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The Effects of Restrictive Tuition Legislation on Nineteen Selected Class II School Districts in Nebraska

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THE EFFECTS OF RESTRICTIVE TUITION LEGISLATION ON NINETEEN SELECTED CLASS II SCHOOL DISTRICTS IN NEBRASKA

A Field Project

Presented to the Department of

Educational Administration and Supervision

and the Faculty of the Graduate College

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In Partial Fulfillment

of the Requirements for the Degree

Specialist in Education

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by

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FIELD PROJECT ACCEPTANCE

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INTRODUCTION

During the 1973 Legislative Session, LB 314 was introduced to the Eighty-Third Legislature. It provided for an act to amend Section 79-4102, Reissue Revised Statutes of Nebraska, 1943, relating to schools to provide the maximum non-resident tuition rate and to repeal the original section.

LB 314, which would have provided a maximum non-resident tuition rate, was heard by the Education Committee on March 12, 1973, and indefinitely postponed on April 3, 1973.

At the public hearing three persons spoke in support of the bill; also, three persons spoke in opposition of the bill. They were S. H. Brauer, Jr., Lincoln, Nebraska; Glen Rader representing the Nebraska Farm Bureau; and Ernest Gotschall representing the Nebraska Stock Growers. In opposition to the bill were Lloyd McDowell representing the Nebraska State School Boards Association; Lester Baum of District 32, Tecumseh, Nebraska; and C. Milton Nelson of District 3, Hay Springs, Nebraska.

While the Education Committee recognized that some non-resident tuition rates were difficult to justify, it was felt that passage of the current bill might necessitate a substantial mill levy increase in the district receiving non-resident students. It was the belief of the Education Committee at that time that (a) an adequate state aid program

would resolve the need for this legislation and (b) it is quite difficult to establish an arbitrary figure that would be equitable in all cases.

BACKGROUND OF THE PROBLEM

The original law 79-4102 reads as follows:

> (1) The county superintendent of each county in which a Class VI school is not maintained shall, within thirty days after the annual meeting, certify to the county board of supervisors or commissioners the number of qualified pupils whose parents or guardians have applied to the county superintendent for non-resident high school tuition privileges and a list of schools qualified to grant non-resident public high school education to non-resident pupils.
>
> (2) The high school tuition rate for non-resident pupils shall be determined annually by the receiving district on a uniform basis for all pupils but such rate shall in no event be less than the average per pupil cost for the preceding school year determined as provided in Subsection (3) of the Section 79-486. The superintendent of the receiving school shall certify such rate to the county superintendent on or before the second Monday in July of each year.

The changes desired in the law would have made it read:

> The high school tuition rate for non-resident pupils shall be determined annually by the receiving district on a uniform basis for all pupils but such rate shall in no event be ~~less~~ more than one and two-tenths times the average per pupil cost for the preceding school year determined as provided in Subsection (3) of Section 79-486 less the per pupil aid received from state funds. The superintendent of the receiving school shall certify such rate to the county superintendent on or before the second Monday in July of each year.

The problem with the proposed legislation would come with the striking of the word "less" and adding "one and two-tenths times."

THE PROBLEM

The purpose of this paper shall be to show that a restrictive limitation on rural high tuition will adversely affect selected Class II school districts in the state of Nebraska.

CRITERIA FOR SELECTING DISTRICTS

Each of the districts used in the study will meet the following criteria:

(1) Class II school districts with K-12 enrollment

(2) Enrollment of 125 or more secondary students

(3) Minimum of ten rural high tuition students.

This would involve nineteen school districts with a total of 2,750 secondary students. Five hundred twenty-five students or 19.09 percent of the student enrollment are rural high tuition students.

DEFINITION OF TERMS

Rural High School Tuition--When a school district in the state of Nebraska does not have a high school in the district for grades 9-12 the students who have completed the eighth grade may attend a secondary school of their own choosing. The county treasurer of the county in which the student maintains a residence collects a tax from each school district without a secondary school and pays the tuition to the receiving school for all secondary students wishing to attend that secondary school.

Class I School--It shall include any school district that maintains only elementary grades under the direction of a single school board (K-8 Grades).

Class II School--It shall include any school district embracing territory having a population of one thousand inhabitants or less that maintains both elementary and high school grades under the direction of a single school board (K-12 Grades).

Class VI School--It shall include any school which maintains only a high school (Grades 7-12) under a single school board.

DESIGN AND PLAN OF STUDY

When approaching a topic with the large financial extent such as this field project, great care must be utilized in developing a methodology that will keep the task from becoming astronomical. The first decision was to refrain from an attempt to formulate a solution of charges for all tuition students in the state of Nebraska. A sufficient number of both tuition students and school districts can be established by applying the previously outlined criteria.

In order to draw meaningful comparisons and formulate conclusions and recommendations the data produced in the study will be analyzed utilizing the following techniques:

1. A systematically aligned sampling method will be applied to select districts which meet the criteria.
2. Review of literature pertaining to the subject (both current and historical in nature).
3. Written communication (questionnaire) to district superintendents.
4. Written communication (questionnaire) to county superintendents.
5. Substantial interviews (both oral and written) with persons familiar with the problem including:
    a. Persons in the State Department of Education
    b. Persons in the Legislature
    c. Three organizations for and three against restrictive legislation.

The project will follow the following general outline or chapters:

1. Introduction and definition of the problem

2. Historical development of the question

3. Investigation and analysis of present law as it applies to selected districts

4. Summary, conclusions and recommendations.

Chapter 2

HISTORY OF RURAL HIGH TUITION

First mention of non-resident high school students that can be located in the general laws of Nebraska is in 1881. It is contained in the statute book in Subdivision V under District Board, Powers and Duties. Section 4 reads as follows:

> Said board may also admit to the district school non-resident pupils, and may determine the rates of tuition of such pupils, and collect the same in advance;
>
> PROVIDED, That any person having real property in two adjoining districts may, with the consent of the district board where he resides, send the pupils of his family to the school in such adjoining district without tuition charge, by giving ten days' notice to the school board of such adjoining district:
>
> PROVIDED FURTHER, That a pro rata share of the school money apportioned to the district where such pupils reside shall be paid by the officers of that district to the district where said pupils attend school.
>
> PROVIDED FURTHER, That in no case shall tuition be collected from non-resident pupils where the school board of pupil's residence consent to attendance in adjoining district, then the school money due the district where pupils reside, shall be paid to the district where pupils attend school: .
>
> PROVIDED FURTHER, That non-resident pupils shall not be allowed to attend high or graded schools in any incorporated village or city, unless by consent of the trustees, or board having control of said high or graded schools.[1]

In 1905 Cobbey's Statutes of Nebraska discussion of non-resident tuition is contained in 11105, disposal of free high school funds:

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[1] General Laws, State of Nebraska, 1881, P. 352-353, Subdivision V., Section 4.

> That all funds which have heretofore been paid into the treasury of any county for the maintenance of free high schools for non-resident pupils, shall be paid to the school districts of such county which have maintained free high schools for non-resident pupils proportionately to the number of non-resident pupils instructed and the length of time each pupil received such free instruction, provided that such sum shall not exceed seventy-five cents per week for each non-resident pupil so instructed.
>
> History.--Laws 1905, H. R. 215, sec. 1; in force April 3. Senate file 149 by Thomas is identical with this section except the last four words. As it took effect April 1, this, being a later law, is the only one published herein.[2]

In 1905 Chapter 132 of the General Laws provided for an act to distribute funds paid into the county treasury for high schools. Section 1 of that law said:

> . . . all funds which had been paid to the school districts which had maintained free high schools for non-resident pupils, proportionately to the number of non-resident pupils instructed and the length of time each pupil received such free instruction, provided that the sum did not exceed seventy-five cents per week for each pupil attending.[3]

More complete definition of the high school course was contained in the 1907 law; it was more specific in a number of ways. Section 1 of the 1907 law contained a provision for four years of free public high school education for all youth of the state whose parents or guardians lived in a public school district which maintained less than a four-year high school course of study. The law went on to list the following six conditions:

> FIRST--For the purposes of this act all grades above the eighth grade in any public school district of this state shall be deemed high school grades. The course of study for the first eight grades shall be the course of study prescribed by the State Superintendent

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[2] Annotated Statutes of Nebraska, Cobbey, A., Supplement to Volume II, 11105, P. 439, 1905.

[3] General Laws, State of Nebraska, 1905, Ch. 131, P. 554, 555.

of Public Instruction or a course of study approved by him, and the course of study for the high school grades shall be the Nebraska High School Manual issued jointly by the University of Nebraska and the State Superintendent of Public Instruction or a course of study approved by the State Superintendent of Public Instruction.

SECOND--Every pupil to be entitled under the provisions of this act to free public high school education in the ninth grade of any public school district maintaining such grade must have a certificate signed by the County Superintendent of the proper county that he has completed the course of study prescribed by the State Superintendent for work below the ninth grade as set forth in the first condition of this section and that he is unable to secure ninth grade work in the public school district of his residence.

THIRD--Every pupil to be entitled under the provisions of this act to free public high school education in the tenth grade of any public school district maintaining such grade must have a certificate signed by the County Superintendent of the proper county that he has completed the course of study for the ninth grade as set forth in the first condition of this section and that he is unable to secure tenth grade work in the public school district of his residence.

FOURTH--Every pupil to be entitled under the provisions of this act to free public high school education in the eleventh grade of any public school district maintaining such grade must have a certificate signed by the County Superintendent of the proper county that he has completed the course of study for the tenth grade as set forth in the first condition of this section and that he is unable to secure eleventh grade work in the public school district of his residence.

FIFTH--Every pupil to be entitled under the provisions of this act to free public high school education in the twelfth grade of any public school district maintaining such grade must have a certificate signed by the County Superintendent of the proper county that he has completed the course of study for the eleventh grade as set forth in the first condition of this section and that he is unable to secure twelfth grade work in the public school district of his residence.

SIXTH--Every non-resident pupil attending any public school under the provisions of this act shall have the same rights and shall be subject to the same rules and restrictions which govern resident pupils attending such public school. Any public school district unable to furnish accommodations to non-resident pupils without constructing or renting additional buildings, hiring extra teachers, or for other reasonable cause, may refuse admission to any or all such non-resident pupils.[4]

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[4]General Laws, State of Nebraska, 1907, Ch. 121, Sec. 1, P. 402-403.

Section 2 of that law went on to say that every public school district granting free public high school education to non-resident pupils under the provisions of this act shall receive the sum of seventy-five cents per week for each week's attendance by each non-resident pupil from the public school district in which the parent or guardian of such non-resident pupil maintains his legal residence. Such public school district was liable for the payment of the tuition.[5]

In 1909 the law was amended to say that there was a charge of seventy-five cents for each week of attendance provided that if such school district in which the parent or guardian of such non-resident is not able to maintain nine months school out of his (its) own resources after levying the full amount of taxes it was permitted by law to levy for school purposes together with its apportionment from the state school fund, then the said district was not liable for such tuition.[6]

The rate of tuition remained constant until 1915 when it was amended and the rate was changed to one dollar for each week's attendance.[7] Only one change was made in the amendment of 1917. The change stipulated that ". . . at the time the application was made and such public school district is hereby made liable for the payment of such tuition."[8] This was obviously to cover expenses if persons were to

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[5]Ibid., Sec. 2, P. 404.

[6]General Laws, State of Nebraska, 1909, Ch. 122, Sec. 1, P. 462-463.

[7]General Laws, State of Nebraska, 1915, Ch. 119, Sec. 1 P. 273-274.

[8]Ibid., 1917, Ch. 123, Sec. 1, P. 302.

apply in July and then for some reason move during the year.

Two changes in the free high school tuition law mark the 1919 revision of the law. First, the rate was changed from one dollar to one dollar and fifty cents for each week's attendance. Secondly, when any parent or guardian residing in a public school district granting free public high school education changed his legal residence during any school year from such school district to another public school district which did not furnish free public high school education, the children of such parents or guardians could continue to attend without charge for the balance of the school year. This included no charge to the parent or to the district to which the parent moved.[9]

Districts receiving non-resident students under the provisions of the law had a change in the amount from one dollar and fifty cents to three dollars per week in 1921.

Some minor changes in procedure were noted in the 1925 law. Thirty days following the annual meeting the county superintendent was to notify the county commissioners of the number of students seeking the tuition privilege. The rate remained at three dollars per week; however, they had to attend a school approved by the State Superintendent of Public Instruction. Fractions of a week were mentioned but not defined. An allowance of three dollars per week was paid for the partial weeks of instruction.[10]

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[9] General Laws, State of Nebraska, 1919, Ch. 153, Sec. 1, P. 343-344.

[10] Session Laws, 1925, State of Nebraska, Ch. 178, Sec. 1, P. 465-466.

Lowering of the tuition rate to two dollars and twenty-five cents was incorporated into the law in 1933.[11] This was the only change made in law or mechanics of the free high tuition system at that time. The rate had again been raised to three dollars per week in 1941.

Repeal of the 1943 law concerning tuition changed the rate from three dollars per week to four dollars and fifty cents per week.

Session laws of 1949 spell out in detail who is eligible for rural high tuition by use of a comprehensive state-wide examination. The rate of tuition was also raised to six dollars per week or fraction of a week.[12] Fifteen dollars per week or major fraction thereof was the rate set in 1959. However, this was not to exceed thirty-six weeks in districts which held thirty-six weeks of school and was not to exceed the number of weeks of school in districts which held more than nine months of school.[13]

When the law was revised in 1963 the rate was not changed; however, the number of weeks were set by the board of education of the accepting district for the time which teachers were contracted and on duty at school.[14]

Further clarification of the law came in 1967 when the rate was changed to three dollars and fifty cents per day for the number of days

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[11] Session Laws, 1933, State of Nebraska, Ch. 139, Sec. 1, P. 547-548.

[12] Session Laws, 1949, State of Nebraska, Sec. 140, 79-4, 102, P. 740.

[13] Session Laws, 1959, State of Nebraska, Ch. 397, Sec. 2, P. 1356.

[14] Session Laws, 1963, State of Nebraska, Ch. 485, Sec. 2, P. 1556.

the non-resident pupils were enrolled and school was in session; PROVIDED, that the district accepting the non-resident pupils was allowed to charge an additional three dollars per day for pre-opening and post-closing days for which teachers were required to be on duty at school, but not to exceed five days.[15]

The biggest change with the largest amount of flexibility came with the 1969 law. Section 2 of 79-4, 102 contained the following statement:

> The high school tuition rate for non-resident pupils shall be determined annually by the receiving district on a uniform basis for all pupils but such rate shall in no event be less than the average per pupil cost for the preceding school year determined as provided in subsection (3) of section 79-486. The superintendent of the receiving school shall certify such rate to the county superintendent on or before the second Monday in July of each year.[16]

This gave the accepting districts the responsibility to charge the per pupil cost of the preceding school year or the right to charge anything above it that the board set. An example of the results of this law is discussed elsewhere in this project.

A bill to repeal this law was introduced in the 1973 Legislature but was killed in committee. However, in the 1974 session a restriction concerning rural high tuition was incorporated into the state aid law LB 772 which places a limit of 1.2 times the preceding school year per pupil cost. This law is scheduled to take effect in September of 1975.[17]

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[15] Session Laws, 1967, State of Nebraska, Ch. 537, Sec. 2, P. 1776-1777.

[16] Session Laws, 1969, State of Nebraska, 79-4, 102, Sec. 2.

[17] Nebraska School Laws, 1974 Supplement, Stephenson School Supply Company, Lincoln, Nebraska, 1974, 79-4, 102, Sec. 1, P. 15, 16.

CHRONOLOGY OF CHARGES FOR RURAL HIGH TUITION

1881	Board decision
1905	Seventy-five cents per week
1913	One dollar per week
1917	One dollar fifty cents per week
1921	Three dollars per week
1933	Two dollars twenty-five cents per week
1943	Three dollars per week
1945	Four dollars fifty cents per week
1949	Six dollars per week
1951	Seven dollars and fifty cents per week
1953	Ten dollars fifty cents per week
1959	Fifteen dollars per week
1965	Three dollars per day
1967	Three dollars fifty cents per day
1969	Minimum per pupil cost
1975	One point two times per pupil cost

Chapter 3

AN ANALYSIS AND FINDINGS OF THE STUDY OF TUITION COSTS IN SELECTED CLASS II SCHOOLS IN NEBRASKA

The study was first initiated during the 1973 Legislative Session when LB 413 was introduced and a restriction was asked for Rural High School Tuition in the State of Nebraska. The purpose of this study is to show that the restrictive legislation introduced will adversely effect selected class II districts in the state. With the passage of LB 772 during the 1974 session of the legislature that restriction became a reality, effective in September of 1975. The law places a restriction of 1.2 times the per-pupil cost for the previous school year. This has encouraged further study on the question, because it is directly part of the State Aid bill in Nebraska. The ramifications of this restriction have caused question for concern among the small high schools in the state.

There are unique features in the class II school districts in the State of Nebraska as reflected in a complete listing of them in the appendix of this paper. The questionnaire and letter in the appendix were designed and sent to nineteen of the class II districts which had met the predetermined criteria. The response to these was very good, only two of them did not return the questionnaire. Data concerning the two schools was gathered from various sources, including publications of the State Department of Education.

This chapter presents an analysis of the data relative to the

nineteen selected class II schools throughout the state which meet the following predetermined criteria:

1. Class II school with K-12 enrollment
2. Enrollment of at least 125 secondary students
3. More than ten secondary, tuition students.

No consideration was given to whether they were approved or accredited by the State Department of Education.

Much discussion has been held concerning restricting Rural High Tuition in the state. The text of the debate and discussion in the Education Committee of the Legislature is contained in the appendix of this paper. It is that portion from 1969, when the limit was changed from a per day basis to "at least the per pupil cost." Since that time claims have been made that the law has been abused. Consideration of the data in the remaining portion of this chapter will explore some of the thoughts in this area.

Table 1 indicates the schools selected for the study, the mill levy, number of students enrolled and valuation per pupil. Loomis easily takes the lead in total valuation with $8,925,575 for 1972-73, and enrollment of 231 students yielded a valuation of $38,639 for each student enrolled in school and a necessary mill levy of 30.73 for general operating purposes that year. Table 1 also reflects a total valuation of $1,841,978 for Beemer with 200 students giving them $9,209 valuation for each student with a mill levy of 59.55 for general operating expenses. These are the two extremes based on the 1972-73 statistics included in the study, however, it should be noted that Waterloo had a mill levy of 66.27 for the same year 72-73. Davenport was the lowest in 72-73 with a levy of 22.46 for the same period. Although Davenport and Waterloo were

Table 1

Class II District Valuation, Mill Levy, Number of Students and Valuation Per Student in Schools Used in Study 1972-73 School Year

School	Class II Valuation	Mill Levy	Number of Students	Valuation Per Pupil
Orchard	$ 4,400,680	39.00	222	$19,823
Amherst	4,489,150	38.95	204	22,006
Pleasanton	5,645,810	31.89	262	21,549
Beemer	1,841,978*	59.55	200	9,209*
Ansley	3,512,905	38.66	247	14,222
Waterloo	2,842,235	66.27	242	11,745
Eustis	6,404,208	34.76	271	23,632
Elwood	4,966,796	40.82	224	22,173
Greeley	3,777,699	50.80	196	19,274
Chambers	6,200,454	35.08	226	27,436
Ewing	2,452,772	66.69*	236	10,393
Sterling	4,730,262	47.10	262	18,054
Malcolm	4,285,775	31.42	239	17,930
Clarks	6,407,535	33.73	274	23,385
Loomis	8,925,575*	30.73	231	38.639*
Dawson Verdun	4,845,870	35.10	222	21,828
Cedar Bluffs	3,629,590	48.15	275	13,199
Sunflower	2,646,785	44.42	186	14,230
Davenport	7,213,684	22.46	202	35,711
Total	$89,219,091		4,421	$20,181 (average)

comparable in size of school population the effort to maintain the school was nearly three times as great for the Waterloo district.

These statistics can be compared to the Class I systems in the counties that feed into the selected schools. The total valuation in Holt County Class I schools was $45,542,814 which on a per pupil basis was $47,078. Gosper County total rural valuation was $3,162,435 with $85,471 behind each student. It is interesting to note that Phelps County Class I districts had a valuation of $91,576 per student. The mill levy variation, as reflected in Table 2, in these counties ranged from a high of 22.77 in Antelope County to a low of 8.75 in Gosper County.

The total number of students to be educated from these two particular areas of Class I and selected Class II districts generate two factors--the number of students and the valuation available per student. When the total valuation in each case is added and divided by the number of students the following averages are revealed:

Class I . . 5,686 students, $55,351 per student

Class II . . 4,421 students, $20,181 per student

What becomes apparent is the effort or mill levy which it takes in each of these sets of circumstances to raise money to provide schooling for the students.

If the law which limits tuition costs, LB 772, is 1.2 times the actual per pupil cost for the preceding year and was in effect for the 1973-74 school year, the allowable charges for the 1973-74 school year are reflected in the data on Table 3. The 1972-73 per pupil costs were multiplied by 1.2 to arrive at the allowable charges for the 1973-74

Table 2

Class I Valuation, Mill Levy, Number of Students and Valuation Per Pupil in Counties Used In the Study 1972-73 School Year

County	Class I Valuation	Mill Levy	Number of Students	Valuation Per Pupil
Antelope	$ 13,270,517	22.77*	335	$39,613
Buffalo	26,299,361	14.36	352	74,714
Cuming	36,635,561	10.25	457	80,165
Custer	24,279,985	10.31	377	64,403
Douglas	12,779,760	17.83	202	63,266
Frontier	9,228,293	11.88	202	45,685
Gosper	3,162,435*	8.75*	37	85,471
Greeley	3,514,760	13.28	27	13,018*
Holt	45,542,814*	12.80	967	47,078
Johnson	4,418,393	15.20	67	65,946
Lancaster	16,155,065	13.94	382	42,291
Merrick	7,544,730	11.53	233	32,381
Phelps	25,275,101	10.48	276	91,576*
Richardson	15,111,015	14.11	230	65,700
Saunders	36,050,358	13.64	688	52,399
Scottsbluff	30,362,443	17.28	782	38,827
Thayer	4,505,226	14.77	72	62,573
Total	$314,155,817		5,686	$55,351 (average)

Table 3

1972-73 Cost Per Pupil Times 1.2% to Determine the 1973-74 Charges In the Class II Schools In the Study

Orchard	$1,157 x 1.2% =	$1,388.40
Amherst	1,036 x 1.2% =	1,243.20
Pleasanton	884 x 1.2% =	1,060.80
Beemer	1,207 x 1.2% =	1,448.48
Ansley	1,077 x 1.2% =	1,292.40
Waterloo	1,066 x 1.2% =	1,279.20
Eustis	1,014 x 1.2% =	1,216.80
Elwood	1,329 x 1.2% =	1,594.80
Greeley	887 x 1.2% =	1,064.40
Chambers	1,232 x 1.2% =	1,478.40
Ewing	1,750 x 1.2% =	2,100.00
Sterling	1,123 x 1.2% =	1,347.60
Malcolm	956 x 1.2% =	1,147.20
Clarks	1,151 x 1.2% =	1,381.20
Loomis	1,350 x 1.2% =	1,620.00
Dawson Verdun	1,798 x 1.2% =	2,151.60
Cedar Bluffs	799 x 1.2% =	958.80
Sunflower	989 x 1.2% =	1,186.80
Davenport	1,200 x 1.2% =	1,440.00

school year. Among the selected schools Dawson-Verdun would have been the highest with $2,151.60, while Cedar Bluffs would have been the lowest with $985.00. The variation on charges would have amounted to $1,093.60.

Table 4 contains data which indicates the selected schools, their 1973-74 budgets for general operating expenses, total enrollment, number of non-resident students, percent of non-resident students, and the percentage of non-residents multiplied to the budget to determine what revenue would be generated for the non-resident students, for general operating expenses.

Differing approaches were taken by local school boards during the 1973-74 school year. Some of them stayed with or close to the previous year's per pupil costs, while others raised the rate based on the 1969 law. For example, Waterloo charged $2,000 per student for each of the 38 non-resident students and collected $76,000 in Rural High Tuition, while Malcolm based their charges on the previous year's cost. For the 53 non-resident students attending Malcolm a charge of $956 per student yielded $50,668. These two different approaches were extreme and the outcome would have been much different if they were reversed. Malcolm would have taken in $106,000 which is a difference of $55,332. Considering the Malcolm valuation of $4,285,775 this difference would have made a change of 12.90 mills in the general levy. However, in the case of Waterloo where the income was $76,000 the per pupil basis would have brought in $40,508, a difference of $35,492. The mill levy in this case would have been increased 12.49 mills.

A reflection of the law change which came about in 1969 can be seen in the case of Douglas County which contains one of the Class II schools in the study, Waterloo. The county-wide implications of the

Table 4

Percentage Cost of Non-Resident Students in Relationship to the Total Budget of the School Districts Involved in the Study

School	1973-74 Budget	1973-74 Enrollment (K-12)	1973-74 Non-Resident Students	Percentage of Non-Resident Students x Budget
Orchard	$320,000	254	40	15.7% = $50,240
Amherst	239,753	228	38	16.6% = 39,799
Pleasanton	184,627	259	21	8.1% = 14,954
Beemer	244,148	241	35	14.5% = 35,401
Ansley	288,788	284	49	17.3% = 49,960
Waterloo	278,000	269	46	17.1% = 47,538
Eustis	304,793	277	18	6.5% = 19,811
Elwood	291,457	236	13	5.5% = 16,030
Greeley	272,630	208	24	11.5% - 31,352
Chambers	265,002	235	15	6.4% - 16,960
Ewing	291,475	270	45	16.7% - 48,676
Sterling	291,150	272	16	5.9% - 17,177
Malcolm	261,300	295	53	18.0% = 47,034
Clarks	306,100	282	20	7.0% = 21,427
Loomis	330,815	246	10	4.0% = 13,232
Dawson Verdun	289,550	241	25	10.3% = 29,824
Cedar Bluffs	168,644	291	24	8.2% = 13,828
Sunflower	192,500	220	28	12.7% = 24,448
Davenport	245,078	207	15	7.2% = 17,646

non-restrictive approach can be seen in the statistics for the five-year period following the lifting of the limit in 1969, when the limit was set to be at least the per pupil cost for the preceding year.

Table 5 indicates the number of students sent to high school by each of the rural districts in Douglas County. The second portion of that table indicates how many attended each of the receiving high schools, the amount of tuition charged by each of the receiving districts during the 1973-74 school year and the total income for each school from tuition.

An observation which can be made is that the larger the receiving district the smaller the portion of their budget. Tuition students in Douglas County generated $18,000 and $1,950 to Omaha and District 66 respectively, while Waterloo (one of the schools in the study) was the recipient of $76,000 and Valley, $58,000 for the 1973-74 school year.

When reviewing the changes in rates of tuition charged from 1969-1974 on Table 6 it becomes apparent that most of the schools started at around their per pupil cost, but made marked changes by 1973-74. The changes had roughly doubled the price charged for tuition, however, the mill levy in the Class I districts, or the effort to provide high school education for the students, had gone from 10.37 mills in 1969 to 14.85 in 1973-74.

In summary, it can be said that legislation dealing with Rural High Tuition is a complex problem and to reach a fair and equitable solution it is necessary to evaluate each situation or school on its individual circumstances. A general overall restriction on tuition, however, places all of them under general guidelines and does not allow for unique features.

Table 5

Non-Resident High School Tuition
Douglas County
1973-74

Class I Districts Number Students Attending	
# 8	21
#15	21
#23	11
#24	39
#27	12
#32	25
#41	12
Total	141

High School Certified To Attend	Number of Students	Tuition	Total Cost
Arlington	5	$1,900.00	$64,500.00
Bennington	11	1,440.00	15,840.00
Elkhorn	30	2,000.00	60,000.00
Fremont	3	1,500.00	4,500.00
Ft. Calhoun	4	1,900.00	7,600.00
Gretna	1	2,000.00	2,000.00
Omaha	16	1,150.00	18,400.00
Valley	29	2,000.00	58,000.00
Waterloo	38	2,000.00	76,000.00
Westside - #66	2	975.00	1,950.00
Yutan	2	1,850.00	3,700.00
Total	141		

Table 6

Non-Resident High School Tuition Charges
(Five Year Period)

School	1969-70	1970-71	1971-72	1972-73	1973-74
Arlington	$1,000.00	$1,200.00	$1,200.00	$1,266.00	$1,900.00
Bennington	900.00	1,000.00	1,200.00	1,266.00	1,440.00
Elkhorn	825.00	900.00	1,000.00	1,000.00	2,000.00
Fremont	644.00	708.75	950.00	1,140.00	1,500.00
Ft. Calhoun	750.00	935.00	1,200.00	1,266.00	1,900.00
Gretna	1,000.00	1,200.00	1,200.00	1,500.00	2,000.00
Millard	493.50	795.00	900.00	939.00	- - -
Omaha	677.00	760.44	828.00	922.00	1,150.00
Valley	982.27	1,048.84	1,163.73	1,117.91	2,000.00
Waterloo	841.30	932.54	1,000.00	1,150.00	2,000.00
Westside - #66	- - -	- - -	- - -	891.50	975.00
Yutan	- - -	- - -	1,300.00	1,500.00	1,850.00
Douglas County Mill Levy	10.37	7.53	8.37	13.62	14.85

It can be concluded from the previous data that restrictive limitation on Rural High School Tuition would have effects on the selected school districts in this study.

Chapter 4

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

THE PURPOSE

The purpose of this study was to determine if restrictive legislation would adversely affect selected Class II schools in the state of Nebraska. It has been established by the data presented in the previous chapter that restrictive legislation does have an adverse effect on the schools included in the study.

OBJECTIVES OF THE STUDY

The major objectives of the study were:

1. To investigate the tuition charges and practices in the selected Class II school systems in the state of Nebraska and to ascertain what implications restrictive legislation might have on them.

2. To make results of the study available to legislators, board members and school administrators in the selected schools in order that they may work toward effective and equitable legislation in the area of Rural High Tuition.

3. To make recommendations which would improve the tuition system in the state of Nebraska and make the system more equitable to the citizens of the state.

THE PROCEDURES

The following activities were carried out in the development of the study concerning restrictive legislation for Rural High Tuition:

1. A thorough examination of the historical development of the non-resident tuition laws in the state of Nebraska from 1881 to the one which will take effect in September of 1975.

2. A questionnaire was sent to superintendents of the schools in the study and to the county superintendents of the counties involved.

3. Each of the schools in the study met the following criteria:

   a. Class II school district with K-12 enrollment,

   b. Enrollment of 125 or more secondary students,

   c. Minimum of ten Rural High Tuition students.

4. An analysis of the data was made to determine if the results of restrictive tuition legislation would have an adverse effect on the selected schools.

CONCLUSIONS

1. The law governing Rural High Tuition, which takes effect in September of 1975 and limits the tuition rate to 1.2 times the per pupil cost for the previous year, will adversely affect the Class II schools in the study. Since 1969 the districts have been allowed to charge "at least per pupil cost for the previous year." The additional revenue which the receiving districts have taken in from tuition will have to be replaced by increases in mill levies.

2. The laws governing Rural High Tuition have not been consistent in the past. A flat rate basis was provided until 1969 and does not meet

the needs of every district as per pupil costs vary greatly. Each school system in the study has unique features causing costs to fluctuate. In the schools selected for the study the cost per pupil varied over one thousand dollars during the 1972-73 school year. When the words "not less than per pupil cost" were added to the law in 1969 legislators have been of the opinion that the law was abused. When the amount allowed by law varies it is difficult to establish if the sending district is paying a proper share of the cost.

3. The smaller and more inefficient districts must charge more because of a higher per pupil cost. Thus, the small school would be subsidized on an actual cost basis and its existence would be perpetuated. When tuition is coupled to a cost basis the smaller schools with the higher per pupil cost receive more benefits.

4. A set of rules or guidelines for establishing the per pupil cost is in need of definition concerning the accounting procedures for establishing high school costs, depreciation of buildings, valuation of school plant, and other areas such as transportation. A plan to pay 1.2 times the per pupil cost makes it difficult to identify all items which figure in the cost of operating a school, plus make an allowance for growth and inflation.

5. Consideration must be given to the factors most influential in a school district's ability to provide educational opportunities to students. The leading factors are the number of students served by the receiving district (enrollment), quality and quantity of educational opportunities (breadth of the educational program), and demography (distance and population factors).

RECOMMENDATIONS

The findings of this investigation as analyzed in this paper indicate that the problem of non-resident tuition in the state of Nebraska is a dilemma and is in need of recommendations. On the basis of the results of this investigation, recommendations for improved equality in tuition costs include the following:

1. School administrators and boards of education in Class II schools involved should bring the facts of the tuition problem of non-resident students to the attention of the members of the legislature and strive for redistricting to include all schools in the state in a K-12 school system.

2. Unique features in redistricting should give special consideration to population patterns and distances.

3. The state of Nebraska must work for a formula in order that non-resident tuition costs will be uniform throughout the state. The actual per pupil cost plus bonded indebtedness, depreciation, transportation and other budget items are in need of specific definition. In many cases the receiving districts have built buildings in anticipation of non-resident students, and many of the future costs such as salary and salary related items are determined in advance.

4. Future planning of reorganization should take into consideration plans which will be least affected by the population decline which is in evidence throughout most of the state as a result of migration out of the state, movement from rural to urban areas, and a declining birth rate.

5. State aid given to the receiving district for non-resident

students based on average daily membership should not be deducted from accountable receipts, thus penalizing the district for accepting non-resident students.

6. Areas of vocational technical training at the high school level should get special consideration in revising the non-resident tuition law.

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BIBLIOGRAPHY

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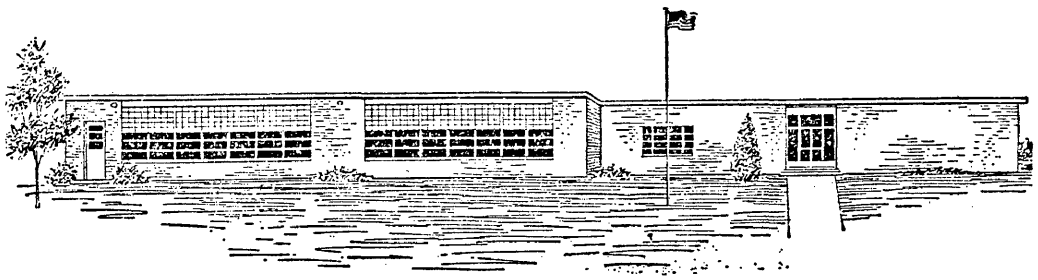
APPENDIX A

COVER LETTER AND QUESTIONNAIRE

M. McMAHON
Superintendent

L. HESTER
Principal



WATERLOO PUBLIC SCHOOL
WATERLOO, NEBRASKA 68069

May 16, 1974

Miss Susie Cox
Duster County
Broken Bow, Nebraska 68822

Dear Miss Cox:

Restrictive legislation was introduced in the 1973 Legislative Session concerning Rural High Tuition. A study is being done at the present time concerning the effects such legislation would have on selected Class II school districts should it ever come up again.

Custer County is one of the counties with a Class II school included in the study. The enclosed questionnaire pertains to how such legislation would affect Ansley Public School.

Thank you for your cooperation. If you would like results of this study please indicate on the questionnaire.

Sincerely,

Thomas M. McMahon
Superintendent

TTM/bs
ENC: Questionnaire, self-addressed envelope

_____ Public School
(Name of School)

_____ Total secondary enrollment, 1973-74

_____ Number of students on Rural High Tuition, 1973-74

_____ Cost per pupil (secondary), 1972-73

_____ Total budget for operating expense, 1973-74 school year

Would a limitation on the amount charged for Rural High Tuition affect your school? Please comment.

_____

_____

_____

_____

Do you desire a copy of the results of this study?

____ Yes ____ No

APPENDIX B

CLASS II SCHOOLS IN NEBRASKA

CLASS II SCHOOLS BY COUNTY, NON-RESIDENT STUDENTS
AND SECONDARY ENROLLMENTS IN THE
STATE OF NEBRASKA 1973-74

County	School	Non-Resident Students	Secondary Enrollment
Adams	Roseland	12	102
Antelope	Clearwater	8	123
	Orchard	40	148
Boone	Petersburg	18	86
	St. Edward	8	188
Boyd	Butte	7	104
	Naper		
Buffalo	Amherst	38	137
	Pleasanton	21	150
Burt	Decatur	6	126
Butler	Rising City	8	94
Cass	Murdock	5	114
	Nehawka	43	105
Cherry	Cody Kilgore	10	101
Cheyenne	Dalton	6	108
	Gurley	27	85
	Lodgepole	26	72
Clay	Trumbull	3	98
Cuming	Bancroft	75	122
	Beemer	35	127
Custer	Ansley	49	179
	Oconto	4	44

County	School	Non-Resident Students	Secondary Enrollment
Dawson	Farnam		85
Dodge	Snyder	15	69
Douglas	Waterloo	36	162
Dundy	Haigler	12	33
Fillmore	Milligan	7	80
	Ohiowa		32
Franklin	Campbell	2	104
	Hildreth	20	109
Frontier	Eustis	18	164
Furnas	Holbrook	6	82
	Wilsonville	2	65
Gage	Barneston	12	81
	Filley		102
Gosper	Elwood	13	129
Greeley	Greeley	24	153
	Wolbach	1	127
Richardson	Dawson Verdun	25	133
Saunders	Cedar Bluffs	24	141
	Prague	23	92
Scottsbluff	Melbeta	15	82
	Sunflower via Mitchell	28	124
Scherman	Litchfield	14	108
Thayer	Bruning	18	105
	Byron	22	55

County	School	Non-Resident Students	Secondary Enrollment
Thayer	Chester Hubbell	3	73
	Davenport	15	131
Thurston	Macy		82
	Rosalie		68
	Winnebago		154
Valley	Arcadia	4	95
Webster	Bladen	0	89
	Guiderock	2	53
York	Benedict		81
	Bradshaw		100
	Gresham	3	72
	McCool Junction	2	93

SCHOOLS SELECTED FOR THE STUDY

County	School	Non-Resident Students	Secondary Enrollment
Antelope	Orchard	40	148
Buffalo	Amherst	38	137
	Pleasanton	21	150
Cuming	Beemer	35	127
Custer	Ansley	49	179
Douglas	Waterloo	36	162
Frontier	Eustis	18	164
Gosper	Elwood	13	129
Greeley	Greeley	24	153
Holt	Chambers	15	130
	Ewing	45	160
Johnson	Sterling	16	137
Lancaster	Malcolm	53	177
Merrick	Clarke	20	150
Phelps	Loomis	10	128
Richardson	Dawson Verdun	25	133
Saunders	Cedar Bluffs	24	141
Scottsbluff	Sunflower via Mitchell	28	124
Thayer	Davenport	15	131

APPENDIX C

EDUCATION COMMITTEE HEARINGS LB 447--1967

Senator Warner: Mr. Chairman, LB 447 is again a bill which I introduced last session. As the bill is drafted it is the same bill. I do have an amendment to replace Section 3. But first I would like to explain why I introduced this bill both this session and last session. In line with the comment that Mr. Brauer made in regard to the previous bill and the constitutionality of requiring a district to pay for children in the event they haven't any attend, this is the heart of the problem as I see it in LB 447. It comes from an opinion of the Attorney General in regard to some proposals, but the opinion does cite a case which I think is pertinent to 447, if I may read that portion of the court's ruling on this case: 'It is true that the Legislature could not divert funds raised by one district to the use of another district (Board of Commissioners vs. Lucas) since a tax levied for a public purpose must also be levied for the use of the district which is taxed. Should the Legislature order that money to be raised by one district and paid to another district to be used for the sole benefit of the other district, that would be an exaction of money for the benefit of others than those who are taxed and clearly beyond what would be justified as taxation.' What the heart of the problem is as I understand it--there is I think a possibility, and there's another letter that Senator Syas, I believe, used to have in this regard that was on another subject that answered this same area or pertained to this same area. There was, as I understand, a case filed within the last year at least questioning the constitutionality of the non-resident tuition and for some reason or other, and I did not know why, the case was withdrawn. But in lieu of the fact that there are some opinions which would indicate a question in the non-resident tuition, I think the Legislature at least has the responsibility to look at the problem, and I believe it rests around the fact, well, we know that the per-pupil cost varies tremendously within the State of Nebraska at the high school level. I think there is perhaps someone who will testify the exact amounts, but I think it varies almost a thousand dollars between the top and the bottom on the per-pupil cost. When the per-pupil cost is in excess of the $540 that presently is used, then you are forcing the accepting district to carry a portion of the load of taxation for the tuition student. In contrast, if the per-pupil cost is less than $540, you are then requiring the contracting district or the district, to be paid a greater load of the taxation than they properly should be paid. In the past, I think one of the prime problems with this type of legislation was to find a formula that was acceptable to everyone, and I am sure this is the root of the basic problem. There has been some concern that if we went to the per-pupil cost that, generally, the smaller inefficient district has a higher per pupil cost would be subsidized and that you would tend to perpetuate their operation, and this might be undesirable. On the other hand, I think in some instances where, because of distances and other factors, there must necessarily be a small high school, and they must necessarily have a high per-pupil cost. The accepting district should not be penalized for providing education for the children in the area, but should fully be

reimbursed. Along this line I have understood one of the school systems that does accept some non-resident students has established a policy that they will not accept them unless the parents or someone pays the difference in non-resident tuition and the actual cost of that district. The bill, to go through it briefly, the struck language in section 1 pertains to whether, if the tuition is not sufficient to cover the cost of the school district, obviously that wouldn't be needed in the event that per-pupil cost was used.

The new material in section 1 pertains to the reporting by the Board of Education to the County Superintendent the names and addresses of all non-resident students for the coming year. Section 2, subsection 2, the struck language is the present $3.00 per day and then new section 3 is the formula as drafted. I would like to submit to you the following amendment to take the place of . . . I don't think I have a copy for everyone there. I gave some of them away this morning. It would provide an alternative formula to be used for determining per-pupil cost. It reads as follows:

> The county superintendent in each county shall determine annually the rate of tuition which a school district of such county shall charge for instructing non-resident pupils in the secondary grades. Such tuition rate shall be the cost per pupil in average daily membership in the servicing school district during the next preceding fiscal year, and shall reflect proportionately (1) the total current expense of day-school operation in the secondary grades of the servicing school district, as determined by accounting procedures and reports prescribed by the Commissioner of Education; (2) a school plant rent or use fee in an amount equal to 3 percent of the present school plant value, which shall be the replacement cost of the high school plant reduced by 3 percent for each year of use, but such reduction shall in no case exceed 75 percent of such replacement cost; (3) the current expense of debt service for high school construction, exclusive of any amount applied to debt, retirement or bond redemption. The Commissioner of Education shall implement the aforesaid considerations into a formula to which all county superintendents shall adhere, and shall resolve all disputes arisen therefrom.

The thought occurs to me as I read this is that I should have had one additional need for this, and this would be if the Commissioner of Education is to implement the formula in his office, there should be a hearing along with this prior to the time, in the event there are other sections of the statutes that do not require it, that there would be a hearing prior to the establishment of that formula. For the information of the Committee, I have here some forms (attached hereto and made a part of these minutes) which are now used for the annual report of Nebraska school districts, and again I don't know if I have sufficient copies for all members, but this present method is being used for determining the per-pupil cost, and I think it quite properly could fit in to be used. The rent or use fee of the plant is in a sense

somewhat arbitrary. It is very difficult, I am sure, to set a fee for the use of the building as a part of the operating cost, and yet we recognize, I think, it is quite proper that some recognition for the use of the facilities in the form of depreciation by students who are only going to be there for four years be recognized. The third provision is that debt service also that might exist in the building needs to be recognized. I notice the Committee has had bills introduced to change the per-pupil cost, or rather the pupil tuition to $4.00 a day and I think it is very difficult to determine the dollar figure per day that's going to be reasonable or justified, and one that would fit every school district in the state. It appeared to me the most equitable method is one which is the actual per-pupil cost. This then would not be penalizing any school district that was accepting districts or, on the other hand, penalize the district that was having their students attend the school. That is all I have to add.

Senator Harsh: Are there any questions of Mr. Warner?

Senator Syas: I was just wondering. Looking over your formula there, and of course it may be in one of these places, but the retirement of the teachers, you haven't got that cost in there pro-rated, have you?

Senator Warner: Well, I know it is on there, and I probably can't find it right off-hand. I think one of the things . . .

Senator Syas: Or Medicare.

Senator Warner: Well, now the cost wouldn't be, the school isn't paying this cost as of now. Well, they wouldn't in the case of Lincoln and Omaha. The other school districts this wouldn't be true of. I am sure it is on here, but I don't know right off-hand. I doubt that it is put in as that. No. I would agree that quite properly this is part of the expense that ought to be considered in any formula.

Senator Ruhnke: I have been trying to figure out on the one here, "but such reduction shall in no case exceed 75 percent of the replacement cost." Now are you talking about the reduction could go down to 25 percent of the original cost? Is this your interpretation of the wording as it is, or are you saying, "in no event shall reduction be lower than 75 percent of the replacement"?

Senator Warner: Yes, the second one.

Senator Ruhnke: In other words, you cannot use less than 75 percent of the replacement cost irrespective of how old or how long the building has been in use? Would you explain the reasons for this?

Senator Warner: I think that--you're thinking it should be higher?

Senator Ruhnke: First of all, I was wondering if we could go down to 25 percent. I read this here, "but such reduction shall in no case exceed." Now you are talking about the reduction shall not exceed over 75 percent of the replacement costs.

Senator Warner: My thought in the language was the reverse of the second way that you suggested.

Senator Ruhnke: You can read it either way, can you not?

Senator Warner: Yes, I appreciate that.

Senator Ruhnke: You were thinking that in no case shall the 3 percent be applied to anything less than 75 percent of the replacement cost. This is your thinking on it?

Senator Harsh: Do you mean by that starting figure that when you started using that figure that it wouldn't depreciate below that?

Senator Warner: No, that's the bottom. Whenever you start talking about how you should figure a fee or for the use of facilities, you have to use an arbitrary method, obviously, whether it should be 2 percent or 4 percent or . . .

Senator Harsh: Are there other questions? Thank you. Are there others who would speak in favor of this bill?

Richard C. Brown: Richard C. Brown, Holdrege, Nebraska. I would like to speak more on the bill, perhaps, than being completely for it, because I think remarks on this bill are also pertinent on the bill to raise the tuition to a flat $4.00. First, if I might answer the question you raised, Senator Syas, I believe that you'll find under the present reporting system, retirement costs are included in the current operating expense reported by a school to the State Department of Education, not segregated, probably in instructional expense, but they are accounted for.

I would like to preface my remarks by saying that we have grave reservations that this method we have used so long in Nebraska is really the proper one of providing secondary education to non-resident high school districts, but since it is the method we have, and since we live with it and operate under it, until we have more extensive reorganization in the state, I think we ought to do all we can to make it a workable and equitable system.

I think it would be interesting to the Committee both on this bill and the one you considered some time ago on a flat increase, if I would distribute to you some information that we have accumulated in the process of working on Senator Warner's LB 448 on student costs. (See chart 1 attached hereto and made a part of these minutes.) The first think I am passing out to you is a compilation from 246 districts that have reported to us at the time we drew up this chart. On the number of non-resident pupils in grades 9-12 in their schools in 1965-66 school year and the costs per pupil reported by those schools, I thought it might be most significant to present this information in groups. The first group lists 36 schools that last year educated from over 100 non-resident students in grades 9-12. They are listed in order of ascending costs. The column on the far, far right lists the nonresident secondary

enrollment reported in this year's Nebraska State Education Directory. Now the non-resident enrollment is not always, in fact, probably most cases, is not synonymous with enrollment or average daily membership in grades 9-12 because in many schools, as was reported earlier, the organization is K-6-3-3 or K-6-6, which automatically throws seventh and eighth graders into the secondary enrollment. But it does give you some idea when you add the first column, the number of non-resident pupils in average daily membership and the non-resident enrollment of the size of the school. I think it is significant to note that these schools in the first group are most of them larger schools, and that the costs range from $345 in Norfolk to $634 in Gothenburg, with the median falling at $533.18. Now these schools educate almost 5,000 of the some 12,000 to 13,000 non-resident students now being educated under the non-resident tuition law. The next group lists 46 schools educating from 50 to 99 students. You will notice here that the median is somewhat higher, that your range of costs is just about as great; the bottom isn't quite as low, but the top one at Howells gets up almost to $900. You will notice too, that if you compare the size of the schools with what is apparent throughout this whole thing, is that there is an inverse relationship to cost per pupil which becomes greater as the size of the school decreases. In the next group you have schools educating from 25 to 49 non-residents. There the median gets up to $611, the top school is $1,106. The next group, 10-24 students, the median gets up to $678. Now you understand by the median you have just as many schools below that figure as you have above, and the top figure in that bracket gets up to $1,080. And finally, those schools that are educating from 1 to 9 non-residents, we get up to $1,450.61 in the top school; the low school in that range, $332. This report covers approximately 11,400 students, or close to 90 percent of the non-residents reported as being enrolled during the 1966-67 school year. To give you some idea on the other schools that have not reported to us, I would like to pass out this second table.

Senator Ruhnke: Could I ask a question? You have lost me. I go through here and on about the third page, I get over here and I see Westside of Omaha, and I thought we were going down in the smaller amounts.

Mr. Brown: Well, this is arranged by the number of non-residents they serve. Now I have another, I started on another arrangement which I thought was less significant and a little bit difficult, a little more difficult to follow, in which I would rank the schools from the largest on down to the smallest, and that would show you some of these other things, too, but this is grouped. I wanted to show this Committee where the problems were if there are problems. Obviously, Westside doesn't have much of a problem. I have forgotten how many they have, but . . .

Senator Ruhnke: I thought you were going to a smaller non-resident school.

Mr. Brown: Smaller non-resident. OK. This second table (see Chart 2 attached hereto and made a part of these minutes) indicates the non-resident enrollment reported this year for 70 schools that have not reported to us in our gathering of date for the state support bill. I have listed these from the top down, Albion being the top school with

177 non-residents, and on down to those having just one or two. The same sort of relationship is apparent in this one. Since tabulating this, we have had reports from Pender, which is the third school on the list. Last year they had 107 non-residents and a per pupil cost of $459. Dropping on down to Hardington, they reported 35 at a cost of $682.54; Elgin, 27, a cost of $905.44; Snyder, item 28 on the list, they reported 20 non-residents, a cost of $840; Bushnell, only three, but a cost of $1,018. And in Arthur County High School, six, a cost of $1,218.41.

What is the significance of all this? First, I think I ought to point out that the costs that have been reported here are computed from the current operating expense reported to the State Department of Education for the 1965-66 school year, divided in most cases by the A.D.M.; and the cost does not include anything for depreciation, nor does it include anything for debt service. I think I ought to add this, that we are talking about 1965-66 costs. In most instances, costs are probably up anywhere from 4 percent to 5 percent in the school districts with the most modest increase, to as much as 8 percent or 10 percent for this year. Next year, many superintendents figure that their costs will be going up anywhere from 10 percent to 15 percent because I am sure that you are all aware that there have been some rather sharp increases in teacher salary schedules. We are faced with the possibility, if the Legislature approves a teacher retirement bill that will be before you, of an added cost being placed on school districts for retirement. So as we consider costs and what ought to be done with this rate, we have to bear in mind we are working right here with figures from last year; they are up this year, and we know they will be up more next year. I have already pointed out there is a wide range in costs within these groups, and that as the size of the school decreases, there is a wide range between the groups with the costs going up as the size of the school goes down.

I suppose, having done all this, I should say what I think you ought to do, and I am not sure I can say. You face a couple of tough choices. If you do this on an average rate, as we have done in the past, we obviously reward schools with low costs. You can see it right from here who is going to benefit, who is going to get something additional over and above their current costs per pupil. One of the problems, too, is that the figures we're using don't include any compensation for capital outlay. I don't have data on many schools, but I do have a copy of a report from the Holdrege system based on the auditor's report of that district, and the per pupil cost figured just on operational expense is $530 in grades 9-12. If depreciation is added, it becomes $546, but if you include the whole ball of wax for which the whole Holdrege School District is responsible, covering capital outlay, debt service, depreciation, interest payments, and what not, the expenditure per pupil in grades 9-12 becomes $672 for that district. That's one of the problems.

Senator Warner mentioned that another problem is that if you go on a cost basis with no limitations, then you are rewarding, or keeping in business, school districts with extremely high per pupil costs. And yet when you talk about imposing any sort of limitation, I would refer

you to page 3 of the 6-page compilation here down at the bottom. I think there are two classic examples, one of them is Hyannis, which I inadvertently omitted and wrote in in red. You know where Hyannis is. It is out there in the Sandhills, 50 miles from Alliance, 50 miles or more from Mullen. They obviously need a high school at Hyannis. But their cost is $1,046. I think the same thing could be said of Harrison, the Sioux County High School. Sparsely settled, showed a cost of $1,106. Now what you do about those, I am not sure I know what to tell you. I think this whole situation poses another sort of problem. I had hoped that out of this case that was mentioned, out of Arnold and Custer County would come some determination as to the constitutionality of all this. But it seems to me there is a grave question about the legality or the constitutionality of setting a rate that does not compensate a Hyannis or a Harrison for education. Right now they can get about $540; they are getting half of what it costs.

I suppose if I were to tell you my "druthers," I would say we would lean toward going on the cost basis with probably some sort of limitations, so that we don't perpetuate some of these schools that are on the borderline as being approved, and where the costs are approaching $1,500 per pupil. That seems ridiculous. It all suggests to me, and to, I think, all of the members of our association, or certainly most of them, the wisdom of really getting down to business about how we are going to provide secondary education for all the youngsters in the State of Nebraska, and doing something more than we have done about the establishment of standards and moving toward effective school district reorganization. I would be glad to answer any questions that you have.

Senator Ruhnke: It is difficult to me to determine exactly what stand you are taking. Then I think in closing you made the statement that you thought you would prefer the cost with a certain maximum or limitation. Assuming that the Committee did go to this, do you think that you would not run into the same kind, assuming that there are constitutional problems, that you would not run into the same constitutional problems by setting a maximum, if there were schools that were above this cost? Wouldn't you run into exactly the same? Assuming for a moment that the maximum was set at a thousand dollars, and here was a school district educating the pupils for $1,500. Would they be subject to the same subsidization by local taxpayers, and have a constitutional right if there be such?

Mr. Brown: If there is a constitutional problem, yes. The problem would still exist. Of course, the situation would be different only in degree from what we have now where we say $540 is the maximum, and it costs you $1,500, that's all you're going to get. There is a problem.

Senator Syas: Senator Ruhnke asked you just about the same question of the two I was going to ask you. I might say first before I ask the question, I had an Attorney General's opinion about 6-8 years ago that said this whole business, since you don't give full cost, is unconstitutional as can be.

Mr. Brown: I know. I have read the opinion.

Senator Syas: Yes, he was definite on that one. Now you state in your opening remarks that some school districts get more back and they profit by this, but you didn't go on to say, sir, that some are also hurt. Is that true, it works both ways?

Mr. Brown: Oh, it works both ways, yes. Anytime you set a flat per student rate, a dollar rate, some school districts get more than cost, others have to provide education at less than it costs. I touched on this; I think there is a grave question, and this would have been decided had this Arnold case gone on to the Supreme Court, about the personal liability even of a board member who would accept students in his district for less than it costs.

Senator Syas: I think he could be sued.

Mr. Brown: I think he could, too.

Senator Syas: I think any taxpayer could stop this whole business, according to the Attorney General's opinion, by one law suit. I think the Legislature has to face the fact that you have to give the non-resident, don't you, full cost in order to be constitutional. According to that Attorney General's opinion.

Mr. Brown: As I recall. You got that in '63, didn't you?

Senator Syas: Something like that.

Mr. Brown: As I recall it. I have a copy of it yet.

Senator Ruhnke: As I scan through this, would you say this is generally true, now generally. I know that there would be exceptions at the schools having lower per pupil costs, generally would provide the best education to the pupils.

Mr. Brown: I would say as a generalization, yes, it would be sound, if you recognized some exceptions. Yes. If you will notice on this first page, Senator Ruhnke, I have indicated the class of the school district and its accreditation status. You notice that all of those in the first group, I believe I am right on this, are Class III and Class IV, which is Lincoln, and that all of them are Class A or AA accredited.

Senator Harsh: Don't you think if people went out and had it on a cost basis (garbled) I am sending my children to Podunk, and it costs me a thousand dollars, and over here four or five miles farther away, I can send them for $600, don't you think there would be a trend to get away from that thousand dollars, even though they indirectly did not have to pay all of it?

Mr. Brown: I would say there might be, except that these costs are all lumped together included in countywide non-resident tuition levy. Probably a lot of people wouldn't be aware of it.

Senator Harsh: Why would they be included in the county average? Wouldn't each school have its tax?

Mr. Brown: If the bill were reported out substantially as Senator Warner introduced it, and if it were passed, it calls on parents to report to the school by a certain date if their children are going to enroll, and then by April 1, the receiving school reports to the county superintendent that so many non-residents are coming. The same time it would report its per pupil cost, or somewhere in the process it would, and so the county superintendent would average all this out. There might be ten (garbled) where the cost was $700, in another ten, it was $400. If you multiply that out, it takes X number of dollars, and you apply a mill levy at that rate. Now the tendency would be, I think, for people to take a look at these extremely high-cost schools, and, well, here is a chance to cut this countywide levy, but the danger would be that probably not too many would know about it.

Senator Harsh: Is there discrimination here, or do I fail to read? My town is not listed.

Mr. Brown: Your town is not listed, maybe not on either one. This isn't error free--I discovered some errors in it. I'll say it is 99.44 percent pure, but there are some errors. Either Indianola did not report to us, or I overlooked it--or I mean Bartley. Bartley had not reported to us at the time this was compiled.

Senator Ruhnke: You don't see any difficulty in the application of this insofar as determining the proper levy is concerned. I mean with your different school costs within the county.

Mr. Brown: I would say there easily could be some difficulties.

Senator Ruhnke: Not insurmountable difficulties.

Mr. Brown: Well, I don't think it is any more insurmountable except in degree than the present law which was approved either last session or the session before, which requires contracts for Class I districts to be at actual cost per pupil. It sets the formula in section 79-486, I believe it is, for determining the contract price. This would be more complex in that it all has to get to the county superintendent to compute the aggregate amount needed. You always face this fact, that no school knows its actual cost for a year until the year is completed and you've got everything spent and in the book.

Senator Ruhnke: Now you are doing this in what month, in May, for the school year that is almost ended? When do you give to the county superintendent the cost of that year?

Mr. Brown: Well, the school year ends June 30, and I have forgotten the reporting date required.

Senator Ruhnke: Is it in May?

Mr. Brown: Yes, this reporting date is in April or May. There are statutory requirements as to the dates when these reports must go to the county superintendent and the State Department of Education. I have forgotten what they are. I think the rate could be determined between the end of the school year and the date when the county board must set the levy.

Senator Ruhnke: I believe it is silent on that, is it not, as to the time to report costs.

Mr. Brown: Yes. Are there further questions?

Senator Swanson: I have one question. It is a little off the subject, but over here in the first handout you gave us, Westside shows resident secondary enrollment an even 8,800.

Mr. Brown: That is correct.

Senator Swanson: There are 8,800 enrolled at Westside High School?

Mr. Brown: No, let me explain that. Probably that is seventh through twelfth. That is junior and senior high. You know I pointed out to you that you couldn't always say this was high school enrollment.

Senator Swanson: I couldn't believe that.

Mr. Brown: They have about 15,000 altogether, elementary and secondary.

Senator Harsh: If there are no further questions, thank you. Are there others who would speak in favor of this bill? Are there those who would oppose this bill?

OPPONENTS

C. Leonard Peterson, Alliance, Nebraska: Senator Harsh, members of the Education Committee, I'm Leonard Peterson. I am a member of the Legislative Committee of the Nebraska Stock Growers. We oppose LB 447 because it would permit inefficient schools to operate at an excessive per pupil cost. We agree that the tuition rate should be raised. We are actually in favor of LB 32, or we would be in favor of LB 447 if it were amended in section 2, line 22, so that it would say, "not to exceed $4.00 per pupil per day." Listening to the gentleman ahead of me, it appears that $4.00 rate would cover about 90 percent of the schools now on their cost. That is the end of my testimony.

Senator Harsh: Are there any questions of Mr. Peterson?

Senator Syas: In other words, regardless of what the Attorney General says, even though it is illegal, you want to go full steam ahead, and still to a certain extent in some districts a portion of this thing, may I use the word "freeload." You endorse that type of policy as long as somebody else is paying the bill.

Mr. Peterson: To clarify that, first of all, I wasn't aware that it is unconstitutional yet.

Senator Syas: Well, the Attorney General has said so, that you have to pay full cost for it to be constitutional.

Mr. Peterson: Even though he has said this, we are still operating under the same system.

Senator Syas: Because no one has taken it to court.

Mr. Peterson: We would be in favor of doing this so long as no one took it to court.

Senator Syas: You are justifying letting the town people in certain places pick up the extra cost that their tax levy to subsidize part of your load?

Mr. Peterson: Well, this probably could be true, and also we are in favor of raising it from three to four to erase some of the inequity that now exists.

Senator Syas: But not all of it.

Mr. Peterson: But not all of it.

Senator Syas: You would like to have a little bit subsidized by somebody else.

Senator Ruhnke: I can't help but (garbled) the questioning has taken. Would you agree that if the non-resident pupils were removed from the school, why then the pupil cost to the district that has the K-12 program would be increased greatly? I mean their costs would almost be the same, irrespective of whether they were educating the non-resident students or not.

Mr. Peterson: Well, I don't know.

Senator Ruhnke: Well, I mean, put it another way. Supposing they had 20 non-resident students. Do you believe that if they were removed from the district that then their costs would go down proportionately, or would they have almost the same costs?

Mr. Peterson: Well, I am just assuming now that you have to have a teacher for so many students, and I am certain their costs would go down when you reduce the student population. But I think there are other costs they must have regardless, such as their building, and so on.

Senator Syas: To the question of Senator Ruhnke, I know what he is trying to pull. In the past, what if the school is already overloaded? It would be a good thing if you'd take your students out, would it not?

Mr. Peterson: Well, I imagine it would be. Now, I'd like to ask one of mine.

Senator Ruhnke: The choice of accepting the non-resident student is entirely up to the local board of education. If they feel it is not advantageous to them, to accept them, they have the perfect right to refuse admittance. Is this correct?

Mr. Peterson: I think it is.

Senator Harsh: Are there any other questions that are not to prove a point? We don't always treat our people quite that rough.

Mr. Peterson: Thank you.

S. H. Brauer, Jr.: My name is the same as it was when I appeared here before, and I am still representing the same group. Senator Syas, I have never in my life been so eager to testify as I am as a result of your questions of the man just preceding me. Because you picked on the wrong person. You direct those questions to me, and we'll have some fun. There has been a great deal of testimony, and there has been a great deal of emphasis put on costs of education. Now, we have fixed costs, for a certain size of district, so let's start with a Class I district just to see what this means. We can say that it takes a minimum of $6,000 to operate a Class I district. Now if we have ten students to divide into this $6,000, we've got $600 per pupil cost. If we have six students to divide into this $6,000, we have $1,000 per pupil cost. So if we have 20 students, we divide this into $6,000, we are talking about a $300 per pupil cost, so this thing is pretty much irrelevant when you are talking about costs. You have a fixed figure, Senator, in which to divide these students.

Now you made a great deal to do about actual costs. What are actual costs? This is a financial report of the Wahoo school district. They have filled this out in this bill as Senator Warner has suggested could be based on this accounting system used in this annual financial report that is required by law, and that it be filed with the State of Nebraska. I want to give you some figures off this thing because I think it will open some people's eyes as to what we are talking about when we are talking actual costs. To begin with, the local district tax in Wahoo raised $281,000. They received in license fees, $1,087; in police court fines, $819; in tuition paid by other districts, $6,940; in transportation paid by other districts, $740; in tuition paid by individuals, $1,020; free high school tuition, $43,620; county fines and licenses, $4,402; state apportionment, $5,373; insurance premium tax, $3,902; state apportionment for special education, $1,140; vocational education, $446; school lunch program, federal money, $3,857; national education defense act, $1,030; from other federal sources, $22,963.04. Now, in other words, the total receipts in that school district, $98,000 came from sources other than local tax revenue paid by the school district that is providing the education. Now there absolutely are no controls in this accounting system, so far as where they are going to lump off an amount of money, whether it is for elementary purposes, whether it is for secondary purposes, whether the revenue received from the federal government is for elementary purposes or secondary purposes. What they have been doing and what this report will show is that they usually divide the

administrative costs right down the middle. In other words, a high school and an elementary school share equally in the administrative costs. Let's look at the number of elementary students involved. There are 468 elementary students as opposed to 254 secondary students. Now is there any justification in saying that this should be cut precisely down the middle? When there appears to be one-third of the students high school students, and two-thirds of the students elementary students? So long as there are no controls, members of this Committee, on how we arrive at what the secondary costs are as opposed to what the elementary costs are, we cannot possibly go this route. Our organization for ten years has supported in principle and theory what Senator Warner's bill is trying to accomplish. We have yet to devise a system which will be fair and equitable in everyone and still maintain controls necessary in accounting procedures to determine what these costs will be.

Now Mr. Brown appeared before this committee and consumed a considerable amount of time talking about the per pupil costs of these districts. I want this Committee to know that the state law presently provides for the school board to set the valuation of the school plant. He said that there is no depreciation. Well, I beg to differ with him. The Wahoo School district took a full 3 percent depreciation on a school plant valued at $88,750, which means that they had a total valuation on plant and facilities of $504,882. This amounted to $15,146 in depreciation that was added to the cost of operation to arrive at the average per pupil cost of the district. Senator Warner's bill as amended, provides that the school district shall not charge in excess of 75 percent of the replacement cost. Now we just passed a bond issue to build a school in our district which would house approximately 325 students. This costs us $841,000 to do this job, or will cost us this. I would surmise that to build a new plant, and we are talking about replacement costs, a new plant in Wahoo to educate 254 students would cost at least $600,000 to $650,000. You take 75 percent of this and you are talking about $450,000 plant which is in excess of the value which they have presently placed on their plant, which is the insurable value of that plant. In other words, they have these plants appraised for insurance purposes. These people come in and they put a value on the plant, and this is the basis of your insurance. I can't help but believe that there is a great deal, and I resent, Senator Syas, a great deal of misinformation and misrepresentation about rural people freeloading on the taxpayers of these towns. Now what you are asking us to do is to pay out of our pocket matching funds with every source of revenue to the school district, from the federal to the state to the license fees and fines and premiums, every cent that they take in from whatever source, you are asking us to match, out of our pocket. You talk about fair and being reasonable, then you are talking about $91,000, or 25 percent of the total budget coming from sources other than local taxation, or actually in this case, nearly a third of the total budget, then you are asking us to do something that I am not ready to do, and that is to subsidize the towns to the tune of 25 percent to 30 percent over and above what we should be paying. In some cases it amounts to nearly double what we should be paying. Now we want to pay these people what they are entitled to, and we are willing to pay them more than they are

entitled to, because they are doing a job, they are managing a plant, they are offering a school, but as Senator Ruhnke so bluntly put it, these schools could not exist in these small towns if it were not for the non-resident tuition students that they receive, because their cost would remain the same irregardless of whether they had these students or not. When you are talking about 50 students or 25 students, and you have these fixed costs, and you pull off $5,000 worth of tuition students, those costs remain the same irregardless, but what they have lost is $5,000, plus you divide a lesser number of students into the fixed cost, and as a result you come up with an extravagant per pupil cost. Mr. Brown made another statement with regard to Harrison's per pupil cost being up in the thousand dollar category. This may well be. I am not going to argue with him on this. But Harrison is a county high school. That county is 78 miles long from north to south. It is 48 miles wide from east to west. In fact, it is so poorly inhabited and the roads are so bad that the people on the south end of the county go to Scottsbluff County on a tuition basis paid for by the county high school tuition fund. Now they have all the students that they can possibly get into that school. Here again we come back to fixed costs. Now the levy is not oppressive. The amount of taxes that these people are paying is not oppressive. It is total misrepresentation when you use the per pupil cost as the only basis to determine the ability of the people to finance a school. Because we have rural schools costing us a thousand dollars a pupil to run, but the mill levy could be less than it is in my district where it is costing us $300 per pupil to operate our school.

So there are many, many factors that you have to take into consideration when you are looking at this, and to put this on this basis at this time, members of this Committee, there can not feasibly be done, can not practically be done, because we cannot devise and have not been able to devise the bookkeeping and the audition controls that must go into it if this type of proposal is to work. So again I recommend to you that this Committee indefinitely postpone this bill. It is not something that can be worked out with a few simple words and a formula. I do not feel that the Commissioner of Education's in any better position to pass rules and regulations on controls than this Legislature would be to enact them into the statutes. My closing remark is simply this. Senator Syas has brought up this constitutional thing. Now we happen to know something about what has happened in this area since Senator Syas very happily one day walked up to me and presented me with this Attorney General's opinion because he thought this would cut my legs off, I think, I don't know.

Senator Harsh: Let's keep our remarks on the bill, not personal things. I'll try to keep it that both ways now.

Mr. Brauer: Well, anyway he was happy about it. At any rate, when he presented this to me, I was disturbed by it. He meant by this that we have a problem. Now this was made known to the right people, and a suit was started out at Arnold to test the constitutionality of this. The school board was being challenged. The suit called for restoration of all funds in excess of the per pupil cost by the school board of the Arnold School District to the patrons of that school district. The suit was withdrawn, and it was withdrawn for good reason, because they had no

case. And they found out they had no case before it came to trial. The reason they had no case is because when you start looking at these annual financial reports and you find all these other entries in the receipts column, they you cannot just divide the number of students into this and say this is what the actual per pupil cost should be, and this is what the rural people owe as opposed to what the town people are paying. Now we have been studying these reports for five years, Senator Syas, we have had them to auditors, we have them broekn down, and we have found that the city school systems in extreme cases are contributing as little as $100 per pupil, resident pupil living in the school district. But the cost can still be up to four or five hundred dollars because they are figuring it up through this outside source of revenue, and through the non-resident tuition rate. So we are in effect subsidizing these people. There is no easy answer, there is no easy way to solve the problem; but I do not feel that this bill can begin to solve the problem. It is only going to compound the problem if it is passed. So I again urge that it be indefinitely postponed.

Senator Ruhnke: Mr. Brauer, this Committee is wrestling with and trying to come up with a formula for determining a fair formula for determining per pupil costs. From your presentation, I am assuming you have given this considerable study. Do you feel that you would have any recommendations to submit to this Committee within the next couple of weeks, perhaps, on what you believe would be a fair formula for determining per pupil costs?

Mr. Brauer: Senator Ruhnke, the best answer I can give you is this. At our last convention, this subject of once again trying to get legislation drafted which would put tuition on an actual per pupil cost basis was raised in our resolutions committee. We still have such a resolution on the books. It was agreed that we would once again present the problem to our attorneys and to the auditors and ask them to devise a formula, and they wrestled with this problem until the middle of January, and anything they come up with short of the very strictest type of controls on the accounting systems--you see where we run into a problem is where you have a joing operation of elementary-secondary school all in the same plant. Now how do you divide these costs between elementary students and secondary students? Are you to divide the total number of students into, for example, the fuel bill, and so many of the secondary students, and then multiple this by the number of secondary students, and this would be the share of the secondary costs of fuel. The same for electricity, the same for water, the same for custodial supplies, etc. They did not feel without a very, very lengthy and comprehensive bill, tying all of these things down, that we could ever come up with a bill that would be satisfactory to the servicing school districts as well as to the tuition-paying and sending. Now we can devise a formula, and that would be to eliminate like your federal funds received, your state money received, and your license fees and fines, and then get back to the bare bones of this thing, and this then would be the actual per pupil cost based on taxes raised through local levies, either through free high school or the school district levy. But we have to get rid of this extraneous income and receipts in order to do this. This would be the number one thing that would have to be done. Then you would have to start with your

accounting controls.

Senator Ruhnke: This Committee is going to have to make a determination on what is fair, they are going to have to try to make a determination on what the local district expends in determining the non-resident tuition rate, so we're, I think, going to have to do something.

Mr. Brauer: It goes back to the basic premise, that I do not feel that if there had been a strong suit on the challenge of the constitutionality of the Legislature taking the medium or what they considered a reasonable tuition rate and applying this for non-resident students, that they would have withdrawn their suit. If they thought they could have thrown this thing into a state of chaos, it would have been done. But they withdrew the suit, which demonstrates lack of confidence in the position that they were taking. And I can appreciate there is a problem, and I think the best answer that you have is not to be looking at the type of information which Mr. Brown presented to the committee, because this distracts you from the bare bones of this thing. You have got to get into these annual financial reports, and you have got to see what they are doing with these monies, where they're shifting the money. Now we have seen reports where they're shifting the money. Now we have seen reports where they have padded the secondary costs something terrible in order to put them at an excessive figure, whereas the elementary costs would be down around $250, the secondary costs were running around $650. Now there is no justification in this because they were putting as much on the secondary side of the ledger as they could.

Senator Rasmussen: What you're saying, and probably the fairest approach, would be to make the contracting and sending districts contiguous districts.

Mr. Brauer: Well, I think the answer is eventually going to be something on the order of the Class VI district for the high school. In other words, all of the area in the community that is supporting a high school become a part of a high school district for the purpose of supporting this. I think this, and then you've got no bookkeeping problems, no depreciation problems, because everybody is putting into the common treasury and is being used for their common interests.

Senator Rasmussen: This is a procedure for establishing the equity at the high school level between Class I and in cooperation for formulation of a high school district. How do you propose to create this same equity between the Class I's?

Mr. Brauer: Well, it isn't exactly the equity that we're proposing in the Class VI district is for the purpose of strengthening the course offering in the educational program, by hopefully getting a number of the smaller high schools together as well as the rural area for the purpose of supporting the high school commonly.

Senator Rasmussen: Your previous statements have all been for equity in supporting education.

Mr. Brauer: I don't recall using the word "equity."

Senator Rasmussen: Well, justifiable costs. That one doesn't charge the other more than he should be charging.

Mr. Brauer: Well, we are going to have this, and we do have it under the present system, and you just cannot avoid it. Whenever you set the tuition at $500, like Mr. Brown said, you've got those below and you've got those above, and there is no way you can escape this.

Senator Syas: I was interested at the beginning of your speech when you got into the federal funds and all that. Now, let me ask you--the district where the person comes from, he has these same rights, does he not? You say he is being subsidized. Wahoo is being subsidized. True. But hasn't the whole district, if they have a school and they don't want to send their children over to this other district, all those same things if they want to stay home and not go to the other district. Can't they get the same federal funds and the same fines? Now take revenue from lands; one-fourth of it approximately is distributed regardless of whether that district has one child or 30,000 students. You talk about equity--that would help out your school with the one child. They get just as much as Omaha. Now all these funds you name and said that Wahoo was being subsidized; you can get the same subsidies, if you want to call them that, the same license fees, the same fines and all that if you don't send the child over, so how can you figure that in as you are subsidizing Wahoo?

Mr. Brauer: You missed the point.

Senator Syas: I don't think I did.

Mr. Brauer: The point I was trying to make is that when you try to determine actual per pupil cost, you cannot include all of these figures that are coming from outside the local district taxes. In other words, if you do include these, and then this is the total amount of the budget into which you would divide the number of students, then you are asking us to match federal funds, with local tax funds out of our pocket. This is the point I was trying to make.

Senator Harsh: I would like to ask you a question. Did you pick Wahoo because it is an unusual district?

Mr. Brauer: In fact, I just picked this up today because I happened to be there last night and this jumped into my mind, and I asked the Department for one of these just for using here. I shouldn't even have used the school district's name. I should have just used the information contained on it and left the district "X".

Senator Harsh: I have had a little work done on this federal participation and it runs between 3 percent and 4 percent on the (garbled) I had. It certainly wasn't the quantity that you had there.

Mr. Brauer: There is a total of about $30,000 in federal funds here they received last year. Now I don't know what the $22,000 is all about that they received.

Senator Syas: You've got fines in on that. Fines are not federal funds.

Mr. Brauer: No, I am saying these are all sources of revenue outside the local tax.

Senator Syas: But what you're suggesting where the child comes from has the same right to these same lists you are presenting.

Mr. Brauer: No, but if we are going to get any of the benefit--we are paying the fines and we are paying the license fees, and we are paying the insurance premium tax, but we are not getting any credit for it.

Senator Syas: But you would if you kept the child home.

Mr. Brauer: How could we do this?

Senator Syas: You would get the same fines prorated if it happens in your district would be plowed back to the schools. For instance, if I am not in. . .

Mr. Brauer: No, Senator, they receive this on the basis of our children that are attending their school.

Senator Syas: I am not talking about that.

Senator Harsh: When we get fined, we don't get fined out in the country, we always have to go to town to pay our fines.

Senator Syas: The justice of the peace is always in town.

Senator Rasmussen: I would like to ask another question. Well, I will make just one comment. A Class I school is not eligible for any of the funds that come back from the federal level. They are just not an entity that is large enough to be a recipient. But one other comment on subsidy, and who is subsidizing who, and I would just like to point out this one thing. It took me a long time to comprehend it, myself. Whoever provides that high school system, whoever it may be, wherever it is located, is providing the service and subsidizing those who are unable to provide it for themselves. So if it isn't the monetary subsidy, there is a subsidy for the service. I just wanted to bring that out.

Mr. Brauer: Well, Senator, I think we . . . the only reason I used the word subsidize is because Senator Syas got off on this vein. Mainly it is a community project that is being financed both from within and without, and it takes the total community to make the thing work. In other words, if the rural people, for example, were to pull out from these systems, all of their tuition that they are paying, 50 percent of our high school districts in this state would not be able to operate. So they are not

subsidizing us. It is a joint cooperative venture that is dependent on both sides to work together to establish and hold the school, and our people are not adverse to paying for this education and for this service, and over and above what the actual cost would be, but at the same time we do not want to be made look like we are freeloading and that we are not contributing a substantial amount toward the maintenance of that school because in essence and in fact, we are.

Senator Harsh: I think we have brought up some questions that are of interest to this Committee, but really basically we ought to try to get back to whether a payment on a cost basis or on a per day basis.

Mr. Brauer: Well, these things are all necessary, Senator, I think, in finally determining how you are going to go, but we would prefer to go the other route, LB 32, with some increase and that yet to be determined by whatever type of state aid and distribution we finally have under state aid. But this type of approach, without the proper accounting controls, is just unworkable.

Senator Rasmussen: I'll ask a question right on this particular subject. Now you represent a group that advocates a Class VI school. Now should we pass the bill that you are proposing to pass, which would increase the cost of non-resident high school tuition to those districts paying it, the cost of operation of such a school system, wouldn't this tend to make people in a community take a more favorable look at a Class VI school district rather than a K-12?

Mr. Brauer: I prefer that approach. I prefer that it be approved on its merits because this is the thing they want to do. I don't want to pressure them into doing it by an excessive . . .

Senator Rasmussen: The only point I was getting at was your support of the first bill, which I believe was LB 32, on the basis of education or on the basis of possibly the support of your philosophy for an educational approach in Nebraska.

Mr. Brauer: Psychologically the thing that you are proposing would be accomplished if we were to support the $4.00 rate because you are creating a situation where the people could not justify this. This would drive them into something else. But I couldn't go along with that method of bringing it about. Thank you.

Senator Harsh: Are there others who would oppose this bill?

Glenn Rader: Senator Harsh and members of the Education Committee, I am Glenn Rader, representing the Nebraska Farm Bureau Federation. Our objection to this bill has been pretty well covered, because we were unable to see where we can arrive at any figure here that would be fair to everyone. We supported the other bill on the increase. I made the statement that our research could not come up with a figure that we could say that would ba fair, but we believe an increase is justified, because we've got an inflation increase. The different types of districts have

been covered, and the K-12 districts are often housed in one building complicates this formula, and it would not be fair on a cost-plus formula, we don't believe. Mr. Brown has brought out a good many of the problems and also the opposition has brought out a lot of the problems here, and we don't see how this can be worked out and be fair to everyone. The thing of cost has been brought in, and who pays the cost? If I am not out of line on this, I would like to tell you what my own situation is. I live in a district that has $400,000 valuation in town, and between $2,000,000 and $3,000,000 in the country. Many of these people in the country are non-resident, have no vote, have nothing to say about what goes on in the schools. I think maybe that gives you a little idea of the many questions between rural and urban. It depends on where you are who is getting the benefit, the rural or the urban.

Senator Harsh: If you joined the town district, of course you'd have a vote, wouldn't you?

Mr. Rader: We're in the town district, but the people I referred to are landlords and non-resident. They have no vote. A bond issue comes up, why they have no vote on it, but still they are going to carry the major burden of it in their districts.

Senator Harsh: Are there any questions? Thank you. Are there others who would speak against this bill?

Ivan Simpson: My name is Ivan Simpson, and I'm Superintendent of Schools at Nelson. I would like to point out the determination or the formulation of costs is my main opposition to this. The cost per student varies greatly and until the determining of cost is established, the bill is not workable and it would be a detrimental bill. Also, in the formulation of this, I think it would be necessary to establish how these costs of the funds from the non-resident students would be paid. In doing this it would most likely work out most satisfactory if the district receiving the student could receive the first half or the first tuition payment approximately the end of January and then the adjusted total payment at the end which would complete the cost on an entire per pupil basis. Not in contrast to what has been pointed out before, I think that, not being an auditor, I would have to say that the report which if filed each year is pretty complete, and on the per pupil cost, I can't find a better way of determining. It does have the depreciation allowable, the equipment and such as this, but I feel this is a part of the cost, and the total that you come up, the per pupil or membership is pretty realistic. It is money paid out.

Now, while I disagree with this feature of the bill and would like to see this modified, I do in fact support the bill in general, the principle behind it, that the district be compensated for accepting a student. Now in many cases they are accepting a student as a service to the district that is not a part of their district. I feel that this is beneficial to education in Nebraska and should continue. But I still think that while there is no formula set forth here that would determine this exactly, they should be compensated for the amount of the expense involved in the education of students from other districts.

Senator Harsh: Do you think a good system of state aid to education might solve many of the problems we have in redistricting?

Mr. Simpson: I have not looked into the state aid completely, although I know that we have a highly inequitable tax base for revenue for our districts, and I think state aid would tend to equalize the burden somewhat. But I am not sure I could come up with a "yes" or "no" on that.

Senator Harsh: Are there any questions? Thank you. Are there others who would speak against this bill? If not, we will let you close, Senator Warner.

CLOSING

Senator Warner: Mr. Chairman, I think the only question we are talking about is whether some formula can be determined which has more equity than what the present $3.00 a day or proposed $4.00 a day might provide and recognize that any other formula that might be devised could still have some inequities. It would appear the range of paying $540 to a district for $1,400 per pupil cost could hardly be considered equitable, and I am sure some greater degree of equity than that could be attained. I recognize we are subsidizing what you might call inefficient district by going per pupil cost, but I also recognize that many of these cases are where they have no choice, other than have those costs, and I don't think that that area should be penalized merely because they are located where there is a sparsity of population. Again, my prime reason for introduction of this bill has been in (garbled) of the Attorney General's opinion in the event that someone does take this to court, and Mr. Brauer suggested that they withdrew the case because they thought it was weak. I have no idea why they withdrew the case. I throw this out in contrast--I was told that the guy that filed the case had some health problems, and this was a contributing factor. Again, this is hearsay, I don't know. The fact is, it is probably immaterial why the case was withdrawn, but if it is unconstitutional, if someone does put a case, then you are faced with the problem all of a sudden of a group of children that are no longer eligible for non-resident tuition. Their parents are suddenly going to have to be paying tuition, and I think this could very well be an unfair burden to some people within the state.

As for me, I can appreciate the complexity of the formula. I would concur with those who suggest that those sources of income that the district has from other than taxation, and they receive them by virtue of counting the non-resident students, very possibly ought to be subtracted from counting the cost of those students. That I do not see as being an unreasonable position.

Senator Ruhnke wondered whether or not the fact that a district had some non-resident pupils perhaps lowered their cost because they spread their fixed costs over a greater basis, I am sure this is true, and if we are talking about 10 or 15 students, no doubt that is a windfall, in effect, to the accepting district. On the other hand, I believe

the one district that had 147 non-resident pupils, it was Albion, I believe, I don't know the total size of the school, but I am sure you don't have 147 pupils without having additional cost to the overall school system. Somewhere between those two. It was also suggested that local district, accepting district, may have a choice. That is true, legally, they do have a choice, but I think we have to recognize the choice in fact does not exist in many instances because of the reaction from the rural area that does occur whenever you have high school that declines to accept the non-resident students. I am sure that you are all aware of instances where tremendous turmoil was created when a school board declined to accept any further non-resident students, and I think, while the alternative is available, it is a very poor choice to force a school district in, because of the breakdown that you find in the relationship between people in that community. I guess that is about all I have to say.

Senator Harsh: Thank you. This will conclude our hearings for today.

/s/ Lester Harsh
Chairman

/s/ Laura M. Ashelford
Clerk

APPENDIX D

EDUCATION COMMITTEE HEARINGS LB 910--1969

LB 910

Testifying on LB 910 were Senator Don Elrod, 35th District; S. H. Brauer, Jr., for the Nebraska School Improvement Association, and Mrs. Anne Campbell, of the Lincoln Public Schools.

Senator Elrod: Chairman Harsh and members of the Education Committee, LB 910 is a relatively simple bill. Actually all it is doing is raising from $3.50 to $4.00 per day the non-resident tuition rate for students enrolled in the high schools, so actually the only intent of the bill is basically to raise this rate 50¢ per day, and this is done because of the cost of the education within the school systems. I know there are many that have questioned me if this shouldn't even be raised maybe to $4.50 or $5.00, but I think that this will maybe make the schools so that they will more closely break even on it, and I have nothing further on the bill.

Senator Clark: How many weeks would you have--36 weeks of school?

Senator Harsh: That depends on the school. There are some schools that have 38 weeks, and they also have the problem of some schools that will only have three days and they call it a week, so we put this on a per-day basis so they do not take advantage by using a three-day week and calling it a full week, so this is why it's on a per-day basis.

Senator Clark: What I am trying to get at, Senator, is there's normally 36 weeks then?

Senator Harsh: Yes. Are there any questions of Senator Elrod? Do you know when it was that we raised the price of the . . .

Senator Elrod: No, I don't, Senator Harsh. I'm not sure. But I'm sure it's been quite some time, but I don't know when it was.

Senator Keyes: Senator Elrod, do you think this should be flexible on a day-to-day basis rather than (inaudible) going to?

Senator Elrod: You mean that we should allow different rates? I don't know if we could come up with a formula that would be the least bit suitable. I think otherwise this might be a better answer to it because possibly this is true that there certainly is a difference in cost.

Senator Keyes: Five dollars could go to the school that has 500 pupils and then pay $4 to a school that has 6,000 based on what it cost them.

Senator Elrod: If you people want to attempt to come up with such amendments, this would certainly be all right with me.

Senator Clark: Actually I don't think it could work, do you?

Senator Elrod: No, I really don't.

Senator Clark: The reasons for it being of course they can go to any high school in the state that will accept them. I don't think you realize that. I know in Sarpy County again . . .

Senator Nore: In most cases this $4 doesn't pay the bill anyway.

Senator Elrod: This is what I understand. Right. Actually even $4 is not high enough as far as that goes. I understand there was a bill introduced that was withdrawn because of this bill, figuring that this one could be amended higher. That is the way I understand it.

Mr. Brauer: Mr. Chairman, members of the Education Committee, my name is S. H. Brauer, Jr., and I'm representing the Nebraska School Improvement Association. We want to go on record as supporting a 50¢ increase at this time in the non-resident tuition rate. As has been stated, the cost of education has increased somewhere in the vicinity of ten percent since the last raise went into effect and that was in the last session of the Legislature. Now I would like to say this because I do not know about another bill that is dealing with this subject, but we would oppose any further increase than a 50¢ per day increase because of the fact that your tuition is a fully tax-funded rate. In other words, when you levy a mill levy against the county, all of these dollars are being raised in property taxes for this tuition rate, whereas the per-pupil cost of a school district comes from many sources of revenue. Your federal funds are included; your state aid is included; your state apportionment is included; and there are other sources of revenue that are also included. In addition to this, the school districts are allowed to take three percent depreciation on capital improvements. Now when you total up all of the outside sources of revenue it does lower substantially the average per-pupil cost raised in local tax revenue by the servicing school district. Now we ran some checks on this several years ago because at that time there was a bill introduced not only to raise the flat rate, but also to put this on a cost basis, and at that time we discovered that the local school districts servicing the non-resident tuition students were paying in many cases less than two-thirds in actual local tax revenue what the rural student or non-resident student was paying to attend their district, and this is one of the reasons why it was virtually impossible to come to some understanding or some agreement to place this on a cost plus basis, so to speak. Now it would be my suggestion that the bill be amended to add the emergency clause in order that the tuition rate would go into effect for the ensuing school year or the coming school term. Otherwise it would not go into effect until perhaps the second semester of the next school year. So I would urge that the emergency clause be added.

Senator Ziebarth: You say that school districts are allowed three percent on capital improvements?

Mr. Brauer: Depreciation on capital improvements and plants.

Senator Ziebarth: What do you mean--allowed three percent?

Mr. Brauer: In computing their per-pupil costs, the school board determines the value of its capital improvements . . .

Senator Ziebarth: Thirty-three years.

Mr. Brauer: No, sir. It's indefinite and it is not a declining depreciation scale. In other words, you set . . .

Senator Ziebarth: That's what you're insinuating. Why thirty-three years? Or thirty years?

Mr. Brauer: No, I'm not insinuating this because if this were true, in the thirtieth year your plant would, for example, be perhaps down to 10 or 15 percent of its original value. We're paying the same three percent today that we paid thirty years ago on the same plant. Only the increased . . . the school board by a majority vote can increase the value of this plant, for example, replacement costs, and very often this 30-year-old plant is carried on the books for depreciation purposes double what it cost them to originally build.

Senator Ziebarth: Do you think the raising from $3.50 to $4.00 will further the cause of reorganization?

Mr. Brauer: I don't think this has anything to do with it. I think it's a matter of . . .

Senator Ziebarth: Would it do it if you raised it to $5.00?

Mr. Brauer: I would be in here with an army to oppose $5.00, Senator, for the simple reason that this is a $90 increase. Another dollar would amount to $180. You'd be charging the rural people something like $1,000 for tuition.

Senator Ziebarth: Is that exorbitant for that?

Mr. Brauer: That is outrageous.

Senator Ziebarth: The army you speak of--what do you have in mind?

Mr. Brauer: Myself and two or three other people!

Senator Keyes: Did you ever hear of any school district in Nebraska contracting education, paying for it, and they were contracting with a mill levy being higher on this district that was contracting than the district it was contracting with?

Mr. Brauer: I'm not sure I follow your question. For non-resident tuition purposes?

Senator Keyes: Do you know of a Class I school district that has a higher levy than the district they contracted with?

Mr. Brauer: Contract--would you mean that they . . .

Senator Keyes: For a high school diploma. For a high school education.

Mr. Brauer: Oh, yes.

Senator Keyes: You mean there is a Class I district that pays more of a mill levy on their own . . .

Mr. Brauer: With their combined local levy and their non-resident tuition levy, yes, sir.

Senator Keyes: Why wouldn't they join the other district, then--become a part of it?

Mr. Brauer: We went through this once before. Because these people live a considerable distance from the school that you're suggesting that they might reorganize with . . .

Senator Keyes: I'm not suggesting anything about it. I just was wondering if there was ever a case where the district . . .

Mr. Brauer: I'm sure there are more than one of these types of situations in the state.

Senator Keyes: What keeps them from driving . . .

Mr. Brauer: Distances. Distances.

Senator Keyes: If they get a little closer they don't mind if they contract or if they don't contract. They get no closer to school.

Mr. Brauer: I think we're confusing contracts with the non-resident tuition privilege of sending your high school students wherever . . .

Senator Keyes: Whether you call it non-resident or contracting, it's just the same.

Mr. Brauer: No. Non-resident tuition is set by law by the State of Nebraska. A contract is where you pay the average per-pupil cost of the district with which you contract. So there is a substantial difference between the two methods of sending children to schools outside your district.

Senator Harsh: This is occasionally true. It's not often true, but it is occasionally true. Are there any other questions? Are there others who would appear in favor of this bill?

Mrs. Campbell: Mr. Chairman and members of the Education Committee. I would appear in support of this bill and point out the fact again, as Mr. Brauer pointed out, that our costs are rising. For instance, in the Lincoln public schools our equipment and materials cost has ranged in

increased payments from 7 to 33 percent, depending upon the materials and equipment which we are purchasing. In addition to this, of course, the additional costs of instruction for teachers' salaries plus the additional insurance costs with required insurance policies in a number of areas make it almost impossible for us to break even on free high school tuition. The Lincoln public schools run about 157 free high school tuition students which is not an exceptional number, and yet we have had to charge parents of these pupils the difference between what we received in free high school tuition and what our own cost per pupil was. If every student attended every day, and if you'll notice this is on the days attended, the costs go on whether that child is in school or not, and if everyone attended, had perfect attendance, we'd get $169.50 per student in Lincoln at the high school level when our costs are approximately $640. The . . . on this base as I say the fact that it is based on attendance seems to be somewhat unfair because the costs go on whether that child is in school or not. If the child drops out of the high school level, this is something else, but we're paid only for the days on which he does attend, again penalizing the district that receives them to some extent. The $4, of course, and I'm basing this on our 177 days of teacher-pupil in session. Next year we hope to go to 180 days with teachers and pupils in attendance, and this will increase it to some degree. Four dollars would take into consideration some of the capital outlay costs that the three percent depreciation does not begin to cover as we figure the depreciation of buildings and equipment in the capital outlay. I hope you will take this bill and move favorably on it.

Senator Nore: I think it is pretty generally known of the State of Nebraska that it's lots cheaper to pay tuition than it is to be in the district.

Senator Harsh: That isn't the question, Senator Nore.

Senator Nore: I think that is a question.

Mrs. Campbell: I think in the rural areas you would find this to be true.

Senator Harsh: Do you think education has gone up eight percent each of the last two years?

Mrs. Campbell: I'd say it has gone up more than that, generally. The eight percent I think for the number of schools who were over the 108 percent limit this year, is an indication that this is not a realistic figure in view of the price raises today.

Senator Nore: May I ask one more question? One of the reasons why this tuition has gone up in the past, the Chamber of Commerce in each town wants it.

Senator Harsh: Can you answer that?

Mrs. Campbell: I think Senator Clark alluded to it in the fact that when they pay free high school tuition they can choose any high school in the state which they wish to attend.

Senator Nore: How much tuition do they pay?

Mrs. Campbell: There might be some schools that would gain some money, but I would say that many others are losing money.

Senator Harsh: Are there any other questions? You'll gain a little bit here, won't you, Mrs. Campbell?

Mrs. Campbell: We would if it came to this because I would not assume . . . yes, we would gain a little, and I think I would ascribe that to the fact that additional depreciation costs on our buildings and equipment would then become a more reasonable figure in the formula.

Senator Harsh: Thank you. Are there others who would speak in favor of this bill? Are there those who would oppose this bill? Senator Elrod, do you wish to close?

Senator Elrod: Chairman Harsh, members of the Committee, I have no closing other than the fact I would see nothing wrong with going along with the emergency clause being attached to the bill.

Senator Keyes: I have some questions. Senator Elrod, you said there were two other bills that were pending.

Senator Elrod: No, I said that I understood there had been. I believe they've both been or are in the process of being withdrawn. If they're not . . . and they were I believe for the same thing only at higher rates.

Senator Keyes: Do you want the higher rate on this bill?

Senator Elrod: One, I understand, was $5.

Senator Harsh: Senator Elrod, I was asking Senator Pedersen, if we put the emergency clause on this, they would start paying $4 in May, wouldn't they? Or April: Whenever we passed it.

Senator Elrod: I suppose this would be true, yes. I don't suppose any school district would object to this.

Senator Harsh: It should be amended then that we don't want it to start until the next school year.

Senator Elrod: Until the next school year? That would be fine.

Senator Nore: Take the emergency cluase off then. That would take care of it.

Senator Harsh: No . . .

Senator Elrod: No, because we might be in session too long, Senator Nore. You could put it on with the stipulation starting with the next school year, which is the way it should be. I think that's a good suggestion by Senator Pedersen. Thank you.

Senator Harsh: This will then conclude the hearing on this bill. Senator Burback has a bill today, LB 931. Senator Burbach, do you want to present the bill?

APPENDIX E

EDUCATION COMMITTEE HEARINGS LB 314--1973

Senator Warner: Mr. President, or Mr. Chairman, members of the committee, Jerome Warner, 25th Legislative District. LB 314 was part of an interim study on financing of schools. I think it had a two-fold purpose in mind --one, when some of the public hearing and other discussions and correspondence received by the committee--there were a number of instances in which citizens expressed concern about the level of non-resident tuition, particularly in some areas of the state, and the committee, I think, also felt that, perhaps, some review of non-resident tuition was appropriate because of the cost to some areas where indicating that they--that they would require. We discussed this at some point; as you know, the present law permits that the--no school shall have a non-resident tuition not less than their average per pupil cost--committee felt that maybe a firmer guideline in than that would be appropriate the suggestion was not less than per pupil cost plus 1.2, recognizing that there is probably some cost difficulty to identify that should be allowed, in addition to their previous year per pupil cost; also to allow for growth. The committee also felt if a considerable amount of state aid to schools were provided that this should be reflected in the amount of non-resident tuition the schools charge. I think there is, perhaps, a problem with the bill as drafted; apparently it may reduce--the non-resident tuition is taken into account twice perhaps the way the bill is written which, of course, was not--not the intent. I do not have an amendment proposed to correct that, but I think one would be in order. The other reason that the committee introduced the bill was recognizing that non-resident tuition is an accountable receipt in the determining of state aid to schools--we felt that then there probably should be a firm fixed formula for determining this non-resident tuition, rather than the present basis. We also thought that non-resident should reflect any increase in sales and income tax for additional state aid, so that this was passed upon--passed on to those paying non-resident tuition, as well as those who are living in a school district that has a high school. That's really essentially what the bill does. Now, there has been considerable concern expressed, at least in the way of correspondence and other remarks that I've had personally as to the impact of the bill; it could adversely affect some class III and class II schools in their resulting increase they may have to have in their own mill levies to make up for the reduction in a non-resident tuition. I do feel that those who suggest that non-resident tuition was, should be extra high now, because it was too low in the past, may have a point, but I'm not sure that we can justify it on that basis. I think we should look at the non-resident tuition from the point now, and beyond. It may have been more appropriate that we would have included this in a state aid bill itself, but we did not, and made it a separate bill, because it did affect a separate section of the law, but I would suggest at least to the committee, that if you do not see fit to pass the bill as it is, that, at least, it would be passed along with an increase in state aid to schools, so that there can be uniformity in non-resident tuition in the way it is calculated, and also that any increase in sales and income tax would be reflected in reduced property tax for those who live in a class I school.

Senator Kelly: Any questions? Senator Warner, I have a couple. In the present law, when we appropriated or apportioned the state aid, does that state aid go to the receiving school district of a tuition student or the sending district?

Senator Warner: Receiving district.

Senator Kelly: Then that would end the per pupil cost in LB 314--would that tkae into consideration capital construction, depreciation, equipment purchases, or what?

Senator Warner: It was--Mr. Chairman, it was intended to include the 3 percent depreciation which is a part of the financial report that these schools now make to the extent that the depreciation is reported on the school finance report is included to that extent only though.

Senator Kelly: Any other questions? Thank you very much, Senator Warner. Are there those who would testify in favor of LB 314?

S. H. Brauer, Jr.: Mr. Chairman, members of the Education Committee, I come before you in support of LB 314. My name is S. H. Brauer, Jr., and I'm a resident of Lincoln, Nebraska. I would like to support this bill because when the law was changed to put non-resident tuition on a cost basis, and the words "not less than per pupil cost" were used by Senator Ziebarth, we anticipated that it would be misused and that it would be abused. This is exactly what has happened. We have school districts in the state of Nebraska whose actual reported per pupil cost--and I want you to understand that when we talk about actual reported per pupil cost this included straight line depreciation--in other words, a constant valuation depreciated at 3 percent per year. It includes all federal and state funds that they receive. It includes non-local tax revenue receipts such as transportation, tuition, etc., so when you look at actual per pupil cost you are totaling all of the receipts against all of the expenditures plus a 3 percent depreciation. Now, some districts have reported actual per pupil cost of--in the area of $800 and still they charge non-resident tuition of $2,000. Now, this is a big problem, because if you would reduce their per pupil cost to that level of actual taxes raised by that school district for the support of their per pupil cost, you would be looking at something nearer $500. Now, at one time, I could not have appeared in support of the bill which, in effect, allowed more than the actual per pupil cost less the state aid to education the district might receive. However, the thing has gotten so out of proportion and so many districts have come to rely on the exorbitant charge that this law permitted them to make for non-resident tuition, as Senator Warner has said, if we take it away from the, all of the money or revenue they are collecting over and above their per pupil cost is going to create a real crisis, and a real strain on their budgets and on their local property tax levy; so, for this reason, I will support at this point or at this juncture, a one point two percent or one point two tenths--which is actually 20 percent above their per pupil cost. I would urge that this committee attach the emergency clause to this proposal and, the reason I

suggest this, is that if it is not done with the emergency clause this means, in effect, that the gouge that has been taking place will continue for another year. I could give you numerous examples and numerous incidents of the abuse and misuse that has occurred since non-resident tuition was put on this basis, but I think the example I used should be sufficient and not require taking any more of your time.

Senator Kelly: Are there questions of Mr. Brauer? Senator Syas.

Senator Syas: Mr. Brauer, looking back--historically you've never supported, as I can recall, any--any increase in any state aid.

Mr. Brauer: State aid?

Senator Syas: Yes, that's right.

Mr. Brauer: Yes, we did Senator, and I think you will find that we did numerous times. We did not support increases, though, that were out of line with the per pupil cost.

Senator Syas: You did request--you not support the present law?

Mr. Brauer: The one that's on the books right now? No, sir, we didn't, because we wanted it to not exceed the per pupil cost and, instead of that, it was written that it should not be less than and as a result of not being less than they interpreted it to mean that they could charge considerably in excess of the per pupil cost.

Senator Syas: Do you recall the Attorney General's opinion that I received where you cannot force one taxpayer in a district to pay for, in any way, the schooling of another taxpayer's child--that he was allowed to get full cost? Would this bill give him full cost or are you limiting it to a specific figure that in some instances--wait a minute--school districts would not get full cost out of this bill.

Mr. Brauer: No, they would get more than cost by 20 percent.

Senator Syas: Out of this bill?

Mr. Brauer: Right.

Senator Syas: I don't read it that way, but you could be right. I'll let the others . . .

Mr. Brauer: No, this is exactly what the bill is intended to do--is to give them their cost less the amount of state aid which they receive, and this goes back to the question that Senator Kelly asked Senator Warner--whether the state aid goes to the receiving district or the sending district, and it does go to the receiving district, and that's why--why it should be subtracted from the per pupil cost, and then this would allow them to . . .

Senator Syas: But then you're penalizing them for taking your child, aren't you?

Mr. Brauer: No, we're actually paying them 20 percent in excess of their per pupil cost for taking our children. Because they already receive the state aid for our children. In other words, what you're asking us to do, Senator, if you do not reduce the amount of state aid, is to match that in time with property tax dollars, and this is what we have been objecting to.

Senator Kelly: Further questions. Thank you, Mr. Brauer. The next testifier.

Mr. Glenn Rader: Senator Kelly, members of the committee, I'm Glenn Rader, representing the Nebraska Farm Bureau Federation. Farm Bureau members are in favor of placing a limit on the amount of non-resident high school tuition that can be charged against patrons of class I districts for non-resident high school students attendance because some high school districts have taken advantage of rural class I school districts in this matter by drastically overcharging. I believe an upper limit of one and two tenths times the average per pupil cost for the preceding school year plus the aid, the pupil aid, received from the state funds should be established.

Senator Kelly: Any questions? Senator Syas.

Senator Syas: Now this is nothing personal because you weren't here, but can you recall when your organization ever supported an increase in high school tuition? I can't in 22 years--but can you?

Mr. Rader: I can't right now, but I'll look it up and see if I know.

Senator Syas: I'd like to know that, because my memory is quite long and I don't think you ever did. (laughter)

Mr. Rader: May I comment on the question that Senator Syas asked before?

Senator Kelly: Have you answered the question?

Senator Syas: Yeah, he answered--he wasn't here, but I asked him a question and he can't really answer it--

Mr. Rader: As far as I could I did--you asked about if this covers our total cost. I think there's a factor that comes in here that we haven't taken into consideration. I don't believe there is very many cases where they've had to hire extra teachers and so forth to take care of these rural pupils, so usually there aren't too many of them, and you can add on more pupils if you can use the same facilities, the same teachers, and you can come out with a little profit on that. We're not objecting to that, as far as it goes, but I think that is a fact that might be taken into consideration.

Senator Syas: Sir, may I ask a question sir . . .

Senator Kelly: Senator Syas.

Senator Syas: There's other factors also on the other side of the coin. When you take in more pupils, you may get the money from the pupils, from the districts, that's sending the child, but you also buy equipment for us to take care of that child, so that runs your costs up. Also, if you build a building, and you anticipate, sir, and you can answer this whether I'm right or wrong, that will be my question--you can anticipate that you're going to take so many children and they do not come,and the district that you've been receiving from decided you send them some place else, you're stuck with the capital investment, plus interest.

Mr. Rader: Well, I can't give you specific figures on that, but the district I live in--I can't say we have ever laid on any extra capital investment to take care of that, and I was on the school board for several years.

Senator Syas: There's a lot of school boards.

Senator Kelly: Any other questions? I would have one, Mr. Rader. Would you explain to me--the district in which you live--how do they arrange the tuition now, and what is it?

Mr. Rader: I can't tell you exactly what they do charge. I've been away from it too long to know right now what that is.

Senator Kelly: Do you know how they arrange it--how do they know what to charge?

Mr. Rader: It's specified in the law what they can charge, but what they can charge--and then they can go above it right now--this is the thing we're objecting to--is going above this, that figure of their cost.

Senator Kelly: As I read the law now, it specifies what they can't charge. "In no event it be less than the average per pupil cost."

Mr. Rader: See, they get average per pupil cost--they're guaranteed that, the way I read it at least.

Senator Kelly: Any other questions? We thank you, Mr. Rader. Are there others who would testify in favor of LB 314?

Mr. Ernest Gottschall: Chairman Kelly, members of the Education Committee, I'm Ernie Gottschall of Atkinson, Nebraska, and I am representing the Nebraska Stock Growers Association. I would like to commend the interim study committee for introducing this bill, and urge it be passed. Up to a few years ago, the Legislature set the non-resident per pupil cost, in some instances the amount was too little and in some instances too much. Then the Legislature passed the present law which sets non-resident tuition at a minimum at each district per pupil cost; using each district per pupil cost as a basis is very fair and should be continued. However, the Legislature, I feel, should set a maximum amount charge as proposed in LB 314, instead of the minimum as the present law.

LB 314 requires that all state funds be deducted in figuring non-resident per pupil charges. This is also fair. Resident districts should be able to charge per pupil cost by state funds but, at present, some districts are charging two to three times their per pupil cost. The non-resident taxpayers are paying school taxes through income and sales taxes, and then, in addition, are being charged high tuition rates. We often speak of the necessity of a lid on education expenditures--this is an excellent place for the lid on the amount non-resident property owners pay for school tuition. The principle of this bill is to set spending limits, not minimums. This principle is good--we urge passage of this bill with the emergency clause. Thank you.

Senator Kelly: Are there any questions? I would have one. In your district, how do you arrive--they arrive at the way the non-resident tuition is assessed? And how much is it?

Mr. Gottschall: We assess it as prescribed by law, and that is we take the operating cost, plus a percentage of the--I believe it's 3 percent of your capital investment--and divide that by the average daily membership of the students. It's as prescribed by law, and then we charge that amount--and I believe the amount is something in excess of a thousand dollars--I can't say exactly what it is.

Senator Kelly: Well, as I read the present law it says what you can't do and that is that you can't charge less than what your per pupil cost is.

Mr. Gottschall: Yes, that is correct. You can't charge less, and this I feel is right; I mean, I agree with this theory that you can't charge less, but I also feel that you should not be able to charge, say two or three times what you get per pupil cost--this is the point.

Senator Kelly: Does your district charge two or three times?

Mr. Gottschall: Our district charge, as near as we can tell, what the per pupil cost is.

Senator Kelly: So you don't have a problem in your district?

Mr. Gottschall: I have no problem myself, no. There are problems in the general area that the Nebraska Stock Growers encompasses.

Senator Kelly: Any other questions? Senator Syas.

Senator Syas: At present, you can't charge less than per pupil cost--this bill would allow you then to do what?

Mr. Gottschall: LB 314--

Senator Syas: The way you would interpret it?

Mr. Gottschall: The way I would interpret it, it would set a limit on the maximum amount that you could charge for non-residents.

Senator Syas: That you could charge, right? What if the maximum was under what it actually costs? That's exactly what I expected you to answer. Now, what if the maximum in this bill is less than the cost?

Mr. Gottschall: That's a problem. I would presume that the one point two percent, that the two percent . . .

Senator Syas: What if that isn't enough to cover the cost?

Mr. Gottschall: Perhaps there should be some way to get around that.

Senator Syas: In other words, then, the receiving district is it not true, is subsidizing the student?

Mr. Gottschall: Yes, and I don't believe that would be right. No, I think that the receiving district should receive their full per pupil cost.

Senator Syas: But this limits them, doesn't it? Say that this cost is under. What this bill calls for--say it's under what the actual cost is. They couldn't exceed this, right?

Mr. Gottschall: The way the bill is written, yes, and as I stated earlier I supported it in principle and, if you had a particular area where there was a greater cost than the one point two percent would cover, then I should expect that there should be a relief valve so that these instances could . . .

Senator Syas: Where is the relief valve in the bill?

Mr. Gottschall: There is none in the present bill, as written, except the one point two percent.

Senator Kelly: Are there any other questions? We thank you very much. Are there others who would testify in favor of LB 314? Are there those who would testify against LB 314? How many would there be--would you please raise your hands? I count three.

OPPOSITION

Dr. Lloyd J. MacDowell: Senator Kelly and Members of the Education Committee, and Senator Warner, I dislike having to oppose this bill because, in principle, it sounds pretty good--allowing school districts to charge 20 percent more than its cost for the previous year. There is always, of course, the possibility that costs may go up, and here are some unidentifiable (sic) costs, which I think later testimony will go into; so there is a possibility that one, that 120 percent of last year's cost won't necessarily pay this year's cost, but there is one thing about the bill that I would like to point out, and that is the fact that there is a widely held misconception that receiving districts receive substantial amounts of state aid for their non-resident pupil, and I'd like to refer you to the state aid bill, Section 79-1334 provides for foundation--aid that's forty-nine dollars per pupil in the high school grades. The receiving district is supposed to receive that for

resident and non-resident pupils. Then in Section 79-1336 that gives the insured need which is $550 per pupil, and that is supposed to go to resident and non-resident pupils alike. However, this is prorated so that under the present funding of the bill, thirty-five hundred million dollars, something like 25 or 26 percent of that money is actually paid, which amounts to a little less than $150, so that the most aid a school could possibly receive per pupil under state aid under these two sections, would be a little less than $200 per pupil. Now, obstensibly, that is received on all these pupils, resident and non-resident pupils, but then in Section 79-1338 where the rest of the computation of state aid is made, it says from the sum calculated pursuant to Section 79-1336, each district shall subtract, and then it goes on and names about six different things that are subtracted and one of those is tuition; so I have to say that one part of the bill gives the schools the state aid and another part in the case of the tuition sutdents, takes it away again. So the state giveth and the state taketh away. And then in LB 314, we're going to take away the tuition, or take away the state aid again, which we never received. The state aid, of course, the average state aid is computed on all the pupils in the school--resident and non-resident--so that any school that receives any state aid is going to have an average amount per pupil, so that has to be deducted then from the amount that you can charge in tuition. That is the one point that I want to make here--there are several other people here who are going to testify on specific cases.

Senator Kelly: Are there any questions?

Dr. MacDowell: I think I forgot to identify myself--I'm sorry, I'm Lloyd MacDowell representing the Nebraska State School Board Association.

Senator Kelly: Did you sign it then?

Dr. MacDowell: Yes, sir, I did.

Senator Kelly: I have one question which would be the same that I have been asking is that--how does the school district set the tuition and what are some tuition amounts?

Dr. MacDowell: That varies considerably, and there will be testimony here from several people from different schools who will tell how they set theirs and what the amounts are.

Senator Kelly: Thank you. The next testifier.

Mr. Lester Baum: Senator Kelly, members of the Education Committee, my name is Lester Baum. I'm the Vice-President of the Tecumseh Board of Education and reside on a farm southwest of Tecumseh. My entire livelihood is earned from farming. I appear before you today to state the position of Tecumseh School District #32 in respect to the impact of LB 314, if passed as it is now written, will have on our school district. The structure of LB 314, financially, will be a detriment to the district as we will receive funds from sending districts, but we'll have to deduct

a like amount from our state aid formula and then, again, in our rates of charges to the sending district, when we deduct state aid from the rate of tuition. We feel that it is not fair to high school districts in the state of Nebraska to ask them to provide facilities for students from non-high school districts, and then penalize them for doing so. There have been charges from the rural schools that K-12 districts have gourged them exorbitantly in their tuition rates. This may seem to be the case in our district where we charge $2,000 per student per year. However, consider the fact that last year's ADM cost for high school students in Tecumseh was $1,201.42--to this figure add the cost not borne by non-resident students such as $27.80 per pupil for transportation, $11.61 per pupil for capital outlay, $191.49 per pupil for debt service, and $60.39 building bonds for pupils; this subtotal amounts to $1,492.71 per pupil. To this figure add $54.35 per pupil for depreciation, and the total will be $1,547.06. When we consider all the separate forms, clerical work, and effort maintaining records for the non-resident student, the gross of $2,000 is not exorbitant or excessive. Yet, LB 314 will cause a reduction in this amount to the extent of $28,000 plus, and will cause our patrons to once again subsidize the rural districts. We feel that financially crowding a rural district into reorganization certainly is not the answer. The answer lies in making the K-12 district attractive to the point of not having a tax shelter advantage. In other words, if both the rural and the K-12 district would have approximately the same tax rate effort, there could not be any hesitation to consolidate. Certainly, the receiving districts would benefit by having a contented rather than a vindictive new addition. Therefore, the Tecumseh Board of Education requests that LB 314 be revised to avoid financial penalties to the receiving districts, and to the attached as an amendment to any state aid to education bill that would guarantee at least 50 percent funding to all K-12 districts: to let LB 314 stand as a separate law as it is now written is unfair to the K-12 districts in the state and will most definitely enhance opposition to any forms of reorganization.

Senator Kelly: Are there any questions? Senator Kime.

Senator Kime: I take it yours is a K-12 district?

Senator Dickinson: I'm sorry, I missed the first of your testimony--you're from Tecumseh. What percent, do you know, of your districts' valuation is urban, and what percent is rural now of your K-12 district?

Mr. Baum: I'm not sure--I can't tell you the percentage--52 percent--48 percent.

Senator Dickinson: About fifty-fifty, then.

Mr. Baum: Yes, right.

Senator Dickinson: If you equalize this, if you get this mill levy so these class I districts are paying the same mill levy as your K-12 districts, do you, then, feel that all the people in this distric t will be being treated equitably in regard to paying taxes in support of the schools?

Mr. Baum: Yes, one instance that I might relate to you is--I have land that's in a class I district and they have an evaluation of over $800,000 and they're educating eight children. What's happened is--it's a district that has had about five other districts close and join them, rather than join a class III or higher district and, if through state aid, the tax rates would be fairly equal amongst all these districts; they wouldn't hesitate to consolidate, because they'd continue to send their high school students to us. They don't provide any K-12 education. They're using it as a tax shelter. (See attached Exhibit "D.")

Senator Kelly: Are there other questions? I have a couple. I didn't get your first figure in your line-up of minimum per pupil cost.

Mr. Baum: $2,000--$1,201.42 the per pupil cost was . . .

Senator Kelly: $1,201.42?

When you assess this tuition against the class I districts surrounding you, do you break this down and are they aware of how you arrived at your $2,000?

Mr. Baum: I don't know whether they're aware of how we do this. We project our anticipated cost and then add approximately 10 percent to this. You see this cost, of course, is our last year's figure, our $2,000 per year is our charge for this year, this school year.

Senator Kelly: Are there other questions? We thank you very much. Excuse me, Senator Fowler.

Senator Fowler: The cost figure you gave was for high school education--right? Is that correct? The $1,200 figure?--or is that your average for the whole district or . . .

Mr. Baum: Now, I'll have to ask--is this average for the whole district or just these schools (inaudible from audience).

Senator Fowler: OK, fine.

Mr. Baum: The majority, of course, of our non-resident students are high school students.

Senator Kelly: Any other questions? Senator Dickinson.

Senator Dickinson: What percent of your high school enrollment is non-resident and what percent resident?

Mr. Baum: We have 32 non-resident students; we have 356 total high school students grades seven through twelve; we have a total enrollment of 672 students.

Senator Dickinson: In talking--you're only receiving the 9, 10, 11 and 12 grade students on a non-resident basis?

Mr. Baum: Yes.

Senator Dickinson: Thank you.

Senator Kelly: Are there other questions? We thank you very much. The next testifier.

Mr. Milton Wilson: Senator Warner, members of the Education Committee, I'm Milt Wilson, Superintendent of Schools from Hay Springs, Nebraska, which is in the western part of the state. Hay Springs is a class III district with a total of enrollment of 165 high school students, 98 of which are free high students or non-resident students, and 67 are resident students. I've handed to the members of the Education Committee a resolution which was passed by our Board unanimously in opposition to LB 314. I will not go on reading it, because I think that you all can read it. The way district III arrives at its non-resident tuition rate which is $1,350, $7.50 a day, is--we take our per pupil cost, we consider the stability of our district, and we add an anticipated amount from our last year's per pupil cost of what we think the increase--percentage of increase in our budget for the next year would be. We feel that LB 314, as it stands now, would put district III in a real K-12 district upwards of 20 mills to make up for the lost revenue, which we would, which we would--which would be brought about by LB 314 as it presently stands. Our current operational budget for the K-12 district is already seventy-one mills, and you would add twenty mroe mills. You see what this would do. (See attached Exhibit "E".)

Senator Kelly: Senator Dickinson.

Senator Dickinson: How long have you been--your school been operating under the present law where you are allowed to charge more than the actual cost that you so decide?

Mr. Wilson: Senator, I'm sorry, but this is only my third year in Nebraska, and I would have to rely on somebody else--I think it's been three or four years.

Senator Dickinson: It's only been two years that you've been operating under this law--three or four could I assume then that the levy in the district dropped twenty mills when this law became effective--when you were able to charge these amounts for non-resident students?

Mr. Wilson: I do not believe so from what I've been able to see from the records. This district has been able to increase some of the programs that they wouldn't have offered.

Senator Kelly: Any other questions? Senator Kime.

Senator Kime: You're a K-12 district?

Mr. Wilson: Yes, sir.

Senator Kime: I didn't get your name. Wilson? Thank you.

Senator Kelly: I have a question, Mr. Wilson. When you inform these districts the amount of what your tuition is, do you give them the formula or the numbers of how you arrived at whatever your dollar amount is--and what is your dollar amount?

Mr. Wilson: Our dollar amount, as I indicated, was $1,350 per year per student. We indicate to our county superintendent of schools the amount that our district will be charging, and then he informs, we do not directly involve some thirteen or fourteen class I districts that we feed from.

Senator Kelly: But in that statement of arriving at $1,350 do you break down how you arrive at that?

Mr. Wilson: No, we just send him a flat figure amount.

Senator Kelly: Any other questions? We will include this resolution in the transcript, Mr. Wilson. Others to testify against LB 314? Senator Warner, would you care to close?

Senator Warner: Mr. President, or Mr. Chairman, the closing will be relatively brief. The--reviewing the bill as it was written, as I indicated in the opening, I believe there probably is some need of change of language, the intent to which people have testified are fairly clear, but I think there is a problem with the way it's written which needs to be adjusted. I think it's particularly significant that we do have something on the books relative to non-resident tuition, should the state become involved in heavier financing of state aid, so that there will be a consistent manner in determining this revenue from each local school district, and an appropriate recognition for the increase of sales and income tax. One of the things that occurs to me and I'm not sure that I can explain it adequately at the moment but, obviously, the non-resident tuition has to be calculated against the actual per pupil cost of a district, and not insured need, that would be carried in any state aid bill, for those school districts that had a cost higher than the insured need you could leave them short, if the state aid was--per pupil was--if the non-resident tuition was reduced by the amount of state aid and you used the insured need as the base. I'm sure I'm not saying this right, but it does occur to me that as I was listening to those who were opposed to the bill, that there is a problem, very definitely, with the manner of drafting. I really don't have anything too much more to add, except to point out that it is Senator Syas' inquiring one of the people who support--I don't see how any school would end up with less tuition than their actual cost, unless 20 percent increase over the previous year was not adequate--at least it's not intended to do that--as you were asking one of the--those who appeared here in support.

Senator Kelly: Were there any questions of Senator Warner? Senator Kime.

Senator Kime: Senator Warner, this bill will definitely help number VI districts, but it will rather curtail K-12 districts. Do you think it will even these things up a little bit--the way that you have it?

Senator Warner: Yes, as I indicated, I think the bill has to be changed--the intent is pretty clear, but I'm sure there's a problem in the way it's drafted, Senator Kime.

Senator Kelly: Senator Syas.

Senator Syas: Yes, you see one of the gentlemen, Senator Warner, that testified against the bill said this would raise the mill levy of this bill in his school district 20 mills--I believe he said--I'm going to ask you the same question over that I asked a proponent of the bill--this bill, could it not, since it's fixed the amount in an indirect way, couldn't their actual costs be above what this bill allows them to take, at the first question?

Senator Warner: Yes, if their cost increased more than 20 percent over the previous year; yes, it could, if their cost increased more than 20 percent.

Senator Syas: It could--also you're basing this bill on what they did yesterday--last year, right? When my wife, I assume went to buy steak, that you're interested in, because you're a seller, she would very much appreciate buying the steak at last year's costs--you wouldn't appreciate it though as a seller, which is this case, Senator Warner, is the student coming through--coming to the district--gets the benefit of the same thing--you wouldn't like that, would you?

Senator Warner: The problem, I think, Senator Syas, is all those middle men--us feeders are still . . .

Senator Syas: There's no middle man involved in this though--my wife picks up the tab--right? So what I'm saying is Senator Warner--is you're not giving the--the receiving schools districts any benefit in inflation at all, are you?

Senator Warner: Well, we assumed that 20 percent did--the point is that I would not suggest, Senator Syas, that we made no recognition at all. I think there is some recognition but, again, the whole problem--there isn't any question in my mind but what there are some instances where a non-resident tuition are unreasonably high--I'm also equally sure a great many others schools have used a very genuine sincere effort to come up to the cost that they can justify; but I do think and I repeat again, that it would--if we move to substantial state aid, then I think an appropriate formula is both desirable and necessary for determining the amount of non-resident tuition, because it will directly affect the amount of state aid the schools receive.