capitol for Theater in Our Schools Day and also recognize all of the teachers and faculty and staff and students across our state who participate in theater and performance. So thank you so much for being here today, everybody, and I hope you have a great time in the Capitol. Thank you, Mr. President.

**KELLY:** While the Legislature is in session and capable of transacting business, I proposed to sign and do hereby sign LR49. Mr. Clerk, for items. First bill on the agenda.

**ASSISTANT CLERK:** Mr. President, for consideration today, LB753 offered by Senator Linehan. It's a bill for an act relating to revenue and taxation; amends Section 77-2715.07, 77-2717, 77-2734.03; to adopt the

Opportunity Scholarships Act; provide for tax credits; to harmonize provisions; provide an operative date; provide severability; repeal the original section. The bill was introduced on January 18 of this year, was referred to the Committee on Revenue. That committee placed the bill on General File with committee amendments. Those amendments are now pending. When we considered the bill yesterday, we were on an amendment to the standing committee amendments offered by Senator John Cavanaugh. That is AM353.

**KELLY:** Senator Linehan, could you give a brief refresh on LB753 and AM338?

**LINEHAN:** Thank you. Good morning, Mr. President. Good morning, colleagues. LB753 is a small part of Governor Pillen's comprehensive education and tax package. Included in the package is an increase for all public schools' special education expenses. Currently, schools are reimbursed just 42 to 45 percent of their actual cost. Under LB583, which is Senator Sanders' bill, the state will be picking up 80 percent of the cost of special ed in all public schools; small, medium and large. This represents a significant increase in state aid for public schools of \$150 million. The governor package also includes \$1,500 for each and every student in public school in the state of Nebraska. It also leaves in place public school option funding, which is currently about 120 million per year. And this bill, LB753, which is a tax credit for up to 50 percent of Nebraska income taxes owed by individuals and businesses to go to private scholarship-granting organizations. And there were questions yesterday, several of which I am prepared to answer today. How do other tax credits work? I've got the income tax incentive report. I've got five copies. I'll have one here at my desk if you want to look at it. I'm going to have my staff put two under the south balcony, two under the north balcony. This will explain how many of the tax credits we already have on the books work. I also have brought the Nebraska income tax form, which I will be handing out, which covers many of the other tax credits that we already have on the books. And I had some questions yesterday about who the organizations would be. I welcome input from all my colleagues. If you have suggestions on-- make sure it's fair across the state. If there's ways we can do that, I envision LB753 not just being an urban. I definitely don't want to just urban. I have-- my grandkids are not in Lincoln or Omaha or Sarpy County. They're in rural Nebraska. I want this program to go across the state. So if you have suggestions for-- to make sure that we do that, I welcome those. Another question is that we're-- about how the priorities work. I saw in one of the news stories this morning, it said again-- and I don't

know, I thought I made this abundantly clear. It said again that this will go first to the kids are already in schools under scholarships. That is not true. It will not go to those kids, Those children, those students who are already in a private school on a scholarship will not qualify for this program. They're specifically not able to use this. This is only for new entrants. So with that, I welcome the debate. Thank you.

**KELLY:** Thank you, Senator and Senator John Cavanaugh, could you give us a refresh on your amendment?

**J. CAVANAUGH:** Thank you, Mr. President. Well, so I appreciate the opportunity to refresh because I don't feel like we talked about AM353 very much yesterday. So AM353 strikes the following language from the committee amendment Section 4-- or subsection (iv) "give fourth priority to eligible students whose household income levels exceed one hundred eighty-five percent of the federal poverty level but do not exceed two hundred thirteen percent of the federal poverty level." And subsection (v) gives fifth priority to eligible students whose household income levels exceed 213 percent of the federal poverty level but do not exceed 300 percent of the income indicated in the income eligibility guidelines for reduced price meals under the National Lunch Program in 7 CFR Part 210. In plain language, this would strike language that allows students from a family of four making up to \$154,000 a year to be eligible for these scholarships. Eligibility would be capped at 185 percent of federal poverty level, the same as last year's version of this-- of the Opportunity Scholarships Act. If this bill is truly about helping low-income students, then the support--supporters of LB753 should have no objection to this amendment. So just striking the upper incomes and limiting this bill and as amended, AM338, to those in these up to 185 percent of federal poverty. So thank you, Mr. President.

**KELLY:** Thank you, Senator. Senator Dungan, you're recognized to speak.

**DUNGAN:** Thank you, Mr. President. And thank you, colleagues, again for getting to have this debate here today. I rise again in favor of AM353 and in favor of AM338, but regardless of those amendments, still opposed to LB753. Colleagues, yesterday we heard a lot of conversation surrounding a bunch of different topics. But I want to start today by focusing on some of the numbers and some of the data that we were hearing. Senator Hansen was reviewing an article that I personally have not had a chance to review yet, sort of espousing some of the positive outcomes that happen from these voucher programs. But I

wanted to take a step back and just kind of review some of the data that I've had a chance to look over, both prior to LB753 and again today. What I think is important is that if we're going to be spending massive amounts-- and I understand it's small compared to the overall budget in some people's eyes, but we're talking tens of millions of dollars, massive amounts of money, of taxpayer money. I think it's important that we make sure we're getting a good bang for our buck. Everybody here agrees that we want students to succeed. Everybody here agrees that we want students to have the best possible outcomes. But when you look at the data surrounding these voucher programs in other states, what's somewhat problematic is that the numbers don't support the argument that these benefit all students. Starting back in, I think, the, the late '90s, these voucher programs begin to pop up all around cities and countries around the United States. And there was some early data that did show positive impact. And I think a lot of the numbers that we were hearing yesterday maybe come from some of those early studies, I believe from the late '90s to the early 2000s, there was nominal positive impact that we were seeing. But what I think is important to note is that those studies were on citywide voucher programs and not statewide voucher programs of what we're talking about. And so when you look at places like Milwaukee, when you look at places like Washington, D.C., you're getting a much different structure of a program and a much different structure overall than what we've seen in other places like Georgia, Louisiana, Florida, Arizona. And when we've actually started to, since about 2005, look at the data, what we've seen is negative impacts on student achievement. And so if the entire goal of this bill is to help kids, and particularly kids in marginalized populations succeed, my argument to you, based on the numbers that are from reputable sources, is that their achievement actually decreases upon leaving the public school system, utilizing a voucher program and getting into private school systems. For example, you're going to hear me talk about standard deviations. And what I mean by that are standard deviations away from normative academic achievement. That's a complicated way of saying kids are doing less well in these programs. And so a good example of this is when they first started looking at the Indianapolis, a citywide program. It was found that there was almost an entire 0.1 standard deviation away in mathematics and over 0.1 standard deviation away in language arts. That means kids were doing less well by a significant and statistically important margin in both math and English. In addition to that, when they did studies looking at programs in Ohio, what they found is that participant effects were detrimental. Students who utilize the voucher program to attend

private schools fared worse on state exams compared to their closely matched peers remaining in public school. So again, looking at Ohio, looking at Indianapolis, things were going very poorly. What's really interesting too is that when they've analyzed Louisiana's program, they saw a similar detriment, I believe by 0.5 standard deviations, which is massive-- or 0.4 standard deviations. What's important about these studies that were done in Louisiana is that they-- the, the system that's used in Louisiana is a lottery system. So it's the closest thing we have to a somewhat scientific analysis. It was a randomly selected data sample. We're not just talking about kids from a certain population. We're not just talking about kids in a particularly marginalized population.

**KELLY:** One minute.

**DUNGAN:** Thank you, Mr. President. Kids across the board were analyzed. They did point 0.4 percent worse. What I think is significant about that is in Louisiana, the standard deviation effect on their education during Hurricane Katrina was 0.18; 0.18 is how much worse they did during Katrina and it was point 0.4 when they left the public school system and utilized the voucher system. The numbers demonstrate a lack of progress. And what is particularly interesting is there's been studies that have been-- that have shown when people leave the voucher program and return to public schools, their numbers go back up. And those studies particularly studied marginalized populations and people of color. So what we know is that when you utilize these statewide voucher programs, numbers go down. And there are studies that show that when you leave them, they go up. So when we talk about this being about the kids, I want to make very clear the numbers do not necessarily support that conclusion. Thank you, Mr. President.

**KELLY:** Thank you, Senator. Senator Hunt, you're recognized to speak.

**HUNT:** Thank you, Mr. President. Good morning. Nebraskans. What is driving me up the wall about the conversation around this bill is Senator Linehan saying something like this is about competition. There is nothing in this bill about competition and it is anti-competition for government to basically create a market distortion by changing the value of making a donation to a private school over making a donation to anything else. This bill isn't about the quality of schools. It's not about-- if Senator Murman, the Chair of Education, thinks that public schools are like McDonald's, or if people like Senator Geist, who's running for mayor of Lincoln or Senator Murman or Senator Clements think that-- say things like, well, if I send my kids to

private school, why should I have to pay into the system that supports public schools? These ridiculous arguments. None of this-- none-- nothing in the bill is about that. It's not about if a school is good or bad or whatever. It's about donations. This bill is about government pressure to artificially influence the market, to change the value of donations that rich people and corporations can make to support one type of school. That's what the conversation we're having is. Is that what the government should do, use its pressure to alter the market in that way? There's nothing about this bill that talks about the quality of private education. All this bill deals with is how we're going to reward donations for institutions, by the way, that are legally allowed to discriminate. It's about giving money to rich people using a few underprivileged people as some nice marketing. It's about the taxpayer funding of a tax credit to wealthy donors. This bill is not about anybody's rights. It's about government pressure to make donations. And by the way, people are already free to donate to private schools. And also, by the way, when you donate to a private school, you already get a tax deduction so we already have a market distortion in place to incentivize people to donate to these institutions that can discriminate. So why does the government have to then intervene and put more pressure on rich, wealthy donors to say we're going to actually change the prices in town so now it's even more-- you get more money back, it's even more valuable, there's more incentive for you to donate to these schools? People have the freedom to send their kids to pub-- to private school, to public school. This is not about liberty, but we cannot take public funds for this. And tax dollars are public funds, period. This is redirecting taxpayer funds to private school. And to say no taxpayer dollars are going to these scholarship programs is deceitful. It's deception. Nothing is preventing anybody today from donating \$100,000 to a private school, but they should not be able-- and then be entitled to \$100,000 tax credit for that. That's not supporting kids. That's about using the tax code to make a profit. If we think that we need to incentivize people to donate to these institutions because they're better than public schools, what you're really saying is that you'd like to defund public schools. And, Senator Linehan, I think you should just say that. You're really saying it out loud and just being direct when you say things like, well, well, when we lived in Washington, D.C., we couldn't send our kids to public school because you just don't do that. OK, so what about the thousands of kids who do have to go to public school? I, I reject the premise that we're starting with here that public school is bad, that public school is giving people--

**KELLY:** One minute.

**HUNT:** --a low-quality education. Thank you, Mr. President. And a lot of people are putting on their light and standing up saying, oh, I went to public school and I got great education. I went to private school and I got great education. We chose to send our kids to public. We chose to send our kids to private. You know, most of you don't have a private school in your district. So none of this is about the quality of the school. That's not-- you know, that's a red herring. That's not what this argument needs to be about today. It's not about if a school is good or bad. It's about if we're going to use the levers and mechanisms of government to change pressures in the market to incentivize wealthy people to donate to one institution or another. And I don't think that that's the right use of government. Thank you, Mr. President.

**KELLY:** Thank you, Senator. Senator John Cavanaugh, you're recognized to speak.

**J. CAVANAUGH:** Thank you, Mr. President. I appreciate the comments of both Senator Dungan and Senator Hunt before me, but I'm going to return to talking exclusively about AM353 because I think we may eventually get to a vote to it. And I just don't know-- based on the conversation yesterday, I don't think anybody really was paying attention to what it actually would do. But I did want to kind of point out to Senator Linehan's point on her first comments. So the first eligibility students are those-- this is on page 3 of AM338 and it's-- let's see, first priority is given to-- so line 16-- "eligible students who received an education scholarship from a scholarship-granting organization during the previous school year" and (B) the sibling of a student who receives an education scholarship so long as the sibling resides in the same household as such student. So what Senator Linehan was saying is that it's been reported that people who are already on scholarship will get first priority. What the distinction is-- then we have a problem-- I'll look at our friends in the press here-- is there is an order of priority for those who already are getting a scholarship. But it's a scholarship under this scheme will get first priority next year and I think that's what the accurate reading of it would be, not somebody who's currently getting a scholarship. So I just thought-- rarely do I give credit to Senator Linehan, but I like to give credit where credit is due. And so she was accurately pointing out that distinction here. And since we're having a conversation about the order of priority, I thought that was relevant conversation to this amendment. So for your future articles,



there's a distinction there. But anyway, back to my amendment, which strikes the fourth and fifth orders of priority. And what it is, is I would strike anybody's eligibility for income thresholds. So it actually would still apply those kids who have a scholarship last year, if they got into the higher income threshold, they would still be eligible under this. And I'm not even attempting to address that here, but I'm attempting to address is somebody who doesn't meet one of these other first three requirements becoming a--acquiring one of these scholarships if their income is above 185 percent of the federal poverty. And so I've got in here 185 percent for a family of four is \$51,337. And so in section-- the fourth priority is up to 213 percent, which is \$59,107 for a family of four. And then in the fifth priority, which should get you up to about 550 percent of poverty, is \$154,000 for a family of four. And I was trying to do some math and put it in context for people. And I kind of grabbed from our previous years' debate about different tax thresholds. And, you know, we have this broken down. This is something no-- none of you have because I just kept it from last year. But we have all of our tax filers broken down by, I think they call it deciles. And then you get into-- basically the folks who are under my amendment would be eligible for this-- is everybody below that 155 percent. And then with my amendment striking out, would strike out about 215,000 people in that range, between that \$54,000 and \$100,000 in income eligibility, which gets you into about the top 75 percent of tax, tax households in the state of Nebraska. And so there's about 1 million total returns in the state striking out about the top-- not quite the top 200,000, but-- because there's still some folks that are not even included in there. So the reason for this is and what I'm saying is, again, I would be-- I'm opposed to the underlying bill for a number of reasons, but I think if we're going to do something like this, if we're-- everybody's getting up and talking about how this is about an opportunity for the lowest-income earners to be-- who can't afford to get into these schools. And again, I'm not addressing one-- the, the merits of private schools. I'm not addressing why some people--

**KELLY:** One minute.

**J. CAVANAUGH:** --might want to change. And again, I'm not addressing the very real issue of these private schools-- even if we give these kids money, the private schools can still deny them entry and still can kick them out. Those are the fundamental problems here. But I'm saying if you're going to do this, at least be honest about what you're doing and limit it to those lowest-income kids. That's why I'm proposing AM353. That's why I think everyone here should be in support

of AM353. And that's why I'd ask for your green vote on that so that when you-- if you do happen to adopt this over my objection, that at least you're doing it in the most honest and concise and direct way that you've espoused at this point. Thank you, Mr. President.

**KELLY:** Thank you, Senator. Senator Jacobson, you are recognized to speak.

**JACOBSON:** Thank you, Mr. President. I just wanted to rise this morning. I didn't speak yesterday and I've spent a lot of time looking at this bill. I think a lot of you know that I had some reservations on how the bill was crafted. I fundamentally supported the bill. I was concerned about a few things. I did work with Senator Linehan on that. I appreciate the changes that she's made in her white-copy amendment. That has satisfied my concerns. And I, I've gotten more emails on this bill than any bill I've-- that-- since I've been down here and there are strong feelings on both sides. I know that people are wanting to know where I'm going to stand on this and I'm going to make it pretty clear that I'm going to stand in support of AM353, but I'm also going to be in support of a AM753 [SIC, LB753] with or without the amendment. I think the bill is something that's important. I think we need to remember that when it comes to public school funding, we're bringing a significant amount of new additional funding to public schools. School districts that are not equalized are going to get a significant amount of new funding from the, from the funding that's coming in the Governor's budget. I think this is-- it's-- it is a false narrative to suggest that this is taking money away from public schools. It's also a false narrative that we're saying that we're giving these big tax breaks to the rich because what they're doing is they're either writing a check to the state for taxes or they're writing it to the pub-- to the private schools, but they're still spending the money. So they're not earn-- they're not making any money off this, the wealthy or not. That's a false narrative. I would also tell you that at the end of the day, this is about parochial school, private schools. If you're sending your kids to private school, you're still paying your property taxes to support the public school. That's why I can get on board to suggest that there is some reason for some support, albeit significantly less than what each public school is getting in per-pupil dollars. So I think this is-- strikes the right balance. I think this has been a priority of Senator Linehan's since she's been down here and I'm going to support her in that endeavor. And with that, I'm going to yield the remainder of my time to Senator Linehan.

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**KELLY:** 2:50, Senator Linehan.

**LINEHAN:** Thank you. Thank you. So I'm listening to Senator Cavanaugh and I appreciate his concern. So I'm going to go through this. And I do very much appreciate him straightening out the fact that it's not about kids who are currently in seats. So this is a tiered system where the first are 100 percent at poverty or they-- and that's not free and reduced lunch. As Senator Dorn asked me yesterday, that's about 27,000. Then it goes for kids who are bullied, children whose parents are in the military, children who are in foster care, children with an IEP, all the ones that, you know, we spend and should spend a lot of time worrying about. Then it goes to 185 percent of poverty, which is free and reduced lunch. Then-- and this is one that Senator Cavanaugh's amendment would strike. And I'm hoping Senator Cavanaugh would yield for question.

**KELLY:** Senator John Cavanaugh, would you yield to--

**J. CAVANAUGH:** Yes.

**LINEHAN:** Your amendment strikes the tier four, right?

**J. CAVANAUGH:** Tier four and five.

**LINEHAN:** OK. Do you-- tier four is based on this. It's 213 percent in poverty level. And I picked that number because that is where children who don't have insurance qualify for CHIP. Do you believe that the children who qualify for CHIP, we should lower the CHIP qualification?

**J. CAVANAUGH:** Do I think that children who qualify for CHIP, we should lower the CHIP qualification? I guess I don't know. I haven't thought about it.

**KELLY:** One minute.

**LINEHAN:** Well, that's what I'd like you to think about. So 213 percent poverty. If you walk into Children's Hospital and you don't have any insurance, which a lot of children don't, they sign them up for the state health insurance for children. So I don't think those kids are rich. I don't think those parents are wealthy. I think it's OK to say we could-- the scholarship-- if everybody that's poorer than them is already served, which is very unlikely, frankly. And then I will ask you on the five, if I accept the amendment just for five, would you vote for the bill? I think you've been very clear you won't vote for the bill.

**J. CAVANAUGH:** No and I was clear I wouldn't vote for the bill, but I do think it would make it a better bill if you amended as-- just to five at least.

**LINEHAN:** Well, I would--

**J. CAVANAUGH:** --at least.

**LINEHAN:** Here's the way this use-- Thank you, Senator Cavanaugh. The way this usually works-- and here, here's the-- I won't have time to go into this. We can work on this bill and we can work on school funding and we can fight and not get to cloture on any of it till May 20. But in the end, you're all going to have to vote for something you don't like and something you like because that's the way this works.

**KELLY:** That's your time, Senator.

**LINEHAN:** Thank you.

**KELLY:** Senator Brandt, you're recognized to speak.

**BRANDT:** Thank you, Mr. Lieutenant Governor, and good morning, Nebraska. I had the pages pass out an editorial that Senator Curt Friesen wrote for the Nebraska Examiner February 22nd. I'm going to read that into the record. "Opportunity scholarship bill won't do much for rural Nebraska children" by Senator Curt Friesen. LB753, a bill to send \$25 million to private schools through the guise of excessive tax credits for donations to scholarship-granting organizations will do next to nothing for rural Nebraska and our kids. Over the eight years I was in the Nebraska Legislature and on the Revenue Committee, I worked hard to ensure rural Nebraska had a strong voice to protect the interests of property owners, while still ensuring our students could access a great education. That's why I am opposed to LB753. It would cost the state \$25 million a year in tax revenues and over \$100 million a year in the not-so-distant future in order to support more students in private schools. However, only about 3,000 students or 10 percent of all Nebraska students attending private schools live in rural areas. That's just about 3 percent of all rural students statewide. The opportunity scholarships bill gives first priority to students already receiving scholarships and their siblings, which means that even if new private schools opened in rural areas, the priority will still go to those primarily urban students already receiving a scholarship. Rural students will once again be down the line in the state's funding priority. Rural schools and students will

also be a low priority regarding funding per student. A recent proposal would require the state to send public schools \$1,500 per student. Under LB753, the maximum scholarship amount is set at 75 percent of what it costs public schools on average to teach each student. For 2023, that amount is over \$12,000, which means each eligible student under the bill could receive around \$9,000 to attend private school. It seems generally unfair that private school students are worth six times more to the state than rural public school students. The difference won't be offset by the savings that rural schools may see by sending more kids to private schools. Because even if a couple students leave, the school must still turn on the lights, heat the buildings and bus the kids. That means their cost per student will increase. And since the scholarships are calculated using that number, the scholarships could also increase. So as rural students spend more per student, so will the state on private school students. So if rural students won't benefit, maybe our taxpayers will. Unlikely, as there's no cap on how much a single taxpayer, be it an individual filer or a corporation, can claim so long as it isn't more than half their total tax liability. A multinational corporation that owes more than \$50 million in state income taxes could therefore make a donation January 1 and claim the entire \$25 million credit, leaving nothing for other donors. In other states, that has been the case with the full allocation of credits being claimed the first day they become available, leaving nothing for ordinary donors. It's also not as though people aren't getting a benefit from these deductions already. Anyone who makes a \$10,000 donation to a scholarship-granting organization now can claim a deduction of up to \$664 on their taxes, the same as if they donated to a public school foundation, their church or cancer research. Under this bill, however, the same \$10,000 donation to a scholarship-granting organization balloons from a \$664 deduction to a potential--

**KELLY:** One minute.

**BRANDT:** --\$10,000 credit, effectively funneling tax dollars to a charity in a way we don't do with any other charities. Why do scholarship-granting organizations warrant this type of treatment? Because the state wouldn't be allowed to give them the money directly under our constitution, which expressly forbids sending public dollars to private education. LB753 is a workaround to that provision. If we really think private schools need public dollars, then we should work to change the constitution, not implement mechanisms that sidestep its provisions to favor causes. And if it is already constitutional, then do it the right way; through an appropriation. The constitution

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instead calls for the Legislature to provide for the free instruction of all students. That means all students must have access to a free education through our public schools. And if there's a problem with these schools, it's on the Legislature to fix it.

**KELLY:** That's your time, Senator.

**BRANDT:** Thank you.

**KELLY:** Senator Lowe, you're recognized to speak.

**LOWE:** Thank you, Lieutenant Governor. I stand here in opposition of AM353, in support of AM338 for the underlying bill, LB753. You know, we're talking about tax credits in Nebraska. There are lots of tax credits in Nebraska that a lot of people on the floor had no opposition to. The people that are in opposition to this are just in opposition. We're talking about education. That doesn't mean schools. That means education of our children. And so we're talking about children here. And do we want our children to graduate with a higher GPA or a lower GPA? I think higher is the answer. With that, I yield the rest of my time to Senator Linehan, if she would like it.

**KELLY:** 4:00, Senator Linehan.

**LINEHAN:** Thank you, Senator Lowe, and thank you, Mr. President. So I already read Curt Friesen's op-ed and kind of forgotten about it. But since we're bringing it to the floor, I will respond. So if you have your copy, go to the third paragraph. In order to support more students-- however, only 3,000 students, 10 percent of Nebraska students attending private schools live in rural areas. That's just blatantly not even close to accurate. Not even close. Senator Moser, are you on the floor? Okay, I'll let Senator Moser get down there. I think-- and also, I don't know-- we'll go to Norfolk. I talked about this yesterday; 25 percent of the kids in Norfolk-- I think that's rural. We consider Omaha, Lincoln and then rural-- 25 percent of the kids in Norfolk, in Madison County are private school. Senator Moser, how many kids in Platte County are in private schools?

**KELLY:** Senator Moser, will you yield?

**MOSER:** Sure.

**LINEHAN:** How many students in, in Platte County attend private schools?

**MOSER:** I don't know the exact number, but I can tell you that it's a large number. And I read that opinion by our former colleague and I immediately questioned that number because I don't think that number is correct. In, in-- just in Columbus, there's a Lutheran grade school, there's a Baptist grade school, three Catholic grade schools, then there's Catholic high school, then there's a Christian high school. OK, that's just in Columbus. Then you go up to Humphrey. There's a Catholic grade school, Catholic high school. Lindsay has got a Catholic high school and grade school. You know, there could be 2,000 students, students. That may be a stretch. I'd add it up. But that, that 3,000 number I don't think is anywhere near high enough.

**LINEHAN:** So thank you. And I don't know if Senator Briese is on the floor, but I think you-- maybe you mentioned Humphrey. I think half the kids in Humphrey are in private school and half are in public school. That's also true in Elgin. We have Catholic schools all-- and private schools and Christian schools and Lutheran schools all over the state. As I said yesterday, but obviously I'll say it again, half of the counties in the state of Nebraska, half of them have private schools. It was in our committee, we had somebody come in from-- and say that there weren't any private high schools west of Grand Island. And I think have they ever been west of Grand Island? Because there's this town called North Platte that has a high school. Then go on here, the next paragraph, which we've-- even Senator John Cavanaugh tried to make this point this morning. It doesn't go to--

**KELLY:** One minute.

**LINEHAN:** --kids already in school. It specifically doesn't go to those kids. I can go through-- there's more mistakes in this, like the paragraph that's only \$664 on a donation. No, it's not because it-- you detect it from your federal, you're in 47-- 40 percent tax bracket. It's, like, 50 percent. So here's the deal. I'm not going to go there. I'll be the bigger person. This is not true, guys. And whoever wrote it-- and I don't think it was Senator Friesen because a lot of us sign on things that other people write and we trust them, knew that this was inaccurate. With any look at facts, you would know that this is not true. I don't mind debating facts. I actually enjoy it. I really do. But when we've-- I even got colleagues on the floor that dislike this bill saying what it is and then we get up and say it's not.

**KELLY:** That's your time, Senator.

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Floor Debate March 7, 2023  
Rough Draft

**LINEHAN:** Thank you.

**KELLY:** Senator Fredrickson, you're recognized to speak.

**FREDRICKSON:** Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraskans. So yesterday I spoke a little bit about some of the outreach I had received from constituents on this bill. And I ended there with one of the emails I got from a constituent who is really concerned about the tax code sort of dynamic of the bill. And I posed the question, you know, whether or not anything else in Nebraska tax code allowed for a 100 percent credit. And I've been thinking more and more about this because-- so I'm going to talk about Omaha because that's where I, where I come from and the district I represent is in there. You know, Omaha is an extraordinarily generous community. And, you know, regardless of how you feel about public or private partnerships, the reality is we have a number of those in Omaha. And I think it speaks to the generosity of the community. And my concern is that we might be overly incentivizing one particular type of donation. I wonder about food banks. I wonder about FQHCs, federally qualified health centers. You know, if an individual makes a donation there, it's not going to have as much weight. And frankly, a donation to an FQHC is probably going to also save the state money, especially if you have patients who are receiving Medicaid, for example, and getting preventative care. So I'm still chewing on that a little bit, but I also wanted to turn and talk about discrimination a little bit. So this came up in conversation a few times yesterday. Some of the senators passed out some policies from some of the private schools and last night, I actually took it upon myself to read through a number of different private school policies in our state. And based on my review, I am not convinced that this is a choice for everyone. It is not clear to me whether or not my son could attend a majority of these schools, not because of academic merit, but based on the fact that he has two dads. It's also not clear to me if my husband and I would be allowed on campus of a school to attend sports games or school activities. We're talking about the importance of parental involvement in schools here. This isn't school choice. This is distilling different groups out of opportunities. And we've heard a lot about other states having this. We're not other states. The majority of private schools in Nebraska are religious in nature. That's just the facts. The vast majority are. We have to run the race that's in front of us. So I hope to be proven wrong. I actually asked the Catholic Conference this this morning in the Rotunda. I asked, is my son eligible to attend Catholic school in Omaha? He has to get back to me. I asked, assuming he is eligible, can my husband and I attend events



Transcript Prepared by Clerk of the Legislature Transcribers Office

Floor Debate March 7, 2023

Rough Draft

at the school? He's going to get back to me. So we need to consider this. We need to consider who the choice is for. And frankly, look. I truly-- I, I hope to be proven wrong. I genuinely do.

**KELLY:** One minute.

**FREDRICKSON:** Thank you, Mr. President. But that is a question we have to ask and I think it's a conversation we need to be having about this. Thank you, Mr. President.

**KELLY:** Thank you, Senator. Senator Slama, you're recognized to speak.

**SLAMA:** Thank you, Mr. President. And just to briefly respond to some of the points brought up this morning, the United States Supreme Court, in its rulings on *Espinoza v. The Montana Department of Revenue* in 2020 and *Carson v. Makin* in 2022 put the issue of whether or not public money can go to support private parochial schools to rest in saying that supporting non-religious private schools and on the other hand, not supporting religious schools is actually a violation of the establishment clause. This is settled law. If you don't like a school, under this bill, you can choose not to go there. But I would like to read Senator Linehan's op-ed in response to the letter that Senator Brandt read on the mike because it's in a very distilled way, gets to every single point he raised. Every child in Nebraska deserves a high-quality education and the opportunity to achieve his or her dreams. Sadly, far too many children are denied that opportunity. Despite our many excellent public and private schools, every school cannot meet the need of every child. That is why I, along with the majority of my colleagues in the Legislature, believe in school choice. For years, I have introduced and prioritized a scholarship tax credit bill to help lower-income families access the education that works best for their children. Such efforts have faced intense opposition and well-funded misinformation campaigns pushed by teachers, union leaders and their lobbyists, as well as many public school administrators unwilling to accept competition. Too often, they treat children like dollar signs instead of individuals with unique needs and dreams. This year is no exception. Former Senator Curt Friesen's recent attacks on school choice are just another attempt to make the Opportunity Scholarships Act a boogeyman. For example, his claims that rural students won't be helped are disingenuous at best and robbing children of life-changing opportunities at worst. Here's the truth: scholarship tax credit programs have successfully helped millions of children in over 20 states, including children in rural communities. Such programs have proven to save taxpayer dollars,

sometimes significantly so, in states like Iowa. Those dollars can be and have been reinvested in rural education in states, including in Oklahoma. According to the most rigorous research studies, scholarship programs lead to increased educational outcomes in both public and nonpublic schools. This year, Governor Pillen and this Legislature are taking extraordinary measures-- extraordinary and unprecedented steps to increase funding to education, including in rural communities. The Opportunity Scholarships Act is just one small part of this proposal. In total, the Governor's budget represents over \$135 million in new state aid to Nebraska's rural public schools. On top of that, LB681 sets aside \$1 billion in the Education Future Fund, with an additional appropriation of \$250 million per year over the next four years. Prioritizing children and their education by investing more in our public schools is a worthy endeavor, but it should not leave children needing additional options out of the equation. Today, more than 25,000 students in Nebraska access school choice through something called option funding, yet public school districts still turn hundreds of families away each year due to capacity. My own school district, Elkhorn Public Schools, has long refused to accept children from other districts for this reason. Those families who can afford to move to a different school district such as Elkhorn or who can afford private school tuition already have school choice. But what about the families who cannot afford to move, pay tuition, or who are denied opting into a different school district? The Opportunity Scholarships Act simply provides another option. The second part of her op-ed reads--

**KELLY:** One minute.

**SLAMA:** --thank you, Mr. President. And if I run out of time, I'll just continue this on my next turn. LB753 does nothing to financially benefit donors to scholarship organizations. Donors get a credit to count against what they owe the state if they donate to a nonprofit scholarship-granting organization. That benefits the children who eventually get the scholarships. The donors do not keep those dollars or profit from them, as opponents continue to falsely claim. Furthermore, this bill is designed to help students most in need of opportunity. For example, prioritized students include: students whose household incomes levels do not exceed 100 percent of the federal poverty level; students whose option enrollment applications were denied; students with special needs; students that experience bullying, harassment or threats; students in foster care; and students whose parents or guardians serve in the armed forces of the United States or whose parent was killed in the line of duty. I'll continue this on my next turn on the mike. Thank you, Mr. President.

**KELLY:** Thank you, Senator. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Question.

**KELLY:** The question has been called. Do I see five hands? All right, I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. There's been a request for a call of the house. Those-- all those in favor of placing the house under call vote aye; all those opposed vote nay. Record, Mr. Clerk.

**ASSISTANT CLERK:** 14 ayes, 0 nays to go under call, Mr. President.

**KELLY:** The House is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Sanders, please check in. Senators Conrad, Jacobson, Vargas, Dover, Erdman, please check in. The house is under call. Senator Cavanaugh, we're missing Senator Erdman. How would you like to proceed? Slama called the house. She says we're OK to proceed. The question is, shall debate cease? There's been a request for a roll call vote. Mr. Clerk. In reverse order, Mr. Clerk.

**ASSISTANT CLERK:** Senator Wishart voting yes. Senator Wayne. Senator Walz voting yes. Senator von Gillern voting no. Senator Vargas voting yes. Senator Slama voting no. Senator Sanders voting no. Senator Riepe voting no. Senator Raybould. Senator Murman. Senator Moser voting no. Senator McKinney voting yes. Senator McDonnell voting no. Senator Lowe voting no. Senator Lippincott voting no. Senator Linehan voting no. Senator Kauth voting no. Senator Jacobson voting no. Senator Ibach voting no. Senator Hunt voting yes. Senator Hughes voting no. Senator Holdcroft voting no. Senator Hardin voting no. Senator Hansen voting no. Senator Halloran voting no. Senator Geist voting no. Senator Fredrickson voting yes. Senator Erdman. Senator Dungan voting yes. Senator Dover voting no. Senator Dorn voting no. Senator DeKay voting no. Senator DeBoer voting yes. Senator Day voting yes. Senator Conrad voting yes. Senator Clements voting no. Senator Machaela Cavanaugh voting yes. Senator John Cavanaugh voting yes. Senator Briese. Senator Brewer voting no. Senator Brandt voting no. Senator Bostelman voting no. Senator Bostar. Senator Blood. Senator Ballard voting no. Senator Armendariz voting no. Senator Arch voting no. Senator Albrecht voting no. Senator Aguilar. Mr. President, the vote is 12 ayes, 29 nays.

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Floor Debate March 7, 2023

Rough Draft

**KELLY:** Debate does not cease. I raise the call. Mr. Clerk, for items.

**ASSISTANT CLERK:** Thank you, Mr. President. Your Committee on Government, Military and Veterans Affairs reports LB650 to General File and LB297 to General File with amendments. And General Affairs reports LB775 to General File with amendments. Urban Affairs reports LB45, LB224 and LB707 all to General File with no committee amendments. New bill: LB250A by Senator Brewer. It's a bill for an act relating to appropriations; to appropriate funds to aid in carrying out the provisions of LB250. A new resolution offered by Senator Brewer, LR55, congratulating Jerry Adams for induction into the Cattle Feeders Hall of Fame. Amendment to be printed to LB298 from Senator Linehan. And the Government, Military and Veterans Affairs Committee has designated LB514 and LB535 as priorities. And an announcement that the Retirement Committee will hold an Executive Session under the north balcony at 10:30. That's all I have at this time.

**KELLY:** Thank you, Senator. Senator Linehan, you're recognized to speak.

**LINEHAN:** Thank you, Mr. President. Good morning again. So right before we had that exercise, the call of the house and the vote, I handed out a sheet. It should be somewhere on the top of all the papers that are on your desk. It is a number of bills that have been introduced-- tax credits since 2021. And so it's the year it was introduced, the number of the bill, the introducer, what the purpose was, fiscal impact and then opponent testifiers. So in 2021, Senator Day introduced LB69. LB69: adopt the Student Loan Repayment Tax Credit. I remember this, I think. If I get it wrong, I welcome Senator Day to tell me how far off I am. As you can see, it was \$1,420,000. I think it was if the employer paid off the student loan for an employee, they got a tax credit. Nobody was against that in committee. I don't know that it ever got to the floor. It probably wasn't prioritized. In 2021, LB272, Morfeld, adopt the Apprentice Training Program Tax Credit, \$2.5 million. No one testified against that. Wishart in 2021, adopt the Fueling Station Tax Credit Act, \$5 million-- \$5.3 million. No one was against that. 2021, Senator Briese introduced adopt the Child Care Contribution Tax Credit for \$13 million-- over \$13 million. No one testified against it and that adopt the Nebraska Child Care Contribution Tax Credit, we tried to-- I connected that to this tax credit that year and the people that were for that backed off. And on that tax credit, you got to deduct it from your federal taxes and then you got a tax credit from the state. You actually made money on that tax credit. So for all the conversations on the floor from certain

senators about this tax credit, LB753 makes money for people, it does not. Were there tax credits in the past? Are there currently tax credits on the books that put money in people's pockets? A whole bunch of them. A whole bunch of them. This one does not. In 2021, Senator Wayne introduced Nebraska Small Business Act, \$11.8 million. No one, no one, no-- not a single opponent in the whole state came in to testify. Albrecht-- I think we passed this one-- adopt the Nebraska Higher Blend Tax Credit Act, 1-- almost \$1.7 million. And yeah, they're all here. Down here, Senator Murman had one for \$7 million. Provide-- oh, here's one. Senator Pahls. I think Senator Cavanaugh, one of-- I think John, might be Machaela, it might be someone else, might be Senator Conrad. We have a tax credit for earned income tax credit for \$19 million. Senator Pahls introduced a tax credit for rent paid of \$75.9 million. All, all those put money into somebody's pockets. OK, then if that isn't enough about tax credits, like I said, I don't think-- I've not seen anybody go over and look at the tax incentives report. Maybe I should just point out some pages here. This is-- like, all of us-- this should be assigned reading. We redid the incentive acts in 2020 as part of, part of the same kind of thing where we're probably driving ourselves to in this session. We did it. We brought the incentive package to the floor, could never get to cloture, got close, 31,30. Brought the scholarship tax this-- excuse me, the property tax credit to the floor.

**KELLY:** One minute.

**LINEHAN:** Actually, it was a school funding thing, could never get more than 30. And then in the end, seven people-- I was one of them. Senator Briese, Senator Lathrop, Senator Stinner. We all got a room and seven people decided how we're going to do it. So if that's where you want this to go, that's where we're headed. Or we can all work together and realize in the end, this is all going to happen and we can all be involved. Thank you, Mr. President.

**KELLY:** Thank you, Senator. Senator DeBoer, you're recognized to speak.

**DeBOER:** Thank you, Mr. President. I have been looking at the bills that Senator Linehan was talking about. That Pahls bill she talked about with the credit for rent, he actually deferred to me in that hearing, which I had the next bill after it on a tax deduction for rent. That one just was in committee. The Nebraska Child Care Contribution Tax credit with Briese didn't pass, as she mentioned. Many of these other tax credits like the new markets job credit is 20 percent. The Nebraska historic is 20 percent. There are some that are

100 percent. I'm trying to kind of sift through all of them, but that's generally not what I've been finding is 100 percent. The stillborn tax credit is \$2,000. I don't know how you measure what percentage that is because obviously that's just not how that one works. So I don't think we've got a lot of other examples of dollar for dollar in terms of some of these. The business tax credits are set up differently. I'll admit that those probably end up being dollar for dollar in a lot of instances and there's something to talk about there. But when I was speaking yesterday and when I'll speak to you again today, I want to talk about the concept of charity. Charity is supposed to be a gift that you give without expecting a return. Charity is not supposed to be a gift that you expect to get 100 percent of it back. It's not charity any more than charitable contributions are induced or incentivized by our tax code by giving you a tax deduction. You don't get all of the money back. You get some of the money back. We induce charitable contributions as a whole. We say as a society, hey, we want people to be giving charitable contributions as a whole. We think it's good when people give charity, whether that be a contribution to your church, whether that be a contribution to a food bank, whether that be a contribution to childhood cancer research, whether it be a contribution to an opportunity scholarship-granting organization, which you can now give. And like every other charitable contribution, you can take a tax deduction for it. You can get a tax deduction. As a charitable contribution, you can get a deduction, just like in every other case. If we start picking particular things to give dollar-for-dollar tax credits to so that it's no longer charity, what is it? What kind of function do you have when you just get to say 50 percent of my tax liability is going to this charitable thing and then you get all of the money back? That's no longer charity. That's some sort of governmental function. You are now acting in a governmental function. When you say my tax liability, not yours, not yours, not yours, but mine. I'm going to say where it goes. It's not decided by this body. It's decided by individuals when they get to say, I will give it here. It's not charitable now. I'm just telling them this is where it's going to go. Up to 50 percent of my tax liability can go there. That's a different kind of thing altogether. So I have a concern.

**KELLY:** One minute.

**DeBOER:** What happens when we start coming up and saying, I want my char-- my-- 50 percent of my tax liability, I want to send it to my church? If we all said 50 percent of my tax liability, I want to send it here or there, first of all, we're no longer doing charity. And I

think there is something to be said about a society that gives freely without an expectation of return. It makes us more human. So there's that aspect of it. But also we're making these things that are supposed to be charities into governmental. How long before these private schools are now being told what they can and cannot do because they have become governmental entities? The private schools should not want this. The private schools that are now being converted by given dollar for dollar to support--

**KELLY:** That's your time, Senator.

**DeBOER:** Thank you, Mr. President.

**KELLY:** Senator McDonnell announces some guests in the south balcony: 150 union members from the AFL-CIO from across the state. Please stand and be recognized by your Nebraska Legislature. Senator Lippincott has some guests in the south balcony: 40 fourth graders and some teachers from St. Libory Elementary in Grand Island, Nebraska. Please stand and be recognized by your Nebraska Legislature. Senator McKinney, you're recognized to speak.

**McKINNEY:** Thank you, Mr. President. I rise in support of LB753. And I've been hearing all types of, you know, questions, concerns, comments and those type of things about why, why would you support this? And honestly speaking, I would pose this question to everybody in his body and everybody that's watching. I've been alive for 32 years and for 32 years, black kids, in every statistical category, has been at the bottom in our education system. So I'm left with a dilemma. Do I continue to say yes, let's just go with this one educational system that has historically failed black kids in my community, or consider another option? Not that it's the solution. Not that it's the silver bullet, but what else am I left to do? Honestly, I feel morally wrong not considering something else if I'm going to be honest. Somebody comes up and says, hey, but they're going to discriminate. There's discrimination in both systems if we're going to be honest. Let's not be hypocrites. Let's be honest. There's discrimination in both systems. So it just doesn't make sense to me. Then, you know, you have people that stand up and say, oh, we care about poor kids or marginalized kids. But you have people supporting bills that would take away their earning power, but they want me not to vote for this. It's, it's tough only because I feel like nobody's listening to the concerns of what we're talking about as far as me and Senator Wayne. It's always a but: but wait, but it could get better, but hope-- let's try to change it systematically. We've been trying to

change the, the, the system in public schools for my whole life and to date, kids that look like me are being failed. And it's not to say that if they go to this other system, it's going to solve it. But at least let's try something else. Why not? That's the, that's the reality, though. But no-- but people want to overlook that and get into polarized conversations about politics and this and this and that. And honestly, I'm just leading with my heart on my support for this bill. People ask, what did you get for this? I didn't get, I didn't get nothing because I don't want anything. They were like, oh, you should. You should figure it out. You try to get something. Honestly, I'm leading with my heart because I care about the kids in my community and I don't want to see other kids fall through the cracks. And that's where I'm at, honestly speaking. So answer the question of-- and for 30-plus years-- and more than that, honestly, in the, in the-- in this country and in this state, black kids that look like me have historically been undereducated and failed in the public school system. And I'm being asked to still wait, think about it, consider something else, but don't do this. But nobody's offered up a real solution. And I don't honestly feel the political will in his body from either side to do what it takes to change the public school system. And I'm being asked to trust that we can figure it out, figure it out another year. Go another year, figure it out. Families and kids are tired of waiting to be-- for, for something to improve. It's not the silver bullet. It's not the only solution. But honestly speaking, ask yourself if somebody looked like you--

**KELLY:** One minute.

**McKINNEY:** --and kids that look like you was failed in one system for 30-plus years, would you not consider another option? Thank you.

**KELLY:** Thank you, Senator. Senator Albrecht, you're recognized to speak.

**ALBRECHT:** Thank you, Mr. President. I rise again in support of LB753 and AM338 and opposed to AM353. I'm just going to take a few minutes to, to talk a little bit about Senator-- Curt Friesen, Senator Friesen's op-ed or whatever he wants to call it-- letter-- to the examiner. If a, if a parent wants to transfer their child from a public school to another public school, the state of Nebraska pays that other public school \$10,000. If that same parent wants to take their child out of a public school and put them in a private school, a Catholic school, a Christian school, they pay the bill. This, this tax credit will help those who cannot afford to do that to be able to go



to a private school of their choice. It's not for the kids that are currently there. It's for new children coming. I just think that any time we have these debates, anybody can say whatever they want to on the, on the mike. But these are the facts. And I think people of Nebraska, we've been talking about this a long time. We're one of two states that do not have the ability to do this for those who cannot afford to go to a private school. With that, I'd like to yield my time back to Senator Geist if she'd like the rest of it.

**KELLY:** Senator Geist, you have 3:30.

**GEIST:** Thank you. Thank you, Mr. President. I don't do this very often, but I think it's important that we-- that I set the record straight. I was very clear yesterday when I was talking about giving to private schools and doing that out of the ability to do that. I also included very deliberately how my husband and I pay our property taxes. I also said I do that with no animosity. I know that the schools in my town are quality and I just don't want to leave the impression that was said earlier that I have a problem paying my property taxes. And it's a little bit offensive when that statement is made when I've said exactly the opposite, quite irrelevant of whether I'm running for mayor or not. But I always have paid my property taxes and I've done that hardly without complaint. I'm sure I've complained now and again, but not regularly. Anyway, so I'm just setting the record straight that I do that. I do that not begrudgingly and I do that while also very happily contributing to a fund so that hopefully one day, I can help my grandchildren, should they choose what's best for them and that be a private institution. Then those 529 dollars will hopefully one day go to help them offset their expenses. In the meantime, I also support the ability for families who may be in a school that their child is failing in and they have no capacity to change. That because of people who would like to help in a situation like that, I support that opportunity and I believe that you can do that and support public school at the same time. End of story. Thank you, Mr. President.

**KELLY:** Thank you, Senator. Senator Hardin, you're recognized to speak.

**HARDIN:** I rise in support of LB753 again and AM338 and I'm opposed to AM353. I do yield the remainder of my time to Senator Slama.

**KELLY:** Senator Slama, you have 4:42.

**SLAMA:** Thank you, Mr. President, and thank you, Senator Hardin. I appreciate Senator Geist getting up and responding to those comments. I also want to respond to some comments that are being made in opposition to this bill about how our personal lives, how our lived experiences shouldn't matter. And that's really rich coming from people who are overwhelmingly coming from very privileged backgrounds. Because I'm sitting back here and saying, why in the world should poor kids have to depend on charity to seek an education that fits their needs? Why do they have to depend on charity when everybody else in the state, if you can afford it, if you can afford to move, if you can pay tuition, can afford school choice? Why can't the government step in like they've done in 48, soon to be 49 other states and say, yes, we're not going to limit school choice to those who can afford it. We're going to extend it to every single kid in the state of Nebraska because every single kid in the state matters and should have access to an education system, whether it be public or private-- I support them both-- that best suits their needs. I'm going to finish my turn on the mike continuing to read Senator Linehan's response to Senator Friesen's letter. Children from all backgrounds and in all corners of this state may be struggling in their current school. Whether due to bullying, different learning styles or something else, no single option fits the needs of every single child. That said, we cannot deny that in some pockets of the state, a persistent lack of high-quality options has led to devastating life outcomes for too many children. When a child does not learn, he or she cannot thrive. This has profound consequences on families and ultimately our entire state. Every year, we hear stories from young people who overcame the odds and credit scholarships for that reality, while recognizing most in their community have not been as fortunate. The facts about what the bill does, how it impacts the state budget, the research on how it improves outcomes in all schools, and the need for more opportunity for families from across the state all align with passing LB753. So despite the forces continuously willing to stand in the way, I am confident that this year, with the passage of LB753, families will finally win. Senator Lou Ann Linehan. And I'll close my thoughts with this: as Senator Linehan has mentioned several times, this is part of a larger over \$1 billion package to support our students, over \$1 billion. And all we're asking for is \$25 million to ensure that the poor kids can go to the school of their choice; \$25 million out of \$1 billion. And I can guarantee if this fails, I'm going to be pushing for that to get attached to the school funding bill because they are one in the same. Both bills help our students and help provide a

better education for every single student in this state, not just those who can afford choice. Thank you, Mr. President.

**KELLY:** Thank you, Senator. Senator von Gillern, you're recognized to speak.

**von GILLERN:** Good morning. Thank you, Mr. President. I want to thank Senator Slama for again reminding us that this is about a choice for families who have no other choice. This is not a private school versus public school debate. We've heard bashing of private schools. We've heard statistics this morning about how poorly private schools perform. There are-- we can, we can talk statistics all morning long. There are plenty of statistics that show that public schools don't perform well, but that's not the point today. The point is that we want to offer an option to families that don't have an option, and we need to keep dragging the conversation back to that. Yesterday, I shared the beginning of a story about one of my own children. My oldest daughter was actually struggling in the private school that she was in. She was in sixth grade and she was not getting along with some kids and my wife and I made the tough decision to move her to Kiewit Middle School in Millard schools. And talked with my wife last night and we were, we were reminded that the teacher that took her in, that embraced her, that gave her a safe place to hang out. Her name was Mrs. Butler [PHONETIC] and we will forever be indebted to Mrs. Butler for, for defending our daughter and encouraging her and we believe that she had an impact on her life for years and years. Yesterday, I heard Senator Blood talk about that there's no evidence outside of family circumstances that private schools outperform public schools. Again, the matter is not public versus private. It's regarding having the choice to make the best decisions for a family. Senator Blood also shared-- I believe it was Senator Blood. Forgive me if it was not-- that Brownell Talbot parents did not want this bill to be passed. I'm not sure that's the demographic that we're targeting here. Frankly, Brownell Talbot parents aren't concerned about having an option for their kids. They already have an option. They already have a choice. They already have the means to send their kids to private school. And frankly, if what's been talked about this morning about the rich looking for a big tax deduction, looking for a big tax credit, and this is really about nothing but supporting the rich and diverting the funds from where it should be, should be going, then I would think that Brownell Talbot parents would be all over it. But apparently they're not. So, so that kind of debunks that argument. The comment about funds being taken away from public schools is, is extremely frustrating to me. By saying that this bill takes money from public

schools, which actually it does, as it takes money from the General Fund, would be the same as saying that every dollar spent on roads, on bridges, on hospitals, feeding the hungry, clothing the naked and sheltering the homeless, funding our public servants and first responders, that every one of those dollars is somehow being diverted from public schools. That each of those matters are also diverting funds that should be headed to public schools. To presume that every dollar that comes into the state is first meant for public schools is completely arrogant. Senator Fredrick [SIC] said that it saves the state money or made a comment about saving the state money. Actually, private schools artificially prop up the funding for public schools. The number of kids that are attending private schools that are not being schooled in public schools, obviously they are saving those schools money. It's the variable cost versus the fixed costs of operating those schools. I just don't know how we can look ourselves in the mirror and say that we can stand in the way of any child reaching their maximum potential. We'll hear all day in here about LGBTQ kids or transgender kids or furry kids or whatever and somehow we want to make every concession for these kids and provide every care for them, which is not wrong, but we won't stand for a black or brown kid or a poor white kid? Which believe it or not--

**KELLY:** One minute.

**von GILLERN:** Thank you, Mr. President. Believe it or not, poor white kids do exist. Or a Karen child in east Omaha or a Somalian child or a Ukrainian immigrant child that lives in poverty. I believe that each one of those kids deserves a choice for their education also. And we'll stand in the way of deployed military families who have made the extreme financial sacrifices involved with being in the military and have offered their lives for us--- to sacrifice on behalf of each of us? I think that those kids should have every benefit offered to them. And if they receive it, frankly, it's still not enough to show our gratitude for their mother and father's commitment. With that, I will yield the remainder of my time. Thank you.

**KELLY:** Thank you, Senator. Senator Holdcroft, you're recognized to speak.

**HOLDCROFT:** Thank you, Mr. President. Yeah, we've heard a few comments, I think, about public schools-- private schools not being as good as public schools. And, and most of those examples have come from without-- outside the state. So I'd like to spend a little time looking at ACT scores in the state of Nebraska-- I mean, within the

state that we live. ACT scores are important in Nebraska. A maximum score for an ACT is 35 and every year, we have a handful of, of, of high school students, seniors who achieve that. And they are really the, the few and, and, and the mighty, but-- and my daughter, my youngest, she, she scored a 33 on her first ACT. And being the kind of dad I am, I said well, go back and do better. But that, that score achieved for her a region scholarship to the University of Nebraska and also a Navy ROTC scholarship to the University of Nebraska. So ACT scores are important because the higher you get, the more opportunities there are for merit scholarships. And so let me just-- we, we have some statistics here. I have some statistics on how public and private schools do in ACT. Just overall, the state scores a 19.4. That's the average score for ACT and this is based on 2022 data. Nebraska nonpublic schools scored a 23.2, so about four points higher than your average score and public school score about 19-- 19. So you can see that overall, private schools do much better on ATC [SIC] scores than their public counterparts. The Omaha Archdiocese scores an average of 24, the Lincoln, the Lincoln Diocese score is 23, and the Grand Island Diocese scores a 20-- 22.9. So they're pretty, pretty consistent in that area. And let me-- let's talk a little bit about what's called readiness benchmarks. So the ACT folks came out and they said if you are going to go to college and you, and you want to score-- have a 50 percent chance of scoring a C or better, then you better score at least this much on an-- on, on your ACT. So those are-- if--for English, if you're going to be in English composition type of major, you need to score about an 18. For-- my computer just went out on me here so give me, give me just a second. Technology is a wonderful thing. For mathematics, it's 22. For reading, it's a 22 and for biology, science, it's a 23. So again, you need to score a little bit better if you're going to go for some of those harder, harder majors in college. So how, in the state of Nebraska, do we rate as far as making those benchmarks. For state-- for public, about 20 percent. Twenty percent of our students score high enough on their ACT scores to meet the benchmarks. Again, 50 percent chance of a C. In our public schools, it drops to 18 percent and in our public school-- I mean, our private schools, it's 39 percent, almost twice the rate of the state average. Also broken down by, by demographics. For Hispanics, the average is 17.7.

**KELLY:** One minute.

**HOLDCROFT:** For Nebraska private schools, it is 20.7. And in-- for our public schools, it drops to 16.3. For our black and African American students, the average for the state is 16.1. For our private schools,

it jumps to 18.6 and for our public schools, it's at 15.2. So those are just some hard statistics based on 2022 data for our students who took the ACTs as they prepared for college. And I'll yield the rest of my time.

**KELLY:** Thank you, Senator. Senator Sanders, you're recognized to speak.

**SANDERS:** Thank you, Mr. President. Good morning, Nebraska. Good morning, colleagues. I stand in support of Senator Linehan's bill, LB753, in support of the commitment, committee amendment and against AM353. I want to give a shoutout to Bellevue Public Schools and particularly, the alternative education program called ACE. At the Bellevue Academic Center of Excellence, this program better meets the needs of Bellevue Public School students who have not been successful in their regular education program. Students in grades 9-12 who are accepted into the ACE program may have a support system of a social worker, counselor, teacher and administrator. The students at ACE program are at risk of dropping out of high school due to current learning environment, poor attendance, social, emotional or behavioral issues and other challenging life issues. It is an alternative learning program. I'm a mentor of now a 16-year-old African-American girl. I became connected to the family because her grandmother worked for me. I have mentioned Mimi [PHONETIC]-- I have mentored Mimi since she was born and we call each other little sister and big sister. Although our relationship is not part of any formal program, I have watched and helped and guided her through many challenges. Now she is a teenager and she does not, she does not fit into regular programming offered to the Bellevue Public School students, but this ACE program at Bellevue Public School worked for her. Last night, I watched her graduate from high school. I had the opportunity to meet Principal Lynch and the support staff there and I expressed to them what a wonderful program this was and how these angels worked endlessly to make Mimi a success story and a graduate of high school. But there is a waiting list for other students just like her. That waiting list is approximately 20 students from Bellevue East and 20 students from Bellevue West. Earlier in our mentoring relationship, I asked her mother whether private school was an option. Her answer was no. The financial challenge was too great. Mimi is one of those students who could have slipped through the cracks. These are the students who Opportunity Scholarship Program will benefit. While our public school program-- while our public schools do a great job for as many students, but it is not perfect for every student. LB753 would give every child a chance at an education that fits them and gives them the

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Floor Debate March 7, 2023

Rough Draft

best chance of success. Not every public school student, not every public school student has the support that Mimi has. She was lucky to make it into the program and we all know it. So I want to thank Principal Lynch and all the support staff at the ACE program. I also want to congratulate Mimi for her graduation. Great job. I am so proud of her work and the effort that she has put into her graduation and education. With that, I yield the retainer-- the remainder of my time to Senator Linehan.

**KELLY:** Senator Linehan, that's 1:30.

**LINEHAN:** Thank you, Mr. President. Thank you, Senator Sanders. So I might be wrong who said what so I'm just going to say on the floor, it was stated this morning that this is unlike other charitable contributions. OK, bring a bill for others. I have said that. I got asked this morning-- NRCSA, which is the small schools-- would you care if we did this for public school foundations? I've said for two, three years, I'm fine. Bring an amendment if we do it for public school foundations. But again, I'll go back two years ago or a year ago-- I can't remember which-- we added the child tax credit--

**KELLY:** One minute.

**LINEHAN:** --to this and everybody became against it. They wouldn't support a childcare tax credit if it was connected to this. This is-- this isn't about money. It's not about the tax credit. I don't know. I really don't know what it is about. The darker part of my brain thinks it's just-- borders on this-- what I hope it doesn't border on. Because we already have 36,000 kids in Nebraska in private schools, 36,000. And by the way, they're spread all over the state. Oh, Senator Moser, real quick, let's get to your questioning because you were-- you did some figuring this morning. Would you yield for a question, Senator Moser?

**KELLY:** Senator Mosher, would you yield? And there's 8 seconds.

**MOSER:** Yes.

**LINEHAN:** How many students in Platte County go to private schools?

**MOSER:** It's about 18 percent in Platte County alone. Between Platte County and Madison County, there's almost 3,000 private school students, which the article claimed that was the whole out--

**KELLY:** That time.

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Floor Debate March 7, 2023  
Rough Draft

**MOSER:** --of Nebraska, so.

**LINEHAN:** Thank you, Senator Moser.

**KELLY:** Senator Kauth, you're recognized to speak. Senator Kauth.  
Senator Dover, you're recognized to speak. Senator Armendariz, you're  
recognized to speak.

**ARMENDARIZ:** Thank you, Mr. President, for waiting for me. I'm trying to have a meeting in the back room. I did want to speak on this. I've been listening for two days to debate on this. I've been hearing a lot of adults trying to make decisions. I, I think there's a big lack of what's best for the kids and the discussion, more about the institution and where tax dollars should or should not go. I have a personal experience. I did--- although I am not-- I do not look like Senator McKinney. I did grow up amongst his constituents. That, that was my neighborhood Senator McKinney represents right now, where I grew up. And unfortunately, I did not have a choice. We were poor. There were five of us. My parents started their family when they were teenagers. In three and a half years, they had four children. My mother had just turned 20 when she had me. We went to inner-city schools. There was no choice of another school. These, these schools were underperforming compared to other schools in our city. Then when I hit high school, I did-- it was during bussing. Now, being white in the inner city, I had even less choice. They, at that time, thought it was about white and black. They have hopefully since found out it is about socioeconomic differences. Poor white people can't teach more poor black people any more than, than they already know. It's about exposure. And quite frankly, none of us got that exposure because of the limited access we had to different ways of life. I barely left my neighborhood until I was 12 years old. It was so insular. I would, I would like to compare the private schools in Omaha to the public schools in Omaha and their achievement. Senator Dungan was using other states and cities, which I don't think is a direct comparison. What I know, private schools, as Senator Holdcroft represented, are achieving higher rates. So it shouldn't really be an argument of whether the students are achieving more. Now, personally, my, my parents did have one more child after me five years later and they, they did afford to send him to a private school, getting scholarships and help and work study. They were able to scrape by to get him through a private school and there was a difference. And when I saw the difference, I had no qualms about sending my kids to private school, knowing what I went through compared to what my little brother went through. And I have no regrets doing that today. The inner-city schools where I grew up do



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Floor Debate March 7, 2023

Rough Draft

not appear to be doing any better, but worse. And this is where Senator McKinney, Senator Wayne want their kids to have a better option. And I think it would be irresponsible of us not to think about what's best for these kids to be able to really prosper and live a full life.

**KELLY:** One minute.

**ARMENDARIZ:** Thank you, Mr. President. I would like to yield the rest of my time to Senator Linehan.

**KELLY:** Senator Linehan, 50 seconds.

**LINEHAN:** Thank you. Thank you, Senator Armendariz, and thank you, Mr. President. I can't-- if I was-- you know, could rule this floor for the next however many hours we have left, I would only have three people talking: Senator Armendariz, Senator Wayne and Senator McKinney because I do-- I grew up not wealthy by any-- I didn't think-- you know, it's all relative. I bet they would probably agree with me. You grow up with not much, but you get more-- you're never hungry so you don't think of yourself as poor. I don't know why we wouldn't help these kids. I don't-- it's not about money. We're handing \$1 billion to public education. This-- and then comparing this tax credit, frankly, to any other thing we do with these business tax credits, which is out in Appropriations-- we have almost 40,000 kids in private school today. If they were in public school, it would--

**KELLY:** That's your time.

**LINEHAN:** --cost us half a billion dollars.

**KELLY:** Thank you, Senator. Senator Moser, you're recognized to speak.

**MOSER:** Thank you, Mr. President. The earlier, earlier comments that were read into the record by Senator Friesen caught my eye because some of the statistics in there I knew didn't sound right to me. And so I Googled some of those numbers. And I don't know where these-- in his report, where those numbers came, but he claimed that only 3,000 students live in rural areas. And I took Platte County and Madison County alone and there are 2,869 nonpublic school students just in those two counties. And so you'd have other populous areas going west of there. There'd be Grand Island, Kearney, North Platte, Lexington, lots of other places where there could be private schools. I don't-- I didn't look those numbers up, but I'm just saying that you can't take this letter on its face when it has a mistake in it that's that large.

I-- that just doesn't add up. Back to the tax credits. OK, it's a one-to-one tax credit so you can't, you can't game the system. You can't make money on it. You can signify it or specify it to go to a certain scholarship-granting organization. I guess that's the benefit of it. But there are other tax credits that you can trade and sell and, and it's just like carbon credits, which I think are kind of a scam too. But anyway, let's not go there because they don't really change the number of carbon we burn. They just count it and trade it around to try and make it look like you're doing better. But anyway, back to tax credits. So there are tax credits that you can get for building low-income housing or senior housing that are used to buy down the project. And you can actually sell the credits to people who have high tax liability and where they might spend-- you know, they may have a million-dollar tax liability. Say, they're a medical practice or, or something on that order and then they can buy this tax credit at maybe 5 or 10 percent off and so they'll actually make 5 percent on their \$1 million. They won't have to pay all that tax. These tax credits are not going to be sold or shared or exchanged on a, on a, an exchange. And so there's no benefit to the, the person who gives the donation except that, you know, if they were-- have a particular scholarship organization that they want to see get it. But even then, that organization can't serve just one school. They have to serve multiple schools. They have to take applications, have a process to award those scholarships, so they still can't decide exactly where they go. As far as funds being tax money because it's a tax credit, I mean, if you wanted to use that logic, you could say that money paid to teachers or school administrators is tax money. And so then if the school administrators association comes down and lobbies us, they would be lobbying us with our own tax money. If the teachers union comes down and lobbies us, they're coming down here and lobbying us with our tax money that we paid taxes on to the school, to the teachers.

**KELLY:** One minute.

**MOSER:** Teachers are welcome to belong to a union and I don't begrudge that, but that's no more of a stretch in calling this tax credit program tax money than calling union dues tax money. Thank you.

**KELLY:** Thank you, Senator. Senator Wishart announces 30 members of AARP of Nebraska who are in the north balcony. Please stand and be recognized by your Nebraska Legislature. Senator Dungan, you're recognized to speak.

**DUNGAN:** Thank you, Mr. President. I want to take a second to talk a little bit more about some of the cases that have been addressed, I believe, by Senator Slama and some others on the mike. One of the problems we've run into with these school voucher cases and tax credit cases that essentially amount to school vouchers is when we're talking about cases that have held them to be constitutional, we really have to dig into the actual meat of those cases to figure out what they're actually talking about. I've had a chance to review a number of the, the Supreme Court cases that have been discussed on the floor and I would respectfully push back on what has been represented to my colleagues as the actual holdings of those cases. None of those cases are based on tax credit school voucher schemes like what we're talking about here implementing with LB753 and all of the holdings and the, the, the decisions that were made in those cases were predicated on different arguments. The one that keeps getting talked about is this Arizona Christian School Tuition Organization v. Winn. It's a 2011 case and this handout we have points to the fact that they determined that tax credits don't count as appropriations. Well, what I think is important to delineate or denote on that is that case was brought by taxpayers. And what they were arguing about in that Supreme Court case is whether they had standing and what that means is whether or not they even had the opportunity to bring that case in the first place. And the only way essentially through some-- without getting into too much of the details, the only way that those taxpayers could prove standing in that case was if they demonstrated that there was a violation of the establishment clause, of the First Amendment. And so what we're talking about are multiple layers in that case with a very different particular kind of scheme than what we're talking about here that the court held was valid back in 1999. But I push back on the notion that the holding of that case is that what we are talking about here is valid. Continuing on, it also notes that the courts-- or it's been argued that the courts have held that public funds that indirectly benefit private schools are not a violation of the constitution in no aid to private schools provision. That's true. But what's different about what we're talking about here is here we are creating a program that only benefits private schools. And why that's important to note is the Nebraska Supreme Court has found cases or has found programs like bussing and bookshare programs to be valid because those, incidentally, affect both public and private institutions. So those are open to everybody. Those are not state programs utilizing state dollars or potential state dollars simply for private institutions. And so we have to differentiate what we're talking about here, bussing and bookshare programs that go to both public and

private institutions that incidentally benefit private institutions were fine. That does not have any bearing on whether or not a program that is specifically designed to only and solely benefit private institutions is OK. They have not addressed that yet. Furthermore, in *Lenstrom v. Thone*, the 1981 case, they said that it upheld the state-funded higher education scholarship award program. Students are allowed to both utilize that scholarship for private or public universities. Again, the differentiation between what we're talking about here and what that case was about is one can help both public and private, whereas the program we're discussing here does not go to public as well. And so all of the cases that are being cited as support for this exact kind of program are ones that don't have the same fact pattern, nor does the holding necessarily give us directive as to whether or not this has already been ruled on. And so the reason I push back on that is just to make sure that my colleagues understand it's not as though we're making an argument that's already been decided by the courts. The courts have not yet determined that a program such as this, under the Nebraska Constitution, is valid. In addition to that, this *Carson v. Makin* case has continued to be brought up, as well as the *Espinoza* case. And those are newer cases, 2022. What those cases--

**KELLY:** One minute.

**DUNGAN:** Thank you, Mr. President. What those cases said is that if you are going to be giving public dollars to private institutions, you're not allowed to discriminate based on religion. And so they're saying that it has to go to all private institutions. Again, that is not this case. That's not what we're talking about. So I point that out to say that every single case that's been mentioned here today thus far does not necessarily have any bearing or holding on whether or not this program is constitutional. And I'm happy to talk about that off the mike with any of my colleagues who have further questions. I'd yield the remainder of my time to John Cavanaugh.

**KELLY:** Senator John Cavanaugh, you have 30 seconds.

**J. CAVANAUGH:** Thank you, Mr. President. Thank you, Senator Dungan. I just asked Senator Dungan to yield me some time because I'm nothing if not responsive to constructive criticism. And so in light of Senator Linehan's comments, I filed a floor amendment that contemplates her comment that would only strike Section 5, eliminates my strike of Section 4. So I'm going to withdraw AM353 and allow us to move on to the next amendment so that we can get to my amendment in regular--

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Floor Debate March 7, 2023

Rough Draft

**KELLY:** Thank you, Senator. The amendment is withdrawn. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, the next amendment to the committee amendment is offered by Senator Hunt, AM507.

**KELLY:** Senator Hunt to open.

**HUNT:** Thank you, Mr. President. I introduced this amendment, and I'd like us to get to a vote on it. But before I get into what the amendment does, I wanted to respond to some other points that have been made since my last time speaking. I've heard some people-- this is what drives me crazy, and if you, you know, you guys know how I feel about the discrimination aspect, but what really gets my goat on this bill is making any kind of free market or fair competition type of argument around government putting an extra incentive on a donation. This is what gets my goat, people making a free argument, free market argument by saying this creates competition for rich people, that this creates competition in the market, that this creates competition for systems of education. Senator Linehan said we're just handing money to, to public schools. Well, yeah, their public schools, we fund them. That's what taxpayers, you know, pay money to do is to make sure that we don't have to live among idiots because people are able to get a good education in Nebraska. That's why we fund public schools that have to serve everybody, that have to serve every child. But I would say that it is not creating competition in the market. It's obviously the opposite. It's government creating incentives for donors by manipulating the free market, not letting it work. Government creating an incentive is manipulating the free market, not letting it work. If a wealthy donor won't support a private school without this tax credit, then that's not our problem. Then that's not the state's problem to gather 49 people together and figure out how to fix that so that we can incentivize them to support more private programs like religious education. A tax credit never reflects the free market at work. It reflects the government interfering with prices in the market using taxpayer dollars to make it relatively cheaper to attend private schools and making private schools a more attractive option to attend than public schools. If you guys think private schools are so much better, then people should be willing to support them without additional tax incentives. If you think poor kids need scholarships to private schools, then that's something private philanthropy can provide without government intervention and already is. Most kids in poverty attend public schools. So I just can't stand the argument that we need to give money to rich people so they can give it to poor people so the poor people can help themselves. This is

trickle-down school funding. Just fund the schools. Just fund the public schools. And if you don't believe in public education, then you shouldn't be serving in the Legislature. You know, you ran for a public office to help, you know, increase public good. And you're using that office to decimate a public institution of public education. Anyway, what AM507 does, I introduced this in the Education Committee a couple of weeks ago as a stand-alone bill because I didn't want anybody to be able to say that because AM507 didn't have a hearing that it doesn't belong on the bill. So this bill-- this, this amendment was introduced as a separate bill, and it did have its own hearing. We can all see that there's a concerted effort happening to attack our public education system from multiple angles with the ultimate goal of privatizing the public education system in Nebraska. We hear phrases like choice and parents' rights and quality education for all. And supporters of, you know, LB57-- LB753 and other bills like it say that they're motivated by helping underprivileged students and students with special needs. And this is putting a lot of feel good, do good spin on what this proposal really is. LB753 will give money to schools that are legally allowed to discriminate. As Senator Fredrickson said, this would incentivize donors to give to schools, diverting taxpayer money away to schools that probably wouldn't allow his child to attend. That wouldn't allow my child to attend. And AM507 would prevent any school that receives public dollars from discriminating on the basis of race, color, religion, national origin, ancestry, citizen status, gender, sexual orientation, gender identity, disability, or special education status. Since private schools are not subject to our statutes and regulations governing public schools, there's really no oversight other than from the respective church official or the private schools management. And obviously, I'm not here to say that kids shouldn't be able to go to private schools or that parents should be able to choose them. I'm saying that we cannot give taxpayer money to schools that don't serve all students. When a public school student gets a scholarship to attend a private school, the rights that they had in the public school system don't transfer with them to their new private school. The private school might expel them based on their identity, their appearance or beliefs without repercussion, and there's no recourse for the student or the family. Religious schools can deny admission to a student that comes from a different faith background or, you know, has two, two dads or whatever it is. And I think that this is a big problem. So I think that these institutions want to retain the right to discriminate on some level. And AM507 will take away that right. It'll say that if you're receiving public dollars, you will not be able to receive taxpayer

money if you're discriminating. According to Nebraska Revised Statute 77-381: A tax expenditure shall mean a revenue reduction that occurs in the tax base of the state or political subdivision as the result of an exemption, deduction, exclusion, tax deferral, credit, or preferential rate introduced into the tax structure. So under this definition that we already have in statute, LB753 would qualify as a tax expenditure, an expenditure of tax dollars. The Nebraska Supreme Court also defines appropriation as follows: "to appropriate means to set apart, or assign to a particular person or use in exclusion of others, to use or employ for a particular purpose, or in a particular case." So there's a strong argument that issuing tax credits, which are reimbursements to taxpayers for their private school scholarship donations constitutes an appropriation. And the Nebraska Constitution makes it clear that any dollar spent on schools cannot go to a private school. So, you know, we can define terms all the time in the Legislature. I, I would support an amendment to LB753 that defines what tax dollars means, that, that defines how this expenditure from the General Fund to private schools constitute-- constitutes taxpayer spending. You know, our state constitution prohibits discrimination in public education. And if an instance of alleged discrimination happens in a public school, we know that students and their families can trust that they're going to have recourse, that there's something they can do, that there's going to be accountability for the staff person that's responsible for that. And if we're going to be sending taxpayer dollars to private schools, we need to remove the ability of those schools to legally refuse to serve certain students based on their identities or characteristics. I also was listening to what Senator von Gillern was saying earlier. To paraphrase him, I didn't write it down what he said, but he was reading something so I'd like to see again what he said verbatim. But it was about, you know, we bend over backwards and we do all these things for LGBTQ kids, for trans kids, for furies, but there's actually a lot of poor white kids that also need a lot of help. And he has opened the door again for the furry conversation. So I'm also drafting an amendment to make sure that any school that benefits from LB573 [SIC--LB753] will not be allowed to have litter boxes in their classrooms. Since so many of you are worried about furry students and think that they're using litter boxes. This is a completely unserious conversation. I cannot stand the argument that we need to give money to rich people to help poor people help themselves.

**KELLY:** One minute.

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Floor Debate March 7, 2023

Rough Draft

**HUNT:** Thank you, Mr. President. We don't need trickle-down school funding. We don't need government incentives or pressures on people's philanthropy. We don't need government manipulating the market like this. We just need to fund public schools. Thank you, Mr. President.

**KELLY:** Thank you, Senator. Senator Moser would like us to recognize the physician of the day, Dr. Daniel Rosenquist of Columbus, Nebraska. Please stand and be recognized by your Nebraska Legislature. Senator Walz, you're recognized to speak.

**WALZ:** Thank you, Mr. President. You know, this is a difficult, it's just a difficult issue. And I'm going to bring a different perspective as a parent, as a teacher, as well as a legislator. I've been listening quietly and thinking about this bill, which has been introduced several times. And first of all, I need you to understand that I sent my kids to a parochial school. I taught at a parochial school. And I absolutely, absolutely love the private, parochial school that my kids went to. And the other thing that I want everybody to understand is that I do care about kids. I absolutely care about kids. So please don't stand up and tell me that I don't care about kids. This bill, as I said before, has been brought to the floor or brought, introduced several times. And I feel that if you have to use different strategies, I understand that. But when you manipulate and monopolize and strategize and strong-arm and threaten to get a bill across the finish line, I don't think that's right. I don't think it's the right bill. When it comes to my morals and my philosophy and when it comes to my Christian values, I don't agree with the bill. And I don't think that this bill is going to help an entire community of kids with the resources that they need. Honestly, I can't understand why me as a Christian or a Christian organization would want to even align themselves with the philosophy that if you give something, you should get something in return. That's not the idea of freely giving, anticipating or thinking that you get something in return. The idea that you should know how much money you get even before you donate it is counter intuitive to my belief, and it's not something that I want my kids attending a private school to have that understanding. It's not just me. I've talked to a lot of concerned parents whose kids currently attend private schools, and these parents have told me that they do not want to see their parochial school change. They don't want to risk having to adhere to future mandates and the risk of losing their ability to maybe even someday teach faith. They've told me they want to keep government out of their sweet, private, parochial school. The most important reason that parents send their kids to private school is for them to learn and expand on their faith. They want their



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Floor Debate March 7, 2023  
Rough Draft

children to be able to practice their faith with opportunities for worship and prayer and reflection.

**KELLY:** One minute.

**WALZ:** I truly love the school that my kids attended and I appreciate all the things that they were taught when it comes to education. I appreciate the fact that they were able to dress up as Jesus-- or Mary and Joseph and knock on the doors and ask if there's room at the inn. I appreciate the fact that they were able to do an activity that depicted the Stations of the Cross in a silhouette. Parents don't want to risk losing that, colleagues. The, the tax scholarship credit program makes no sense to me as a Nebraskan, somebody who does care about all kids and a parent who sends their child-- who sent their child to a Christian school. The other fear that they have is that this is going to open the door to charter schools and it will be competition for parochial schools.

**KELLY:** That's your time, Senator.

**WALZ:** Thank you, Mr. President.

**KELLY:** Senator Dorn has two guests under the north balcony, his daughter Erin Dorn and his niece Anna Wolken, both from Adams, Nebraska. Senator Ballard, you're recognized to speak.

**BALLARD:** Thank you, Mr. President. I stand in support of LB753 and yield my time to Senator Wayne.

**KELLY:** Senator Lin-- Senator Wayne, you have 4:48.

**WAYNE:** Thank you, Mr. President and Senator Ballard. I wasn't planning on really talking today. I actually don't mind this amendment. I think if you want to-- I think if it applies to both public and private schools, I'm 100 percent in support. During that hearing, I asked the one question over and over is what's the penalty if they do discriminate? I think part of the problem when we pass laws without penalties is that people don't take them seriously, whether Republican or Democrat, whatever agency, whatever school, we don't, we don't take it seriously. So if this amendment passes, I'll bring an additional amendment to say they lose their, they lose their state funding and they lose the ability for that school to get a scholarship from this fund. I have no problem with that. But be very careful if we go down this path, because what we've also heard in Education Committee is how they discriminate against special education students. And we can say

that they don't have the program, they don't have the capacity. Colleagues, I was on the Learning Community when it first got started, and I was there when we took a critical vote to allow school districts to determine their capacity, although we had the exact same numbers. I got the emails. I've had the conversations from school district officials who don't want those kids. That was the conversation, we don't want those kids. And they were talking about east Omaha kids. The fact of the matter is, is we can go down this path, but I bet you if this amendment is adopted, then you'll automatically see the schools switch from we can't-- we don't support the underlying bill. We can't even have the amendment because think of a teacher who files a racial discrimination claim and it's found to be true by NDE. Think of a parent who has true findings by NDE for discrimination. Think of statistically speaking, the racial discrimination that happens right now with the achievement gap. Think of in 2015, OPS was cited for \$1.4 million because they had overrepresentation of African American males in their special education. Think of schools actually losing all of their funding because of this amendment. I am OK with it. But the question is, are really you? It's easy to have talking points. It's easy to say we don't want this, we don't want that. But nobody is saying how to fix it. Nobody is saying really, let's get this bill across the line or let's improve public education in general. We can't even in this state have an honest conversation about how we should label schools. We won't even call schools failing. And you think we're going to pass some substantial reform to change the school districts and the schools in my community when we can't even call them failing? Come on, colleagues, let's be honest here. We say needs improvement despite only a 20 percent proficiency in damn near everything. We don't want to say that's failing because we don't want to label the school as failing because it might hurt people's feelings. But we're going to say that we're going to have some legislation come through this body that's going to substantially change things. Let's be honest, that's not going to happen. If you want to talk about public school-- or public dollars not going to the classroom, we got \$3 or \$4 million sitting out here in the lobby in lobbyists that public dollars are paying for. What about that \$3 million?

**KELLY:** One minute.

**WAYNE:** Where's that going to the classroom? Where's all the unions fighting that when they're spending \$6,000, \$10,000, \$12,000, \$20,000 a month on attorneys and lobbyists? That's not going to the classrooms. Where's that conversation? No, let's dance around that. We're not going to have a SNAP bill that comes up and say they can't

go to CHI. That they can't go get mental health care from Lutheran Family Services. I have yet to see a school, a private school, discriminate based off of whatever. I have yet to see it. But I have seen public schools do it quite a bit. So if we get serious about actually making some reforms in schools and it actually gets to Select File, maybe Final Reading, maybe I'll feel different about this bill.

**KELLY:** That's your time, Senator.

**WAYNE:** Thank you, Mr. President.

**KELLY:** Senator Day, you're recognized to speak.

**DAY:** Thank you, Mr. President. Good morning, colleagues. This the first time I have spoken on this bill. I think everybody knows by now where I stand on it. I spent a lot of time when I was campaigning talking about my support for public education and my opposition to bills like this. And I still oppose it. I do support Senator Hunt's amendment because I do believe that abiding by nondiscrimination laws is an important piece of taking state funding. And public schools, I, I understand that there is a larger issue with public schools discriminating against certain students, sometimes due to a lack of resources. And that's a separate issue from this bill. The, the question that we keep discussing here is do public schools discriminate against students? I think the answer is there are times, yes. But I think we have to focus on what is the solution to that problem. Public schools are already have to abide by nondiscrimination laws. And if we are going to take state funds and put it into private education, it is only fair that those schools, private or public, should also have to abide by nondiscrimination laws. For years, public schools in the state of Nebraska have been underfunded. Many solutions have been introduced to address that problem. And I can't think of a solution in my time that I've been here that has been opposed by us, by those of us that don't support this bill. Senator Walz had a bill last year to address the school funding formula that would have drastically changed how we fund public education in Nebraska. The bill couldn't get anywhere, primarily because of the people that are still here that support this piece of legislation. There's a group of senators in here that have introduced multiple solutions to the problems that we have in public schools and some of the underlying issues like we talked about. Sometimes the schools aren't the problem. Poverty is the issue. I personally have bills this session to address food insecurity. I have a bill to address mass incarceration, and it would be my guess that many of the people who stand up and support

this piece of legislation talking about how they care about kids and the rest of us don't care would oppose the bills to address the root issue here, which is poverty. I hope anybody that does support this bill will support my SNAP bill to remove the sunset on the gross income eligibility increase that was set in place by Senator McCollister's bill last year. If you don't support the SNAP bill and 10,000 families in Nebraska lose access to food, you don't care about kids. We don't get to stand up here and pick and choose the issues that we want to use kids to get our bills passed for.

**KELLY:** One minute.

**DAY:** It's, it's frustrating to have this conversation. I 100 percent agree with what Senator Wayne said yesterday. I hate this conversation. I hate having it. I hate talking about it because often kids who live in poverty, who are underprivileged, are the ones that get stuck in the middle of the conversation. And those of us that do want to provide solutions for those children to have better access to better quality education are often pitted against other senators and it's really frustrating. We have multiple bills this session and have had multiple bills in past session to address the underlying issues that these students have in getting a better education and lifting themselves out of poverty. And often the people who support LB753 are the same senators who oppose the other bills to address the underlying issues.

**KELLY:** That's your time, Senator.

**DAY:** Thank you, Mr. President.

**KELLY:** Senator Conrad, you're recognized to speak.

**CONRAD:** Thank you, Mr. President. Good morning, colleagues. I've had my light on for a couple of days and I finally got a chance to, to get on the mike here today. So really grateful for the opportunity. And perhaps unlike my friend Senator Day, I, I don't hate this debate. I relish this debate. And I welcome this debate. I understand the point that she was trying to make, but this is a critical issue impacting all of our districts and it really centers children and family and our educational policy. Those are our key bread-and-butter issues that our constituents really want us to focus on. So I'm excited to have an opportunity to talk about this kind of from a historical perspective and then bringing us through present day. If you look, colleagues, the record is very clear. These passionate, important, meaningful

discussions about the role of government in interfacing with private and religious schools are baked right into our history. They were part of the constitutional conventions that our state had at its founding and then have carried through modern times with various and sundry constitutional amendment or citizen initiatives, etcetera. So these are issues that have long been a part of our public dialog in Nebraska and are not new to where we are today. So I, I want to just lift that up kind of initially. The other piece that I just kind of want to reset tone on here is that I think it's a disservice when I see folks online or on the mike kind of paint this in a binary kind of proposition. Senator Linehan is no doubt passionate about this issue, as she has been during her entire career, as are many of her supporters. But I can also tell you this, colleagues, working with Senator Linehan very frequently, week after week in the Education Committee, I have also seen her be a strong and consistent champion for kids with disabilities, for trying to address the teacher shortage that we have, the teacher shortage crisis that we have in our state. And so I want to make sure that we're thinking kind of more expansively instead of just in a binary, you're either for this measure or against this measure, you either love or you hate public schools, that, that does a disservice to the debate that, that we're having here today. And it doesn't paint the full picture. So I am skeptical about this legislation for legal policy and practical reasons. But I want to note a, a couple of key pieces that have been consistent in the debate that I've heard thus far. When people say that this doesn't take away dollars from public schools, I think they're a little bit right and a little bit wrong on both sides there. Every single measure that comes before us that has a fiscal note, that has a budgetary impact, that impacts the General Fund absolutely is a reflection and a decision about our priorities as a state. And when we remove resources from the General Fund, that means we remove resources from critical General Fund obligations, infrastructure, education, human services, criminal justice. The list goes on and on. That's not a good or bad thing. That is part of the process. And we-- it's up to us to figure out what we prioritize and what we invest with those General Fund dollars. And when we remove General Fund dollars, we have less flexibility and less investments available for those core functions of government. There's been some very interesting and important legal scholarship in research about the particular nuances in LB753, which I have been digging into over the past couple of weeks that have been published by some of the foremost experts, leading legal--

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Floor Debate March 7, 2023  
Rough Draft

**KELLY:** One minute.

**CONRAD:** --minds in our state-- thank you, Mr. President-- about potential legal concerns with this, this measure that has been brought forward. And for the senators, I think, that maybe have painted with too broad a brush as to whether or not this is constitutional or unconstitutional, I would say that it is suspect at worst and uncertain at best. But those issues should and can be a part of this important debate as we move forward. The, the final thing that I just want to point out here is that doing a quick amount of research online, I saw that we have about 222 private schools serving about 4,625 kids. We have over 1,000 public schools serving over 300,000 kids. And don't forget for a second that we also have about 12,000 kids that are homeschooled who are left out of this conversation in total. That's why I think a more comprehensive solution is passing something like a child tax credit, which addresses unmet childcare needs, educational costs, and unmet family needs that help you lift--

**KELLY:** That's your time, Senator.

**CONRAD:** --families and children out of poverty without raising the legal and policy concerns. Thank you, Mr. President.

**KELLY:** Senator Slama, you're recognized to speak.

**SLAMA:** Thank you, Mr. President. I'm going to respond to some of the scattershot arguments against LB753 that are popping up, and then I'm going to yield my time to Senator Wayne. So it was said on the mike that a majority of state senators do not even have a private school in their districts. If you look at the handy map of locations of Nebraska's private schools, there is actually only one senator on this floor who does not have a private school in their district. It's Senator Ibach. She's in support of this bill because she supports all students in the state. We've got private schools from the northwest corner all the way to my district in Gage and Richardson County. So they cover the state. They cover every district except for Senator Ibach's. For urban senators, there are several in the cities that they represent. The economic argument that this somehow disturbs a free market. You cannot have a free market where there is a monopoly. Like, this isn't basic economics if you can't establish that a lack of competition in the market is a monopoly. Moreover, to the point about recourse for discrimination in public schools, if you experience discrimination in public schools, yeah, fine, you have a chance to sue. But can you hire a lawyer? That's another hurdle that these

families face. Do you have time to take off work? Do you have time to find a lawyer who's going to represent you well and competently? I would also like to add that biblical references have been brought up by opponents of this bill. Senator Blood said something about the Bible says, Senator Walz said as a Christian. And these keep getting brought up on Twitter as where the proponents of this bill are somehow making religious arguments when none of us have said a single argument with as a Christian or the Bible says, those are misnomers intended to "misframe" this argument as religious when it's not. And with that-- oh yeah, nowhere are we saying in this bill that the governments are going to be able to come in to religious schools and control what they're teaching. That's a clear violation of the First Amendment's establishment clause that prevents government interference with the exercise of religion. That's simply not going to happen. And with that, I yield my time to Senator Wayne.

**KELLY:** Senator Wayne, you have 2:37.

**WAYNE:** Thank you, Mr. President. And colleagues, and this is for everybody who thinks that I'm just saying well-- well, Senator Wayne, you're not, you're not trying to do anything to actually help public schools or, or make improvements. And I'll tell you that you can go to LB475. I think it will be heard next week in Education. And even if you get rid of the idea of me changing how we fund schools, which is part of what my bill does, the second part in Section 5, we, we change classroom size. We can-- I guarantee you, if we pull just that portion out of the bill, people are going to be against it. We're going to be mandating, people are going to say local control. We can't find enough teachers, we don't have enough building space. But we all say that classroom size is one of the biggest things that can help close the achievement gap and improve outcomes. So there is a bill in Education that I have, we can parse out that part or any other part that you want to do and help public schools do better, but then I guarantee you we'll-- I'll bring that bill out clean. I will bring out that bill clean, and somehow we are going to be against it because it costs too much. Colleagues, this isn't something that I have just stood up and said, I am flipping and I am changing to support school choice because of X, Y, and Z. It's really not that simple. Like I said yesterday, I hate this conversation because I think it's based in hypocrisy. It's based in the fact that when we start empowering people in our community, it's an issue. And I've seen that play out in the LB1024 debates.

**KELLY:** One minute.

**WAYNE:** I've seen that played out in the, in the private sector in the community when we start talking about projects in LB1024 and how few individuals want to control everything that happens in east Omaha. And I feel like this is part of the same level of talk that we don't want to empower people. And here is the fundamental rule when it comes to constitutionality, and I would challenge any attorney to disagree with me, anything that we pass here is presumptively constitutional, and it is only unconstitutional when a court finds so. Fundamental truth. So when people get up and say the Attorney General maybe has an Opinion that says this is unconstitutional, he's another attorney who just happened to be elected and gives an opinion that's no more opinion than Senator Wayne, Senator Dungan, Senator Cavanaugh-- who else is an attorney, I'm looking around-- Senator DeBoer, soon to be Senator Slama, soon to be Senator McKinney. All of us can have an opinion, but just because I was elected--

**KELLY:** That's your time, Senator.

**WAYNE:** Thank you, Mr. President.

**KELLY:** Senator John Cavanaugh. You're recognized to speak.

**J. CAVANAUGH:** Thank you, Mr. President. Well, I rise in support of Senator Hunt's amendment and just kind of goes back, I was just reading it. I don't know-- I know she probably did the introduction and read it, but strikes on page 2, beginning with "complies" and in line 16 through "2023", in line 17 inserts: does not discriminate on the basis of race, color, religion, national origin, ancestry, citizenship status, gender, sexual orientation, gender identity, disability, and special education status. So I support that concept. I think that if anybody wants to, any school wants to take these funds, they should be willing to not discriminate against those students. And so that's why I would think that this is-- that would be an improvement to this bill and this AM338 and LB753 as written and I, I guess I would encourage everybody to vote for that. But I, I was, you know, I started this debate talking about my issues with some discrimination in private schools and there's this kind of discrimination that we're talking about. But there's also this discrimination that happens when-- and this is from-- I've had constituents reach out to me and tell me their personal stories about the particulars of being discriminated in private schools. And the form that it takes is not as overt as maybe some people would think. They have a conversation where they say maybe this isn't the right school for your kid. And that's their way of saying you need to go



somewhere else. It's the same thing that was in those potential policy-- the potential policy and the ultimately adopted policy from the archdiocese that was circulated yesterday where they said they'll have the conversation with the parents and talk about whether this is the right place for you. And if the parents ultimately don't decide to move, then it would be up to the school to make that decision. And so this is what one of the fundamental problems with LB753 in this whole concept is. It's not that we're affording kids an opportunity to go to these schools because even if we give-- we create the scholarship fund and we make the money available, the schools can still refuse to take these kids. They can refuse for any number of reasons, and they can discriminate based off of all of the things-- well, some of those things, some of them are-- I, I think the, the bill itself would prevent discrimination based on race. But they can discriminate based off of religion, which is what the Catholic Archdiocese was seeking to do if you didn't follow the-- live by the tenets of the Catholic Church, they sought to discriminate based off of gender identity, and they also can discriminate based off of academic performance. So when we go and we cite all of these positive test scores that the private schools have, which they do have, at least ACT scores, which is an outwardly reported number, but some of these other test scores, they do have an ability to pick the quality of students that they have that then get them to get those test scores. So it's not just they, they don't get better test scores because they're better schools, they get better test scores because they exclude students who they think are not going to get those higher test scores. And so that is another form of discrimination that is afforded to these schools. And that is one of the reasons that it is not a solution for an opportunity for everyone. This is not just a limitation on income and whether or not you're allowed to participate in these schools. It's a limitation on their desire to have the student themselves. And so, yes, this does solve one side of the issue potentially, but it does not make these schools accessible to everybody else or everyone.

**KELLY:** One minute.

**J. CAVANAUGH:** Thank you, Mr. President. And if I-- with my one minute, I would yield my time to Senator Blood if she would like it. Thank you.

**KELLY:** Senator Blood, 55 seconds.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, I just want to address a couple of quick things on the mike. Senator Slama is

mistaken. Not once have I talked about the Bible on this bill. I talked about facts and data that showed that the information that Senator Hansen read yesterday after I said it was incorrect, that the, the metrics are skewed, that until they actually start utilizing data that pertains to people coming from lower-income families as opposed to including those with higher-income families, we will never have accurate data. And in reference to Mr.-- I can't remember his name, Von Gillern this morning talking about public and private schools. Here's the difference. Private schools are asking for state funds. If private schools are asking for state funds, then they have to have the same accountability that public schools have, period.

**KELLY:** That's your time, Senator. Senator Halloran, you're recognized to speak.

**HALLORAN:** Thank you, Mr. President. Good morning, colleagues. I stepped out for quite a little while to talk with my AARP folks out there and had a great discussion. Senator Linehan had previously asked the question or made a comment that she wasn't sure what some of the arguments-- well, I'm going to, I'm going to rephrase that. She made a comment that this is not about income tax credits. And I would subject to you that that's the case. Fundamentally, what this is, what this argument is about, this debate is about, this whole discussion is about is control. Right? Is it parents can have control over their kids or do the government schools have control over the kids? I would subject to you that if aliens from space tuned in to this conversation, they would say, well, these people, humans are peculiar beings, right? They must be just breeding stock to breed and raise children to four or five, five, six years old, and then they turn them over to this other entity, a government school, to train them up, to train them up. And the parents have little say about it. Well, that's kind of peculiar, but I, I, I, I would say that the parents are the ones that should have control over their children. Now, they don't have much choice. We all discussed that. A lot of kids don't have-- a lot of parents don't have much choice about where they send their kids. So we're, we're really, we're really kind of disgracefully dismissing them and saying, no, you just go to the government school and everything will be fine. Well, it's not for a lot of kids. And with that, I would yield the rest of my time to Senator Lou Ann Linehan.

**KELLY:** Senator Linehan, you have 3:05.

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Floor Debate March 7, 2023  
Rough Draft

**LINEHAN:** Thank you, Senator Halloran. And thank you, Mr. President. So would John Cavanaugh yield to a question, please?

**KELLY:** Senator John Cavanaugh, will you yield?

**LINEHAN:** OK, let's go to Justin-- Senator Justin Wayne, would you yield to a question?

**KELLY:** Senator Wayne, will you yield?

**WAYNE:** Yes. Yes.

**LINEHAN:** So, Senator Wayne, we just heard here about discrimination. We can't do this because, my goodness, somebody might discriminate. You're aware how the option funding program works, right?

**WAYNE:** Yes.

**LINEHAN:** Public option. So are you aware that the first question on an option form is does this child have an IEP?

**WAYNE:** Yes, that is the first question.

**LINEHAN:** And I think Senator Conrad's got a bill that maybe would-- we heard this in Education Committee that at least when they turn a student down, a public school turns a student down, they should probably tell the parent-- be asked to tell the parent why.

**WAYNE:** Correct, that we heard that bill.

**LINEHAN:** Because they don't have to tell the parent why now do they?

**WAYNE:** And they don't tell the parent why. They just say deny.

**LINEHAN:** So I, I don't know how this option funding works. You always get the same answers first in, first out, whatever. But there's no rules about how they pick their students in option funding is there? Are there any rules?

**WAYNE:** No, there's not. In fact, the joke in Omaha and the surrounding areas, if you can punt, pass or kick you get into Westside.

**LINEHAN:** So would I be, like, really off base if in my mind what probably happens is they sit down, they go into a meeting with a stack of option funds, option student requests, and they pick them up and they go family-- Smith family-- does anybody know the Smith family?

And nobody in the room knows the Smith family so that goes in one pile and then the next is from the Linehan family and, oh, yeah, I know, I know the Linehan family and that goes in another pile. Do you think maybe that happens?

**WAYNE:** Yes. So when I was on the Learning Community, we had a phrase that was often talked about on the Learning Community--

**KELLY:** One minute.

**WAYNE:** --is that you only got option enrollment if you were elected and connected. Those are the only two people, elected and connected. It was a common theme on the Learning Community.

**LINEHAN:** Yes, because we are now elected and connected, aren't we?

**WAYNE:** Right. So it is either elected or connected because it seemed like the only option kids that were moving from school to school were those who were either wealthy, could punt, pass or kick or they had somebody in their family who was elected.

**LINEHAN:** So I've been very fortunate in life. I've had jobs that gave me access to anybody in Nebraska. And I know how this works, guys. And to stand up and say that we don't have discrimination going on-- well, you will if you admit we have discrimination going in public schools. We got a whole bunch of stuff going on in public schools that's not OK. And every time we even try to look at it, we all get chased away from it. Local control. Local control.

**KELLY:** That's your time, Senator.

**LINEHAN:** Thank--

**KELLY:** Senator Clements, you're recognized to speak.

**CLEMENTS:** Thank you, Mr. President. I wanted to speak again about the availability of funding for this bill and for education in general. The Governor's budget package I'm holding here. It, it shows that currently the Forecasting Board that is some experts that talk about what revenues are going to be over the next two years, about \$6.4 billion that they think the next two years is still going to be coming in. Currently, the budget is \$5.4 billion of expenses, and so that extra billion that's there, senator-- excuse me, the Governor has a \$1 billion Education Future Fund that he's proposing. And also we know about the special ed funding and the basic funding of \$1,500 per

student. And the Governor put all of those proposals into his General Fund financial status showing what money would be left after those. And that still leaves \$218 million at the end of two years. And that is even after we're also putting out \$598 million of property tax credits of tier two, the tier one real estate tax credit is \$296 million, homestead exemptions of \$112 million, business incentives Imagine Act, \$149 million. And those things are all funded. And the \$25 million that this bill is asking for, there is ample funding for that and for the package that we'll be talking about as time goes on that goes with this. And so I do support LB753 as financially sound and I would yield the rest of my time to Senator Slama.

**KELLY:** Senator Slama, you have 2:45.

**SLAMA:** Thank you, Mr. President. And thank you, Senator Clements. Just to really briefly respond to Senator Blood, she did quote say, quote, the Bible says. We'll pull the transcript from floor debate yesterday whenever it comes up. And to the folks back home, just because you say something on the mike doesn't mean it's true. Again, we will go back to the transcript. She said those three words. Doubling back to some of the court cases that have been referenced, because I think they've been misrepresented by the opposition and what they say and what they mean. So a few of the opponents have brought up that the Arizona Christian School Tuition Organization v. Winn case did not apply here, did not hold what we thought it hold-- held. But these are quotes directly from the decision: By helping students obtain scholarships to private schools, both religious and secular, the school tuition organization program might relieve the burden placed on Arizona's public schools. The result could be an immediate and permanent cost savings for the state. That's on page 137 of the report. Underscoring the potential financial benefits of the STO program, the average value of an STO scholarship may be far less than the average cost of educating an Arizona Public School student because it encourages scholarships for attendance at private schools. The STO tax credit may not cause the state to incur any financial loss. And this is a point that I think we miss a lot in this debate, in that the parents who send their kids to private school are still paying property taxes just as if their kids were attending public school. Their property tax dollars--

**KELLY:** One minute.

**SLAMA:** --are still supporting our public school system, therefore, decreasing the cost to that school district. And they're doubling down

on their kids' education by paying for both their potential public school education through their property taxes and their private school tuition. Again, I support LB753, both as a larger part of a school funding package that supports our rural schools with \$1 billion in new funding and funding-- state funding for every public school, along with \$25 million to ensure that every kid in the state, including those in poverty in the state of Nebraska, have the choice to pick whatever school works best for them be it public or private. Thank you, Mr. President.

**KELLY:** Thank you, Senator Slama. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. Good morning, colleagues. I rise in support of AM507. If we're going to be giving public dollars to private entities, they should not be allowed to discriminate or have hate in their schools. Yes, there's discrimination in public schools. It's not legal. It's not allowed. Because it happens, doesn't make it OK and doesn't make it OK to give public dollars to entities that are implicitly allowed to discriminate. So I support AM507. Senator Wayne, Senator McKinney, I think you can agree we've been starving the beast. We have purposely been starving public education systematically underfunding it. This body over and over again does not give enough money to public education. The answer is not to take away money from public education. And it is disingenuous to say that this doesn't take money away from public education because we have finite dollars. Every year, we have finite dollars. So we have to decide where those dollars go. And we aren't having a conversation about public funding. Nope, first big budget item we have is a tax credit for the wealthy. This is the first conversation we are having about money, \$25 million before anybody else's bills. There's 21 bills that are listed as priorities, 110 bills on General File, first bill, major, major fiscal note. And it is a tax credit for the wealthy. It isn't a tax credit for the poor that want to send their kids to private school. It doesn't cap who gets to take advantage of the scholarship so that only low-income people get it. Senator Linehan told me she won't support my school meals bill, probably because 50 percent of it would come from this. It costs \$54 million; \$25 million can't pay for school meals because we've got to give rich people tax credits. Tonya Ward, District 5 Learning Community Council, has for the entirety of her time on that council begged and pleaded for money to be given for LIHEAP, SNAP, childcare subsidies. She wants to see those kids fed. She wants to see those kids housed. She wants to see those kids clothed. That's not what we're talking about. We're talking

about a tax credit for the rich. I'm not going to be shamed. I don't support tax credits for the wealthy. I do support tax credits. I support them for the working poor. I support SNAP. I support childcare subsidies. I support paid family medical leave. I support affordable housing. I support Medicaid expansion postpartum to a year. None of those are being discussed. Nope. What we are discussing is a tax credit for the wealthy. A tax credit for the wealthy. It just happens to maybe possibly benefit some poor black kids. Doesn't benefit poor LGBTQ kids, for sure. I'm going to support your community by supporting making sure that they get fed. I'm going to support your community by making sure that they have housing, that they have childcare, that they have a safe place to go during the day. This doesn't do it. And Catholic school is not better than public school. Not by a long shot. Not by a long shot.

**KELLY:** One minute.

**M. CAVANAUGH:** It's just a different setting. If you really want to invest in children's education, build more schools. We have public school overcrowding in Omaha. Let's build more schools, not give money to wealthy people. Let's have a real conversation. We haven't been having a real conversation. This hasn't been a serious conversation from the start. Senator Linehan keeps bringing this bill. It must be important to her. It does not help poor kids. It does not help black kids. It does not help LGBTQ kids. It doesn't get kids fed. It doesn't get them educated. It perpetuates the systems of poverty. Let's have the real conversation. Thank you.

**KELLY:** Thank you, Senator. Senator Vargas, you're recognized to speak.

**VARGAS:** Thank you very, very much. This is my first time speaking on this issue this year, and I'm realizing there's probably not enough time, so I'll probably have to get in the queue again. This is a difficult issue for me for a couple of different reasons. One-- and many people have been throwing around this term that it's just there's a lot of hypocrisy to go around. And I, I would agree there's, there's tons of hypocrisy. I remember Senator Hansen, Ben Hansen introduced-- he gave me a head nods up. He introduced a bill to give, like, debit cards-- can't remember what we called it, debit card for all. A program with the ARPA funds. And honestly, people didn't really have a problem with it because it was just giving money to individuals just like the childcare tax credit. It wasn't-- and people weren't upset about that because it wasn't about whether or not the money was going to individuals is was about whether-- who the money is going to. The

substantive part of this conversation that I think is worthwhile to have in terms of policy. I have been on the mike and I have said I support public schools, but I also believe that in so many instances I've seen failing public schools and they have not met the demands. I have seen private and parochial schools meet the needs of students, but also have not met the needs of students. And I've seen discrimination in both systems, both. The issue that I have in policy is there is a recourse for discrimination on special education or on race or on sexual orientation or identity within our public school system, even though I see it and it is egregious. Senator Linehan has been working on those issues for years as the Education Committee within special education. We don't have a recourse for that within the private school, parochial school system with these dollars. I have said on the mike in the past, I've actually said in conversations that there is other mechanism, there are other ways and mechanisms to do this. That's why this issue is hard for me. Here's number one. We currently use public dollars to fund parochial schools. It exists right now. It is in our budget. We fund Nebraska Opportunity Grants. These are public dollars that go to public and private higher education institutions. The difference-- the matter is when those funds are going to those higher education institutions, those higher education institutions receive federal funds and they have to comply with anti-discrimination laws. These private, parochial K-12 schools are not required to. And I think AM507 would be a step in the right direction, because regardless of the penalties, it would give them standing in the same way we're seeing lawsuits right now happening in special education within the public school system. In terms of the policy, the things that I'm concerned are bringing heartburn and I've said this in the past, is not that the money is going to the private or parochial schools on its own because of the policies. You know, we have a lot of tax credit programs. I've supported some. I've been against some. It's, it's the amount. This is about \$100 million and growing. I would love to support it at a smaller amount. And I have said that in the past, the stair step has been an issue for me. We could start it, make it a pilot, put a sunset on it. That's not in the scenario we're at right now, but I would love to do that. But in terms of the hypocrisy part, the part that I have such a hard time with is I've heard other colleagues-- and, and to, to Senator Linehan's credit,--

**KELLY:** One minute.

**VARGAS:** --I've seen the bills that she's brought for years. She believes in reform within the public education system. However, I have



heard other colleagues that have never voted for any bills that have to do with when we were overriding the Governor on LIHEAP or SNAP benefits that would not help low-income families. Senator Day said this, you won't help low-income families in the past. But the argument you use on this bill is that you care about low-income families, and that's the reason why I have to stand up and support this bill. That's incredibly disingenuous. And some people have supported those overrides or supported some of these legislations. We have other tax credits that could potentially help and aid low-income families. We've had bills in the past that would create new programs. I think Senator Walz had a program in her first year that was allowing private money for social workers, I think guidance counselors.

**KELLY:** That's your time, Senator.

**VARGAS:** Thank you.

**KELLY:** Senator Linehan, you're recognized to speak.

**LINEHAN:** Thank you, Mr. President. Thank you, Senator Vargas. I've known Senator Vargas for quite a while. I think the first time I met him was in the Old Market. And he has-- we united right away over education and children and the needs to move us forward. So I appreciate his comments. I'm going to take a little time because it's all mine. I'm in the queue. This is my own shot. So here's how tax cuts for the rich, here's the deal, our, our whole tax code is full of things for the very wealthy. It is chock full. It's shocking. I learn something new every, probably every other week. I'm Chair of the Revenue Committee, you'd think I'd know, but it's a lot, guys. And if you're really rich and I'm fortunate to have some people who are maybe not billionaires, but they're up there with \$300 or \$400, \$500, \$600 million worth of wealth, this, I don't care about this program. This is what I do. I take \$100 million and I put it in a foundation and I write it off my federal taxes and I write it off my state taxes. I'm in the highest tax bracket, so it really only costs me maybe \$50 million. And every dollar that that foundation generates, every dollar is tax free. So I can pay for groups out there in the lobby to lobby us. I can pay for my own school where I will pick and choose who gets in and who doesn't. And I don't pay any taxes on that money. This program is not something I'm going to mess with if I have that kind of wealth. It is-- this is a program that if you owe \$2,000, you can use \$1,000 as a donation to an organization who will give the money to a family with a child who would like to have a choice. Somebody said, I make money off this. I don't make money. I don't get the money, the

money goes. We have all kinds of tax credits where it puts the money right in your pocketbooks. It's not for some unfortunate situation where a child is getting bullied and they want desperately to get them out. The money goes there. If you read the amendment, it's for the first tier, kids who are at 100 percent poverty, not free and reduced lunch, not CHIP, 100 percent poverty. Kids who are bullied. I'm not-- you know, I'll see how I get before the next two hours tomorrow morning. I'm not going to call out people on the floor who went to private school, whose children have gone to private school. I don't know how you-- it's not about the wealthy. It's not. The wealthy wealthy that we seem to be focused on, trust me, they have other ways to do what they want to do. This is about people who feel fortunate, who want to help people who are not as fortunate as them. This is a very midsize thing.

**KELLY:** One minute.

**LINEHAN:** I have-- also not going to name people not on the floor, but I have since I gotten here, had money, just fighting this bill that's tax free. So don't please get up and tell me this is for the wealthy. It's not. It's for low-income kids and regular people who don't have hundreds of millions of dollars to set up foundations where they can-- I'll just stop there. Thank you.

**KELLY:** Thank you, Senator. Senator Lippincott, you're recognized to speak.

**LIPPINCOTT:** Thank you, sir. In campaigning for this office, I knocked on 6,000 doors. And by far, what's going on in our schools was the number one choice and the concern that parents have. And so this bill is very important. Scholarship tax credit programs create a new pool of funding so children can receive scholarships to attend private schools of their parent's choice. There's 25 scholarship tax credit programs operating across the United States, and research has demonstrated that these programs are positive for student achievement and save money for state and local governments. Studies consistently demonstrate that public schools benefit from the existence of scholarship tax credit programs. In fact, 20 of 21 studies showed that these programs improved the performance of nearby public schools. The nation's largest school choice program is a scholarship tax credit, Florida's Tax Credit Scholarship Program, which serves over 18,000 students. So how would LB753, the Opportunity Scholarships Act, work in Nebraska? Tax credit scholarships would provide expanded school access to many Nebraska families who cannot afford the best

educational setting for their children. The state would provide \$25 million in total income tax credits to incentivize donations to Scholarship Granting Organizations, SGOs. All government programs have to have an acronym. The proposed program would provide a 100 percent state income tax credit for donations to Scholarship Granting Organizations. Donations are capped at 50 percent of an individual or a business' state tax liability. Donations would be made to Scholarship Granting Organizations, which then award scholarships to eligible children. The program would give priority to students and families at 100 percent poverty level, as well as students with exceptional needs who have experienced bullying in foster system, in military families, or have been denied option enrollment. There are several misconceptions versus reality, and I'd like to review some of those. And keep in mind that Nebraska is one of only two states; us Nebraska and North Dakota that have not passed a school choice program. Misconceptions may be standing in the way for the states that do not offer for families the opportunity to send their children to a school that best fits their learning needs and values. For instance, school choice programs drain money from public schools. That's a common misconception. But the reality is the tax credit scholarship programs across the country in the aggregate have been proven to state-- save state governments millions and even billions of dollars across the country. When a student attends a nonpublic school using a tax credit scholarship, scholarship, state governments do not have to pay the public school the full cost for providing an education for that student. And the cost to educate a child in a traditional district school is greater than the revenue a state forgoes through scholarship tax credit programs. It's no wonder that tax credit scholarship programs, for example, end up saving each participating state anywhere from \$13 to \$120 million annually. So--

**KELLY:** One minute.

**LIPPINCOTT:** --not only do tax credit scholarships not harm public school funding, but they provide additional revenues that could be used to invest in kids in public school settings. Another misconception is that school choice programs violate separation of church and state. But that is not true. The reality is that the U.S. Supreme Court has ruled that appropriately designed private school choice programs are fully constitutional and numerous state courts have upheld the constitutionality of state credit scholarship programs. Thank you, sir.

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Floor Debate March 7, 2023

Rough Draft

**KELLY:** Thank you, Senator. Senator Albrecht, you're recognized to speak.

**ALBRECHT:** Thank you, President Kelly. I'd like to yield my time to Senator Linehan.

**KELLY:** Senator Linehan, you have 4:50.

**LINEHAN:** Thank you, Senator Albrecht. And thank you, Mr. President. So I would like to ask if Senator McKinney would yield to some questions?

**KELLY:** Senator McKinney, will you yield?

**McKINNEY:** Yes.

**LINEHAN:** Senator McKinney, did you grow up in north Omaha?

**McKINNEY:** Yes, I did.

**LINEHAN:** So you're very well connected to the community, right?

**McKINNEY:** Yes, I am.

**LINEHAN:** So do you have parents who want this option in your district?

**McKINNEY:** Yes, over-- not even-- well, since I've been here and probably over the last two months I've-- parents reached out, countless posts on social media and threads of parents in my district fed up with the public school system because they don't feel like they have a, a voice or a choice because things aren't going right.

**LINEHAN:** So does Omaha-- you know, we've heard a lot like public schools can't kick kids out of school, but does Omaha Public Schools have what they call their alternative school?

**McKINNEY:** Yes, they have alternative schools. They have Parrish and I think Blackburn and there might be another one, Wilson, and I, I think that's it.

**LINEHAN:** What, what's the outcome of most of the kids that end up in alternative schools?

**McKINNEY:** Just go sur-- not all, but I would tell you go survey our State Pen.

**LINEHAN:** I'm sorry?

**McKINNEY:** I would say not all fail in alternative schools, but I would tell you go survey our State Penitentiary.

**LINEHAN:** You know, a lot of people in our State Penitentiary attended alternative schools.

**McKINNEY:** I know a lot of them that I know for a fact attended alternative schools.

**LINEHAN:** Public alternative schools.

**McKINNEY:** Yes.

**LINEHAN:** So you have a daughter, right, she's 10 or 13 years old? And you don't have to answer this because I know it's-- I didn't give you a heads up on this, but you--

**McKINNEY:** Yeah, she'll be 13 next month.

**LINEHAN:** Right. So-- and you've been able, I think, maybe to choose an option. Is that right?

**McKINNEY:** Oh, I didn't necessarily choose an option. She lives between her, her, her mom and I. So where her mom lives is not in OPS district.

**LINEHAN:** OK. Thank you, Senator McKinney. Have you got any other, like, examples? I know that we've-- I talked once about a young man I know that grew up in Omaha, and I was horrified when you knew who I was talking about. Do you know who I'm talking about now?

**McKINNEY:** Yeah, for sure. And also, I have, you know, younger cousins, like one of my younger cousins was having a lot of trouble getting suspended and placed out of class and not necessarily succeeding in the public school system. And his mom moved him and currently he is one of the most improved kids at the school he is in.

**LINEHAN:** So in all this discussion we've kind of missed, we talked a lot about systems, public systems, private systems. But systems don't save kids, do they?

**McKINNEY:** No, I don't think so. I think we have a lot of systematic issues that we need to handle as a body. And I'm committed to working on systematic issues within both-- within a public school system. But what I have a hard time understanding is people telling me to wait,

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Rough Draft

and I honestly just do not feel enough political will in this building and this state to do what it takes to actually get our public schools to where they should be.

**LINEHAN:** So I-- thank you, Senator McKinney. I've worked with Senator Wayne on this. I'm thrilled Senator McKinney is here. This-- for-- most of the people have been here for as long as I have or not all of them, but most of them are supporting this bill because I think--

**KELLY:** One minute.

**LINEHAN:** --when you hear the arguments again and again and you actually start listening, I don't know how you can say no. So, Senator McKinney, you, you weren't with me when you first got here, were you on this bill?

**McKINNEY:** No, the first year I voted against it. And, you know, contrary to, you know, popular belief, me and Senator Wayne probably didn't talk for, like, two months.

**LINEHAN:** That was harder on Senator Wayne than it was you. Thank you very much, Senator McKinney.

**M. CAVANAUGH:** No problem.

**LINEHAN:** Thank you, Mr. President.

**KELLY:** Thank you, Senator. Mr. Clerk, for items.

**ASSISTANT CLERK:** Thank you, Mr. President. Your Committee on Health and Human Services reports LB431 and LB765 to General File. Also, LB276, LB402, and LB590 all to General File with committee amendments attached. Your Committee on Enrollment and Review reports LB77, LB278A and LB298A to Select File, some with amendments. Notice of committee hearing from the Education Committee. Amendment to be printed to LB692 from Senator Linehan, amendment to LB753 from Senator John Cavanaugh. Name adds: Senator Fredrickson to LB254, Senator Conrad to LB526, Senator Slama to LB587, Senator Conrad to LB601. Senator Wayne withdraw from LR2CA. An announcement, the Agriculture Committee will meet in Executive Session this afternoon at 1:30 p.m. in Room 1307. And finally, priority motion, Senator Moser would move to adjourn until Wednesday, March 8, 2023, 9:00 a.m.

**KELLY:** The question is, shall the Legislature adjourn for the day? All those in favor say aye. All those opposed nay. We are adjourned.