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Floor Debate
April 21, 2009

[LB36 LB54 LB76 LB264 LB340 LB402 LB418 LB430 LB494 LB545 LB679 LR92 LR93 LR94]

SENATOR CARLSON PRESIDING []

SENATOR CARLSON: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-fifth day of the One Hundred First Legislature, First Session. Our chaplain for today is Father Ross Burkhalter from St. Thomas More Parish in Omaha, Senator Mello's district. Please rise. []

PASTOR BURKHALTER: (Prayer offered.) []

SENATOR CARLSON: Thank you, Father Burkhalter. I call to order the sixty-fifth day of the One Hundred First Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record. []

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

SENATOR CARLSON: Thank you, Mr. Clerk. Are there any corrections for the Journal? []

CLERK: I have no corrections, Mr. President. []

SENATOR CARLSON: Thank you. Are there any messages, reports, or announcements? []

CLERK: Enrollment and Review reports LB54 as correctly engrossed. And I have a new resolution, LR92 offered by Senator Pirsch. That will be laid over. That's all that I have, Mr. President. (Legislative Journal pages 1145-1146.) [LB54 LR92]

SENATOR CARLSON: Thank you, Mr. Clerk. We'll now proceed to the first item on the agenda. []

CLERK: Mr. President, LB545, a bill originally introduced by Senator Adams, relating to the Tax Equity and Educational Opportunity Support Act, discussed yesterday, committee amendments were offered. The committee amendments were divided pursuant to a request by Senator Friend. Senator Adams presented what became committee amendment AM1118. That was adopted. When the Legislature adjourned, pending was consideration of committee amendment AM1119 and an amendment thereto by Senator Adams, specifically AM1078. (Legislative Journal page 1032.) [LB545]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Adams, would you take a few

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moments and bring us up to date on LB545, AM1119 and AM1078? [LB545]

SENATOR ADAMS: Thank you, Mr. President. Members of the body, just as a summary from where we left off and where we are headed, this is the second division of LB545, and specifically we are dealing with one item, which is the averaging adjustment. And what LB545 with the committee amendment does is to modify the averaging adjustment, and what AM1078 does is modify it again in a slightly more generous fashion. And that, in essence, is the debate again today. And I would field questions or I'm sure that there are people that have their lights on and we can take up where we left off, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Adams. Senators wishing to speak: Friend, Wightman, Campbell, Fulton. Senator Friend, you are recognized. [LB545]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. This whole bill was divided. My thought process was...and with full disclosure in mind, with the thought process of stakeholders, some members of the lobby, other members of the body, people in here or my colleagues. This was divided because there were two trains of thought. And now it's divided into those two trains of thought. We dealt with one and now there are 26 districts based on what Senator Adams was talking about earlier that were affected by the averaging adjustment, it's arguable, but were affected adversely. That's what we're dealing with right now. I said yesterday when I...I think it was the last time that I spoke, I said yesterday we'll never fully fund education in this state and I meant that. Do you know why? Because we can't fully fund education in this state, K through 12, because it's never enough. Schools operate with the premise that the money is the resource, and the money is never going to be enough. I'm not saying they're bad people. I'm not saying that they shouldn't be thinking that way. I'm saying no matter what we end up doing and talking about, we will...we could raise taxes until the cows come home. It's never going to be enough money. And let me reiterate: The schools are doing what they feel is right to educate the children. The managers of those situations are doing what they feel is right to educate the children. And whether you agree with it philosophically or not is irrelevant. What's relevant right now under the premise of what we're dealing with here is what is equitable in regard to the averaging adjustment. Remember, I believe I look at it like a pie. We have \$234 million, or whatever, and that's what we have to spend. That's what the Education Committee said this is it. Appropriations is saying it. Revenue is saying it. I mean, I was sitting in the Revenue Committee. There's no more money than what we've got to deal with right now. Now, the information that I'm looking at and the reason that we're having this part of the discussion is because it's my contention and others on this floor that believe the...that it's our contention that the averaging adjustment can be adjusted again. Some have argued there are no losers here. The bottom line is everybody is getting an increase, everybody in the state. Keeping in mind, though, that to the schools, they don't look at it the way we do. We have a bunch of fiscal conservatives out here, right, myself

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included. We don't look at things the way schools do, folks. That's not the way they look at things. They look at things through a different prism than we do. Money means resources; resources means better education. I got a call from a gentleman yesterday who's a contractor at schools at Omaha Northwest and also Omaha South. He specifically goes in and his job in no uncertain terms is to try to keep kids in school. [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR FRIEND: That's his job. He didn't say it was certain that if OPS took a \$6 million cut in this particular area, he didn't say it was certain that those services or those resources would go away, but he said there's a chance that it would. You know why? Because he didn't consider himself a core function of the Omaha School District, and he's probably right. But based on the conversation I had with him, he's an important cog in what the Omaha School District is trying to accomplish. I'd like to talk about this averaging adjustment and say, look, we know what the Education Committee came up with and we understand it, but we also know...and it's not just OPS, folks, there are 26 schools in here that got treated, some would argue,... [LB545]

SENATOR CARLSON: Time. [LB545]

SENATOR FRIEND: ...a little bit differently than other schools around this state. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Friend. (Doctor of the day introduced.) Continuing with the debate, Senator Campbell, you are recognized, followed by Senator...excuse me, excuse me. Senator Wightman, you're recognized, followed by Senator Campbell, Nordquist, White, and others. Senator Wightman. [LB545]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. Since Lexington was mentioned yesterday as being the school having the least expenditure per student, I want to address that a little. I'm not quite sure where Senator White may have gotten that figure because I have a figure substantially different than that. So if he would yield, I would like to ask him a question. [LB545]

SENATOR CARLSON: Senator White, would you yield? [LB545]

SENATOR WHITE: I'd be happy to. [LB545]

SENATOR WIGHTMAN: Thank you. Senator White, yesterday you had a figure of something like \$5,600 which was the expenditure per student in the Lexington school. Is that correct? [LB545]

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SENATOR WHITE: That's the basic funding amount, yes. And then because Senator Adams said that we should look...and the reason we use that number is that's because what the adjustment we're talking about in this section is based on. Now, if you take all state aid that's spent by Lexington the number changes, and I have that today for you. That would include, you know, any state aid for poverty, transportation, things like that beyond the basic aid that the state gives. [LB545]

SENATOR WIGHTMAN: Is that the... [LB545]

SENATOR WHITE: Yesterday's was basic aid to basic aid spending. [LB545]

SENATOR WIGHTMAN: Is that the \$12,100 figure that Senator Adams was talking about yesterday in a meeting with the two of us? [LB545]

SENATOR WHITE: What we have...if you have for state spending, not federal, state spending, the numbers I have is that Lexington on state spending spends--and that would include property tax, as I understand it--on an average daily membership, number of students, spends \$9,568 per student. Omaha, by the same standard, spends \$9,504 per student. Davenport-Bruning, if they're combined...now, they report separately. If they reported separately, Davenport spends over \$21,000 a student, but combined Davenport-Bruning spends \$18,254 per student. And that's based on the July 8 annual financial report, total spending for students. [LB545]

SENATOR WIGHTMAN: Thank you, Senator White. And there are different figures running around with the Department of Education, and I have requested that from the Department of Education, have not received it. Had a call this morning saying that they were still crunching numbers. So apparently these figures do vary, but I think Lexington's spending is pretty much in line with the state generally. It is true that we have one of the lowest valuations, if not the lowest valuation, per student in the state of Nebraska. But Lexington is doing quite well actually, to the best of my knowledge. It's not to say that their school district wouldn't like more funding. I think everyone would. But looking at it generally, I think Lexington is being treated fairly. They do receive one of the highest...because of their low valuation per student, one of the highest total per student state aid figures in the state of Nebraska. And that really does help level the playing field and I think it really does put Lexington in a position where they're generally on an equality equal basis with the rest of the state in spending. I would like to talk a little bit about the constitutional issue that Senator White has certainly mentioned and that is Article VII, Section 1, "The Legislature shall provide for the free instruction in the common schools of this state of all persons between the ages of 5 and 21 years." Now, the court had...the Nebraska Supreme Court had occasion to discuss these sections in a recent case in 2007. [LB545]

SENATOR CARLSON: One minute. [LB545]

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SENATOR WIGHTMAN: And I may have to come back to this. It's Nebraska Coalition for Educational Equity and Adequacy (Coalition) v. Governor Heineman. And that case does actually review the history of the constitutional provision with regard to education, and I do want to discuss it at greater length. So at this point I will conclude this portion of my discussion and will be back, and hopefully I may have the figures from the Department of Education as well. Thank you, Mr. President. Thank you, Senator White. [LB545]

SENATOR CARLSON: Thank you, Senator Wightman and Senator White. Senator Campbell, you are recognized. [LB545]

SENATOR CAMPBELL: Thank you, Mr. President. I thought the discussion yesterday afternoon was great in terms of giving us a lot of different perspectives to keep in mind. And I'm sure that I am not different from all of my colleagues in the sense of taking a look at the observations from yesterday as I drove home. And I'd like to make just a couple of observations of what I saw yesterday. Number one, I think it's human nature that when we get all of the printouts what do we always do is to look at our home district and say, what's happening with my home district and how do I put that into the picture for the state? My home district, Lincoln, is the second largest school district in the state. It has 34,000 students, deals with more than 50 primary languages, is edging up to nearly two-thirds of that population on free and reduced lunch. It has and needs absolutely every one of the formula factors that we look at. From an ever-increasing school system population to poverty, all of these elements are important for the Lincoln Public Schools. And I have so respected the school district over the past couple of weeks in keeping in communication with me as I have asked them questions. And in the end, this school district said, while we will get less than the formula would have required by nearly \$4 million, we will go ahead and support LB545 and AM1078. And for this district, the most important formula factor to them was retaining the averaging adjustment as one of the factors. The second observation I would make as I began to look at how I would take what I learned from my home school district statewide that I had told Senator Adams that one of my major objectives was sustainability. I think it's all well and good that we certainly take a look at all of the children across the state in every school district, and look for how do we best provide for their education. But we also need to say it's not just for today that we need to look out for these children but for next year and the year after that and the year after that. A short-term solution often will cause long-term headaches. I particularly appreciate Senator Adams' amendment, AM1078, because I think it gives us the best shot at sustainability, and that factor and that objective has been one of my objectives all along in discussions with Senator Adams. It is extremely important that we not just think of this year or next year, but the years to come. And Senator Adams has been very truthful with me to say, just because we're keeping the averaging adjustment for now doesn't mean that forever it will give you the sustainability that you're asking. [LB545]

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SENATOR CARLSON: One minute. [LB545]

SENATOR CAMPBELL: But it gives us the best shot. I hope that we will consider not only the short-term but the long-term implications of our discussions and decisions today. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Campbell. Senator Nordquist, you're recognized. [LB545]

SENATOR NORDQUIST: Thank you, Mr. President. I agree we need to make sustainability the word of the day. I have concern over the direction we're headed. The Fiscal Office provided us a while back, the members of the committee, and I don't know if they provided everybody, with kind of the out years on the plan that we're looking at. And I questioned the sustainability. We're looking at General Fund dollars in FY '10 and FY '11 of \$826 million, and in FY '12 over a billion dollars; \$191 million increase from FY '11 to FY '12, 23.2 percent increase from FY '11 to FY '12. Without having any General Fund dollars in this situation this year, we are setting ourselves up for a huge cliff effect between FY '11 and FY '12--\$191 million. I don't know where that's going to come from when the stimulus money is gone. I don't know how we're going to get there and how we're going to continue to meet the needs of education in this state. And if we don't meet those needs, then our school districts are going to see that cliff effect and it's going to raise property taxes, and that's not a road I want to go down. Secondly, yesterday Senator Adams and I had a little dialogue and I still don't understand why we're going...I know he's working within the \$234 million framework of the federal stimulus money, but I don't know why we're going from a tiered system in the averaging adjustment to a flat system eventually. I think under the proposal, FY '10 there would be a tiered system, and then going forward everyone at \$1 levy or more would be at 50 percent. Now, I know...and as Senator Campbell said, once we get the printout, we see there's going to be winners and losers and that's what puts us in a tough position with this. We can adjust these numbers, keep the pie the same size but say if you're at \$1.05, you're doing everything you can, you have the maximum levy without an override at the local level, why are we giving the same averaging adjustment percentage to a school district that's at \$1, that hasn't made those additional steps at the local level to get all of the skin in the game to be all in? So I want to continue this dialogue. I know we're working within, you know, a fiscal picture, but we can say maybe, you know, maybe if you're at \$1 you don't get the 50 percent, maybe it goes a little bit lower, but if you're at \$1.05 maybe you get a little more. And that's the problem once we get the spreadsheets. There's winners and losers at that point, and obviously that creates political problems for all of us. But we need to continue looking at the sustainability. And also I think this going away from the tiered system in the averaging adjustment is pretty problematic. Thank you, Mr. President. [LB545]

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SENATOR CARLSON: Thank you, Senator Nordquist. Those senators wishing to speak: Senators White, Council, Giese, Gloor, Friend, and others. Senator White, you're recognized. [LB545]

SENATOR WHITE: Thank you, Mr. President. I rise to talk about some numbers and also hopefully engage Senator Wightman in some discussion over where we're at in terms of the constitution and the Supreme Court's interpretation of the law. On the numbers: The numbers we discussed about yesterday were the base numbers on which the averaging adjustment is calculated. Senator Wightman said, well, but we get other money, and I agree, Lexington does get other money. But the base amount of money was correct: four to one, in the worst-case scenario, the biggest gap. When you consider all state funding and spending, Lexington actually remains at the bottom, and the spending differential in some cases is two to one. Now, we need to accept that if it is a statewide obligation and a statewide right to an education, you cannot rationally conclude that a two to one differential is even remotely fair. In addition, that two to one differential exists in situations where Senator Wightman properly pointed out, a district that is at a levy limit of .08 compared to Lexington and Omaha, which are at \$1.05. So, again, what we have is an underlying structure of trying to pay for a statewide right and obligation on our part with local money that results in what Cap Dierks and Senator Karpisek and others have said is in some cases backbreaking burdens on landowners in those areas, in other cases very light burdens on landowners, and students who have huge differentials in available resources for their education. Senator Wightman, would you yield to a question? [LB545]

SENATOR CARLSON: Senator Wightman, would you yield? [LB545]

SENATOR WIGHTMAN: I will. [LB545]

SENATOR WHITE: Senator Wightman, you wanted to engage a dialogue with regard to a May 2007 Nebraska Supreme Court case, the Nebraska Coalition for Educational Equity v. Heineman. Is that correct? [LB545]

SENATOR WIGHTMAN: I'm willing to engage in a dialogue. [LB545]

SENATOR WHITE: Okay. Well, I really wanted to open the mike and let you have a comment. You said you wanted to talk about that. [LB545]

SENATOR WIGHTMAN: Right. I do want to talk about that further. [LB545]

SENATOR WHITE: Proceed. [LB545]

SENATOR WIGHTMAN: Okay. Well, first of all the Supreme Court traced the history of Article VII, Section 1 of the Nebraska Constitution, which sets out what the Legislature's

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duty is with regard to providing education for children 5 through 21 in the state of Nebraska. And in doing so, they discussed various attempts to amend the constitution. They actually started out saying that in 1871 there was language proposed that was not adopted, and I'll just read some of the language in the case to you. Additionally, the framers rejected the language that would have required uniformity between schools. Article...Section 5 of 1871 proposed state constitution would have included a uniformity clause. And to quote what it would have said: The Legislature shall provide by law for the establishment of district schools which shall be as nearly uniform as practical, and such schools shall be free and without charge for tuition to all children between the ages of 5 and 21 years. That constitutional provision was never adopted, however, and instead the much more streamlined provision that says that the Legislature shall provide... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR WIGHTMAN: ...for the education of the students between 5 and 21. And then they discuss a 1972 amendment to the constitution, and that is the current constitutional provision. And again, I'll start this: Finally, in 1996 voters rejected a constitutional amendment that would have imposed qualitative standards on the type of education the Legislature must provide. The amendment would have made a quality education a fundamental right of each person and a thorough and efficient education the paramount duty of the state. Again, I'm not going to be able to finish what I would like to discuss in this case, so I do have my light on and will be back later. I thank you, Senator White. I've used all your time. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator White and Senator Wightman. Senator Council, you are recognized. [LB545]

SENATOR COUNCIL: Yes, thank you, Mr. President. I, too, want to add that I think the debate that occurred yesterday was very essential and very productive. There were a number of questions that were raised and observations made. I first would like to refer to an observation made by Senator Harms. Senator Harms, you're absolutely correct. The issue of equity is a very serious issue. And as a officer of major national associations, of boards of education in the past, I have been knowledgeable of a number of equity lawsuits that have been filed in other states and have been successful. And indeed the lawsuit that Senator Wightman has been referencing addressed that exact same issue. And if the body will recall, the averaging adjustment was a measure implemented by this body in an attempt to address that very issue of equity and arriving at equity. Now, there have been a number of questions raised this morning with regard to the numbers and how they're developed and how they are compared. I would ask Senator Adams if he would yield to a couple of questions. [LB545]

SENATOR CARLSON: Senator Adams, will you yield? [LB545]

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SENATOR ADAMS: Yes I will. [LB545]

SENATOR COUNCIL: Senator Adams, if you can briefly, the formula...one of the foundations for the formula is a calculation of basic funding. Is that correct? [LB545]

SENATOR ADAMS: That's correct. [LB545]

SENATOR COUNCIL: And how is that basic funding actually calculated? [LB545]

SENATOR ADAMS: The basic funding begins, first of all, with your GFOE, your General Fund operating expenditure. And then what we're going to do is take that times the growth limitation rate, which is currently 2.5 percent. But if you remember, as a result of the action we took yesterday, we may end up at 1.5 percent, which is inclusive of the allowances that...like poverty, like LEP. So we have grown those also by whatever that growth limitation rate is. All right. Now, the next thing we're going to do is...once we have that number, we're then going to subtract back out any allowances that the school district had, subtract back out the poverty, subtract back out the LEP, and we come up with what we call the adjusted General Fund operating expenditure. Now, once we have that for an individual school district, that becomes their basic funding. However, in LB988--I hope I'm not taking too much of your time. [LB545]

SENATOR COUNCIL: Please. [LB545]

SENATOR ADAMS: However, in LB988 the next step we take is to take school districts and put them into an array, five schools bigger, five schools smaller in student population but very close to one another, and we're going to compare all of their adjusted General Fund operating expenditures. We're going to throw the highest one out and we're going to kick the lowest one out. And then we're going to find the average, the average of the array of the adjusted General Fund operating expenditures, and that becomes basic funding. [LB545]

SENATOR COUNCIL: Now, correct me if I'm wrong because I did some research and some study over the weekend and again last evening, in making that determination and in developing the arrays, there are different arrays depending upon the number of students in the district. Am I... [LB545]

SENATOR ADAMS: That is correct. [LB545]

SENATOR COUNCIL: So it's my understanding, Senator, and correct me if I'm wrong, that if a school district has less than 500 formula students, then basic funding is the average of the... [LB545]

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SENATOR CARLSON: One minute. [LB545]

SENATOR COUNCIL: ...adjusted GFOE for each district in the array. [LB545]

SENATOR ADAMS: Nine-hundred is the cut off number. [LB545]

SENATOR COUNCIL: Okay. So if it's less than 900, the average is based upon the adjusted GOFE for each district. [LB545]

SENATOR ADAMS: That's correct, rather than a per student. [LB545]

SENATOR COUNCIL: Okay. Now, but if you're over 900, it's based on a per student application. [LB545]

SENATOR ADAMS: That's correct. [LB545]

SENATOR COUNCIL: So inherent in the formula is already a method for treating larger schools and smaller schools in an attempt to place them in the most equitable position. [LB545]

SENATOR ADAMS: I wish we had more time that I could explain why we do that, but you're on the right track. [LB545]

SENATOR COUNCIL: Okay. And I guess the point that I'm making is that, as I stated yesterday, I think the better course in terms of... [LB545]

SENATOR CARLSON: Time. [LB545]

SENATOR COUNCIL: ...addressing this issue is to be proportional. [LB545]

SENATOR CARLSON: Thank you, Senator Council and Senator Adams. Senator Giese, you are recognized. [LB545]

SENATOR GIESE: Thank you, Mr. President and members of the body. I rise today in support of LB545, and just want to give a brief synopsis of...as being a member of the Education Committee. It took about two days into the committee to figure out that most of the bills that came before us could have been subtitled "show me the money." If Senator Heidemann would yield to a question. [LB545]

SENATOR CARLSON: Senator Heidemann, will you yield? [LB545]

SENATOR HEIDEMANN: Yes. [LB545]

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SENATOR GIESE: Senator, would you comment on...initially we were told that we had \$100 million in the budget that was going to go for education. Can you tell me maybe where that went and anything about that? [LB545]

SENATOR HEIDEMANN: A little bit by memory here, after...we had initially put in the \$100 million which was what we thought the formula was going to call for. We at that time...later on we found out that there was \$234 million, I believe, was the amount coming in from the stimulus package to help education that we could use to help balance TEEOSA or help with TEEOSA. That \$100 million that we had initially then had in went back into the General Fund. If the question is, you know, what's going to happen to that money, that is actually going to allow us to balance our budget, and that will allow us to not have to make further cuts. If we wouldn't have that \$100 million, we would have to go back from agency to agency to agency to agency and make more cuts, more people would be laid off, more people would be let go, more services wouldn't be had in this state of Nebraska. LB545 and the way it is right now is a very important thing for, I believe, the state of Nebraska to make sure that we have a good responsible balanced budget. [LB545]

SENATOR GIESE: Well, I appreciate that, Senator Heidemann. Thank you for the answer. As the revenue forecast declined and we were told that we didn't have \$100 million, we were forced to make a decision. The Education Committee was then told we had \$234 million in stimulus money, but we should give the \$100 million back that we never really had. I voted to keep the \$100 million, which would have sent a message to the Appropriations Committee that they had to find the money. That was voted down. We gave the money back that we never had. Now, what we have before us today is LB545. I believe Senator Adams should be commended for all the work he has done in trying to reach a solution to a problem that was created by LB988. The Education Committee has presented a bill that is fair and equitable and it slows down the growth of our enormous educational budget. LB988 and the things that it has accomplished is historic. Was it perfect? Probably not, but time will tell. We are faced with a question of whether we fund it fully or slow down the growth. If we choose to fully fund it and let it grow, the only thing left to say is show me the money. Thank you. [LB545]

SENATOR CARLSON: Thank you, Senator Giese. Senators still wishing to speak: Senators Gloor, Friend, Heidemann, Ashford, Lautenbaugh, Wightman, and others. Senator Gloor, you are recognized. [LB545]

SENATOR GLOOR: Thank you, Mr. President, members of the body. I also was reflecting on the discussion debate yesterday, and I had a flashback to something that I heard over the weekend that I would like to paraphrase. And that comment that I'd heard was that if we were to take all of our problems as a state and throw them on a pile with all the other states, we'd want our problems back. I mean, we put this in perspective of what we have to deal with as relates to a host of issues, including

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education. Were we to take our educational issues and throw them up on a pile with all the other states dealing with educational issues across the country, we'd want our problem back instantaneously, I believe. I say that by way of making sure we put this in perspective, by way of making sure that we continue to be appreciative of the work of the Education Committee under Senator Adams' leadership. Good discussion. This problem compared to what we could be dealing with ought to be one we can get our arms around. There was a challenge yesterday to make sure we take a statewide statesman approach towards this. I'm sure some of that related to my specific references to the Grand Island School District, the only district within my particular legislative district, but I had to do that. I had to do that because I know that district and I know some of the issues in that district because, as I related, I have family that are within that district as educators and friends as educators and leaders within that district. And because of that I know, not just within the Grand Island District but within other districts, dozens of other districts, that there are challenges related to the averaging adjustment that relate to education directly, contrary to the rationale given for extracting that or making that an exception to the rule. It does affect the education of our children. It does affect the learning environment of our children. That's my concern. That's the reason that I related the specific for instances within that district. I know that that averaging adjustment affects that learning community. Do we penalize districts with low property values? Communities, school districts that have high needs through no fault of their own--demographics, economic downturns, high needs--do we not reward them for making sure they're up against the \$1.05? Much effort, I know, went into the development of this formula. And I have to believe those senators several years ago who were involved in this understood all those reasons, and that's the reason the averaging adjustment was in there. Leave it alone. Let it work. It's hardly wet behind the ears. And if we have to make adjustments we need to do so, using a term that's come up multiple times the past two days, with a degree of proportionality. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Gloor. Senator Friend, you are recognized. I don't see Senator Friend. Senator Heidemann, you are recognized. [LB545]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. I want to rise in support of LB545. I want to rise in support of AM1119. I want to rise in support of the AM1078 to AM1119. Financially, we've had some tough decisions to make in this state over the last three months. And I want to commend Senator Adams, I want to commend the Education Committee for helping being part of the solution, and to make sure when we get to the end of this session, we might not like everything that we've had to do, but we can look back and be proud of what we have accomplished and by being what I call responsible. I think that what they have proposed is very responsible. And I would...it seems like a lot of our discussion today is on the averaging adjustment and whether we need to probably tweak with it or not. I listened to Senator Gloor just a second ago and I was wondering if Senator Adams would answer to a few questions.

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[LB545]

SENATOR CARLSON: Senator Adams, will you yield? [LB545]

SENATOR ADAMS: Yes, I will. [LB545]

SENATOR HEIDEMANN: Have you ever...I just thought about this. Have you ever bought a new car or heard of somebody that bought a new car, brand new, and they drove it a little bit and there was something that was wrong and had to go back in for warranty work? [LB545]

SENATOR ADAMS: (Laugh) Yes. [LB545]

SENATOR HEIDEMANN: And really what...I believe what we're doing here with the averaging adjustment is not a major overhaul. There was just something that was a little bit wrong I think that we need to go back and correct. And I'm not one for going back in and changing things time after time again, but even if we wouldn't have got into somewhat of revenue problems in the state of Nebraska, would you have looked at the averaging adjustment because of how it was playing out? [LB545]

SENATOR ADAMS: You raised a good question, Senator. I think we have an obligation in the Education Committee, in addition to all that other things from early childhood education and on and on that we look at, to constantly be looking at TEEOSA, not only from a revenue perspective but from a needs perspective. Are we addressing properly the needs of the school districts in the state and the growth of TEEOSA? So quite candidly, and I'm speaking only for myself now, not for the rest of the committee, but sustainability of aid is important to me so that we don't have to constantly be doing this battle so the school districts are not riding a roller coaster anymore than they absolutely have to, so looking at sustainability, which would have drawn me to the averaging adjustment, yes. [LB545]

SENATOR HEIDEMANN: What's the cost of AM1078 to AM1119? Can you tell me that? [LB545]

SENATOR ADAMS: Could you ask me the question one more time, Senator? I've got some numbers here, but. [LB545]

SENATOR HEIDEMANN: What the amendment is going to cost, AM1078 to AM1119? [LB545]

SENATOR ADAMS: \$11 million. [LB545]

SENATOR HEIDEMANN: And you brought out AM1119 out of committee thinking this is

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what we had to do to the averaging adjustment, but now you are supporting AM1078. Why are you doing that? [LB545]

SENATOR ADAMS: Well, the committee amendment, AM1119, when it came out we were trying to make the \$234 million fit. And all along I have been trying to address the needs and listening to these schools that get the averaging adjustment and trying to strike a deal with them and ease their pain. And also maintain a promise, Senator, that I would not change LB988 substantively. And originally in LB545 we eliminated the averaging adjustment. Then in AM1119 we don't eliminated it, but we can press it to the point where it's virtually eliminated. And what I'm trying to do in AM1078... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR ADAMS: ...is to recognize that there may be a place for it, but it's got to be modified so that it's sustainable. [LB545]

SENATOR HEIDEMANN: So you've compromised and then you've compromised again to make this work? Is that...? [LB545]

SENATOR ADAMS: Yes, sir. [LB545]

SENATOR HEIDEMANN: When I look around this country and I look what other states are having to do to their universities and to providers and to their schools, I've actually heard of states actually cutting state aid to education. And over the next two years, this state will increase state aid to education approximately \$234 million. Now, if that isn't something that we can't stand behind of and be proud of, I don't know. I want to leave you with this thought. I talked to Senator Adams in the hallway, and I don't know if he remembers this conversation and I'm paraphrasing a little bit, but he said at the end of this discussion when we pass LB545, I want to make sure that we do the right thing. [LB545]

SENATOR CARLSON: Time. [LB545]

SENATOR HEIDEMANN: And I'm convinced that the Education Committee and Senator Adams are headed down that direction. Thank you. [LB545]

SENATOR CARLSON: Thank you, Senator Heidemann and Senator Adams. Senator Ashford, you are recognized. [LB545]

SENATOR ASHFORD: Thank you, Mr. President and members. I think Senator Heidemann is right. I think we are headed in the right direction; we're not there yet. We're not at home. We're not there. And it's going to take us some time today and tomorrow to get to where we need to be. The Education Committee did the right thing.

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We took what we had and we fit it into a budget number that we were given by the Appropriations Committee. And that's to a great extent all we can really do. I mean, we do education policy and Appropriations does spending policy. So we're where we need to be at this particular point in time this second. But we aren't where we need to be in education policy, and I think we need to address those issues today and tomorrow. I'm not sure of the answer. Yesterday I talked about the cost to the state of all the sales tax exemptions, and they are billions of dollars. It's an attractive thing to do to give every group that wants one a sales tax exemption to the point where we don't have a sales tax left. And I support closing those loopholes and I wish we could do that, but we're not going to probably do that. There is not a proposal from Revenue on that and taking a look realistically at sales tax exemptions does take a long view, and the Revenue Committee is well suited to do that. But we're not quite there on education policy yet. If we had the ability to create education policy with that other \$100 million that we had, I think we would have kept the averaging adjustment where it was. From LB988 we already did amend the averaging adjustment down from counting 100 percent of the students down to 75 percent of the students, so we made an adjustment in LB988. LB988 took a lot of work. And for the most part, LB988 is intact. But with this amendment we've made a step forward, but we still have significant issues with the 26 school districts that relied on the averaging adjustment in LB988. It is a hit. The question we have to ask ourselves, is it too big a hit? Is it something that makes sense over time? We have to look at all the ideas. Senator Council has an idea and an amendment we have to think about and weigh and discuss, and it's going to take some time. Because when we look back at what we did, especially on General File, if we look back a month and a half from now at what we did and we still have questions and doubts, then we haven't done our job. We may have a few doubts, but I think we have a long way yet to go to meet the goal of education policy that Senator Gloor talks about. Senator Friend has some thoughts about a new approach, and I'm going to give him the rest of my time, if he so desires. [LB545]

SENATOR CARLSON: Senator Friend, a minute, 50 seconds. [LB545]

SENATOR FRIEND: Thank you, Mr. President. Thank you, Senator Ashford and members of the Legislature. Sorry I missed my opportunity earlier. This calculation...the averaging adjustment was set up and we've all established that it's a calculation to help districts that spend less per student and are hindered by property tax limitations. Well, then it begs the question right now, why did we even set it up? If we think in different terms when we talk about aid stabilization for a second, I mean, one of the concerns...and I was talking to...I don't mean to hang Senator Fischer out. She was actually quite helpful off the record. One of the things that occurred to me in my conversation with her is one of the things we worry about is aid stabilization. The cuts that's... [LB545]

SENATOR CARLSON: One minute. [LB545]

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SENATOR FRIEND: ...some of the rural districts are going to end up taking...I mean, I can't tell you enough that this isn't about me being provincial. And I think this could be testament to that. We have an aid stabilization with levels that go from 2.5 to 5. If you're losing population, if you're losing resources, you lose money and you lose it to the degree of 2.5 percent to 5 percent the year after that. Why not change it to 3.5 in the middle? What about basic funding? Why can't we take a proportional change to...why can't we make a proportional change to basic funding that would go from 100 percent to, I don't know, 98.5 percent? There are ways to approach this. Senator, there are people out here that voted against averaging adjustment. [LB545]

SENATOR CARLSON: Time. [LB545]

SENATOR FRIEND: Now I know why. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Friend and Senator Ashford. Mr. Clerk for an announcement. [LB545]

CLERK: Mr. President, the Committee on Judiciary, chaired by Senator Ashford, reports LB76 to General File with amendments. And Revenue Committee will have an Executive Session at 10:00 in 2022; Revenue, 10:00, 2022. [LB545 LB76]

SENATOR CARLSON: Thank you, Mr. Clerk. We return to discussion on AM1078. Senator Lautenbaugh, you are recognized. I don't see Senator Lautenbaugh. Senator Wightman, you're recognized. [LB545]

SENATOR WIGHTMAN: Thank you, Mr. President. I want to continue on with a little more of a review of the language in the case of the Nebraska Coalition for Educational Equity and Adequacy (Coalition) v. Governor Heineman. I was discussing that there had been a 1972 amendment to the constitutional provision providing that the Legislature shall provide for the education of all students between the ages of 5 and 21. And I was discussing finally the voters in 1996 considered a proposed constitutional amendment that would have imposed qualitative standards on the type of education the Legislature must provide. That court then goes on to say the amendment would have made a "quality education" a fundamental constitutional right of each person and a thorough and efficient education the paramount duty of the state. Going on, the court says this constitutional history shows that the framers of the 1875 Constitution intentionally omitted any language from the preinstruction clause that would have placed restrictions on qualitative standards on the Legislature's duties...restrictions or qualitative standards on the Legislature's duties regarding education. Nor has the coalition, and they're referring to this case in particular, pointed to any history showing the framers intended the state to make up for funding shortages in individual school districts. We interpret the paucity of standards in the free instruction clause as the framers' intent to commit the

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determination of adequate school funding solely to the Legislature's discretion, greater resources, and expertise. The court goes on to say any judicial standard effectively imposing constitutional requirements for education would be subjective and unreviewable policymaking by this court. In other words, the court couldn't preempt the constitutional provision leaving that to the Legislature's...and leaving that as a legislative function. Court also made this statement: Fiscal policy issues are the very decisions that have been left to the Legislature by the Nebraska Constitution. We could not hold that the Legislature's expenditures were inadequate without invading the legislative branch's exclusive realm of authority. So I think the court makes it very clear that this duty to determine exactly how we educate the children from ages 5 to 21 is the duty of the Legislature, is a function of the Legislature. And the judicial branch should step very lightly in anything that would impose any restrictions on that authority granted to the Legislature. Finally in conclusion, the court says the Nebraska Constitution commits the issue of providing free instruction to the Legislature and failed to provide judicially discernible and manageable standards for determining what level of public education the Legislature must provide. This court should not make that determination without deciding matters of educational policy in disregard of the policy and fiscal choices that the Legislature has already made nor could we impose a constitutional standard or a "quality" education without ignoring the people's clear rejection of that standard in 1996. I would contend that the Legislature, through the Education Committee, has made those choices subject to this body's changing it, that that is something that will be looked at very sparingly by... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR WIGHTMAN: ...the judicial system of our government, that it is specifically left to the Legislature. And that isn't to say that the Legislature couldn't overstep its authority, but I don't think there's really any significant thought that we have done that at this point, that we've overstepped our authority. Again, I do not have the figures yet from Lexington as far as the current state expenditures and still want to get some additional figures for you. But with that, thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Wightman. (Visitors introduced.) Senators still wishing to speak include: Senators White, Hadley, Lathrop, Howard, Council, Stuthman, and others. Senator White, you are recognized. [LB545]

SENATOR WHITE: Thank you, Mr. President. Unfortunately, I must disagree with Senator Wightman. I think he has read a different case than the one the Supreme Court wrote. What the Supreme Court said in that case is it is the prerogative of the Legislature, the Legislature's duty to determine how much money shall be available to provide for an education in the common schools area. They also said the Legislature has a lot of discretion on the sources for that money. What they did not say and what is the big risk that we've been talking about is what happens if the Legislature cuts it up in

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unequal portions? Imagine a pie in a family. The Supreme Court has said we can't make the Legislature make that pie any bigger than it is. It's what it is and what the Legislature says. And we can't tell you where they're going to buy the pie from. But what they never said is what happens if the Legislature starts cutting it up so some kids in the family get big pieces and other kids get little slivers. That's equal protection, and the Supreme Court never, never said that they backed off of that. What they said is we need to have a justiciable issue. That means something judge can decide with a standard. Well, we've got a problem, folks. Some of our kids are getting double the amount of state aid from other kids under the more favorable number Senator Adams gave us. Under the basic funding and the adjusted funding, the funding we're talking about now, some kids are getting four times as much money. That's equal protection. That case didn't touch that. That remains out there especially, especially since the states or the school districts that are so hard hit, the hardest hit school districts have large minorities in them, large proportions of minorities--Lexington, Grand Island, Omaha. Now you've got not only unequal cutting of the pie, the kid with the little pieces are Hispanic and African American and other minorities. You have a constitutional crisis and nothing in that case should give anybody any comfort because they were only talking about how big the pie is and where the pie came from. They didn't say a darn thing about how you split it up, and that's a whole different lawsuit. Now, I want to talk to you about why this is so critical at this juncture. This adjustment formula was put in place for the very reason I'm standing up here and talking to you now. Because there was an unconstitutional, unequal division of basic funding. And this was the Legislature's effort to move us responsibly towards equal funding for all students across the state, and it is this that we're actually taking out. It is the very thing that is to move us to equal protection of the law that we are cutting, and it is a very wrong thing to cut. I don't dispute that we may not be able to give funding for everything we want. I do not dispute that. But I will tell you that it is completely wrong constitutionally, morally, educationally for us to say we are going to perpetuate a system of inequality division of the available pie. That's completely wrong and it should not occur. And I want folks to understand, please listen carefully, what these cuts mean for different districts over time. And I think you should not only look to next year and two years out, but look at three years out. And I'm going to read some of the impact. Alliance Public Schools, if it was fully funded, they'd get \$441,527. The estimated loss at the first year if this passes to Alliance, \$109,000;... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR WHITE: ...year two, \$275,950; year three, take the first number, \$441,527, and cut it in half. Beatrice Public Schools, the first year they'll lose \$219,913 of what they should get to move toward equal opportunity for all students; year two, \$554,436. And it will get worse. Blair, \$279,232 in loss the first year; year two, \$683,022. And this again is moving inequality of the size of the pie. We are not talking about needing more money or less money. Senator Wightman knows the Supreme Court said they won't

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make us make the pie bigger, they can't make us make the pie bigger, but they darn sure... [LB545]

SENATOR CARLSON: Time. [LB545]

SENATOR WHITE: ...can make us cut it fairly. [LB545]

SENATOR CARLSON: Thank you, Senator White. Senator Hadley, you're recognized. [LB545]

SENATOR HADLEY: Mr. President, members of the body, Senator Heidemann asked about states that were cutting. I did do a little research on that. Right now there are 27 states in the United States that are cutting aid to K through 12 education. And we're sitting here arguing about how we're going to divide up the 10 percent increase. I'll bet there isn't a state in the Union right now that wouldn't trade places with us with that kind of increase. I want to make a couple of comments. Someone talked about last year that we should let the formula work and let it work out. I got a hunch that probably somebody sitting around the table at General Motors a few years ago said, let's let our pension formula work out, let's see how it all works out, let's let our marketing plan work out. Look where they're at today. If something isn't working the way it should, let's take a look at it. I am primarily concerned about an unsustainable growth in state aid to education. We've seen that. I don't think there's anybody here that doesn't say that we can't continually do this. We have to find a solution to the problem. Maybe this isn't the best one, but we're under the gun now. We've got to balance a budget come June 5. Can I ask Senator Adams...would he yield to a question? [LB545]

SENATOR CARLSON: Senator Adams, would you yield? [LB545]

SENATOR ADAMS: Yes, I will. [LB545]

SENATOR HADLEY: Senator Adams, when I talked to the people back at home and I talked to neighbors who have been laid off, I talked to businesses who would just love to have their budget be the same, their revenues the same as last year or the people whose hours have been cut back, for a simple person like myself, basically where is the 10 percent increase going to go that we're going to give to the school districts? Can you simply answer that for someone who kind of wants to understand? [LB545]

SENATOR ADAMS: Well, I mean it's difficult to answer because we have 254 different school districts with 254 different demographics and access to allowances and adjustments, but, you know, we're on the subject of averaging adjustment, a good portion of the increase goes to the averaging adjustment. [LB545]

SENATOR HADLEY: Thank you, Senator Adams. And, again, I think what Senator

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Adams is saying, we're not talking about a decrease here, we're arguing about my increase isn't as much as I would like it to be. Well, I think we have a lot of citizens in Nebraska that are in that same situation. Their job isn't the way they'd like it to be right now. Their salary may not be the way they'd like it to be now. I do understand what Senator White is saying. I think we need to be cognizant of this, but I think we also have to come up with a solution that fits at the present time. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Hadley and Senator Adams. Senator Lathrop, you're recognized. [LB545]

SENATOR LATHROP: Thank you, Mr. President. I would yield my time to Senator White. [LB545]

SENATOR CARLSON: Senator White, 4 minutes and 50 seconds. [LB545]

SENATOR WHITE: Thank you, Mr. President. Thank you for that courtesy, Senator Lathrop. Let me move on, okay, and let me explain. Senator Hadley, I deeply appreciate the fact we are talking about a budget crisis. I do understand that we have limitations. But, again, to me the focus should be on that's the size of the pie. But if we're serious about our constitutional obligations, the size of the pieces of the pie ought to be equal as we can reasonably make them, taking into account some special needs. Obviously, a child with learning disabilities will take more money. A child with second language problems will take more money. But to have a disparity in funding under the adjusted numbers of two to one, under the numbers that should be the debate here of up to four to one, that's not reasonable and nor did the Supreme Court ever bless that kind of a division. And that's why this bill existed, and that's why this funding formula existed. Now, I would like to point out something else that's changed since that Supreme Court Opinion. The Supreme Court in the Republican River case said...it was a landmark change. They said we can no longer look to local property taxes to solve a statewide problem. That's new business, folks. Now, did they mean that? Does it cross over to education? I don't know, but it sure could by the internal logic of it. It certainly could. And I will bet you it certainly will if we allow gross disparities in resources to educate the kids. We're talking again, are we cutting the pie fairly, not the size of the pie. Now, I want some people to understand what this means by cutting the funding of this. Bellevue, Bellevue Public Schools will lose \$1,184,907 first year. They'll lose \$2,901,765 the second year. That's a property tax increase, folks. That means we're not doing our job from the General Fund to alleviate property tax. Nobody should kid themselves, no free lunch. We don't find the money here, they got to find it on the backs of the homeowners. And that's not right to say we're being fiscally responsible--wink, wink--go break the back of your neighborhoods with property taxes--completely inappropriate. And what I would tell you is one of the reasons we talk about uncontrolled student growth, we're 48 in the country. We could have "uncontrolled growth" for a

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decade and not even get to the midpoint among states. So I would submit to you that we better look at ourselves and really what we've done. We have balanced our budgets on the back of property owners and at the expense of a lot of our children. That has got to end and it will end. It will either end because we stand up and do the right thing or it'll end because a court orders us to. And that is not a good solution for any school system or any state. Let's look at Crete Public Schools. Crete loses \$112,000 the first year and \$285,000 the second year. Elkhorn, \$519,000 the first year, \$1,266,000 the next year. Fremont, \$359,804 the first year, \$880,000 the next year. Grand Island, \$489,586 the first year, \$1,194,588 the next year. [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR WHITE: Again, Grand Island, chock-full of minorities, chock-full of English as a second language students, up against the levy limit, doing everything they can, and they're falling further behind on the per capita money available to educate students, not closer. And their property owners there are taking it in the neck. Why? Because we don't have the political will to cut the pie in fair pieces. I would like and I will intend to continue to get up and read more of these. I may have room for one more. Gretna, Gretna loses \$393,717 the first year, \$967,063 the next year. Hastings, \$407,248 first year, \$996,811 the following year. Once again folks, that money will come from property taxes. You're not saving money here, you're transferring obligations. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator White. Senator Howard, you're recognized. [LB545]

SENATOR HOWARD: Thank you, Mr. President and members of the body. By agreeing to the average adjustment in its present form we are turning our backs on those students who come into the school system with the greatest need, those students who, without the opportunity to move forward, will finance their lives in the best way they know how. I can't help but issue a caution to Senator Avery and I'm sorry he's not here right now. But it really is to no one's advantage to compare education expenditures to the appropriations for Health and Human Services. Health and Human Services has long been underfunded and is a poorly neglected property waiting for the roof to fall in. The Beatrice issue is a perfect example of this. The neglect didn't happen overnight but through decades of underfunding and ignoring. Do we want a school system comparable to this? I would, and I think all of you would, prefer to raise the bar for education in Nebraska, not to lower it. I have a school in my district, Jackson Elementary School, that failed to reach the statewide benchmark in testing for reading, this school predominantly of students who are speaking English as their second language. To give these students the opportunity to reach the established standards, the staff is coming in on Saturday mornings to teach. I volunteered my time on Saturday morning to tutor these students and to help the teachers to help these children. These

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are students who otherwise wouldn't have the chance to learn and succeed. And with this funding cut, this program will be gone. We can't afford to lose any of these students. We have to support these teachers who are working so hard and giving so much for these pupils. We can and we should do this. We can't be in every classroom, but we can provide the funding to have an adequate number of teachers in these classrooms. I received numerous e-mails on this issue and I'm sure you have too. And I want to share just a small part of one e-mail with you. To support legislation that unequally distributes funds is to say that we are not really concerned about those in our society who can't take care of themselves. This is not only immoral, but shortsighted. The long-term impact this has on society is told only through countless lost lives. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Howard. Senator Council, you are recognized. [LB545]

SENATOR COUNCIL: Yes, thank you, Mr. President. Again, we've been debating the issue of what is the best way to address the funding of education in the state of Nebraska. And I still maintain that the issue that we must have ever-present in our minds is fairness and equity. And before I say this, I wanted to be clear that I respect and appreciate the hard work of the Education Committee. I don't envy them at all for the tasks that was laid before them, and I think they worked hard at trying to arrive at the best way to address this issue. But with all due respect to my colleague, Senator Giese, review of LB545 on its face is not fair and equitable. It's difficult for me to rationalize that in the context of 26 out of 254 school districts bearing the brunt of the necessary reductions to enable us to utilize the stabilization. To me that's not fair and equitable. And when we look at how can we make it fair and equitable, I think we can get closer to fairness and equity by addressing this issue on some proportional basis. And I recognize that during the briefing--and I thank Senator Adams for providing the briefing last week--I posed the question about spreading this burden, this pain proportionally across all of the districts, and there was some concern about the effect on small school districts. And Senator Friend referred to the aid stabilization. Well, there's also a question with regard to needs stabilization. And I would ask Senator Adams if he would yield to a couple of questions. [LB545]

SENATOR CARLSON: Senator Adams, would you yield? [LB545]

SENATOR ADAMS: Yes, I will. [LB545]

SENATOR COUNCIL: It is my understanding, Senator Adams, that as a part of the formula there are two stabilizations that are taken into consideration. One is needs stabilization and the other is aid stabilization. Is that correct? [LB545]

SENATOR ADAMS: That is correct. [LB545]

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SENATOR COUNCIL: Okay. And in terms of needs stabilization, if after the calculation of the general operating fund expenditures, after the adjustments, after the allowances, that if a school district's needs, as determined by the formula, is less than 100 percent of their previous formula year needs, they receive their previous year's formula needs. [LB545]

SENATOR ADAMS: That's correct. We tried to stabilize when we moved to LB988. [LB545]

SENATOR COUNCIL: Okay. Now, it's my understanding that under LB545 and the Education Committee's amendment, AM1119, there is no adjustment to the needs stabilization. [LB545]

SENATOR ADAMS: We have not changed that. [LB545]

SENATOR COUNCIL: Okay. So there is protection built into the formula for school districts, many of whom are the smaller school districts who are losing enrollment, other factors that come into play that make their formula needs under this year's calculation... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR COUNCIL: ...less than last year's calculation, there is a provision in the formula to stabilize that. [LB545]

SENATOR ADAMS: There is and it's not just for small schools. There are some larger ones that take advantage of that as well. [LB545]

SENATOR COUNCIL: And as well for the aid stabilization, there is a percentage on the aid stabilization below which, regardless of what the calculations say, those school districts will not fall below. [LB545]

SENATOR ADAMS: That goes away after this year. [LB545]

SENATOR COUNCIL: Okay. Well, the point of asking those questions is that just as we've make a commitment to school districts who may have experienced changes in their operation that have altered their formula needs, just as we have addressed that issue by maintaining it, I submit we need to maintain the averaging adjustment on the other end of the spectrum for those school districts who, despite the best efforts in terms of generating as much as they can from their levy,... [LB545]

SENATOR CARLSON: Time. [LB545]

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SENATOR COUNCIL: ...have not met the average cost per student. [LB545]

SENATOR CARLSON: Thank you, Senator Council and Senator Adams. Senator Stuthman, you're recognized. [LB545]

SENATOR STUTHMAN: Question. [LB545]

SENATOR CARLSON: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to vote? Record, Mr. Clerk. [LB545]

CLERK: 16 ayes, 17 nays to cease debate, Mr. President. [LB545]

SENATOR CARLSON: Debate does not cease. The next speaker is Senator Giese, and those wishing to speak: Dubas, Gloor, Mello, Friend, and others. Senator Giese, you are recognized. [LB545]

SENATOR GIESE: Thank you, Mr. President, members of the body. Just to reiterate, the Education Committee was concerned at day one that we were under a budget crisis. And I certainly appreciate Senator White's comments. And want to comment myself to Senator Council that I do not...although I voted for LB545, I do not feel that it is the end-all solution to the problem that we have. There is constant work going on right now to make it easier for us to go forward with our education budget. We worked on this process for two months in committee, and this is where we're at today. And if Senator White would like, I would yield the rest of my time to Senator White. [LB545]

SENATOR CARLSON: Senator White, 4 minutes. [LB545]

SENATOR WHITE: Thank you for that courtesy, Senator Giese. Members of the body, we do need a solution. What the Education Committee struggled with was substantial. What I would propose and Senator Council is preparing to offer are amendments that more fairly spread the pain across all students. And I would like to point out, I have not even gone halfway through the list yet. But as you heard those different school districts, we're talking about kids from the farm, we're talking about kids in Lexington, we're talking kids in Omaha. It's going across the board. More importantly, we're looking at fundamentally unfair way we finance those kids' education. Not only do they not get equal amounts, in some areas of the state we're breaking the back of landowners. I mean, we don't split the proceeds of the tax money fairly among the children and we don't tax people fairly who are paying it. Why should a rancher or a farmer in one school district have to pay \$1.05 levy limit on their property, but a rancher and a farmer across the road might pay 75 cents? It's unequal in distribution, it's unequal in commitment. And that's because it's been politically easy for us to just say those are local problems.

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And the amendment as drafted reverses a long commitment inside of this body to move us away from that, to move us toward a system where at least in terms of the proceeds the students will have a closer approximation of similar resources. Will it be perfect? Absolutely not. But will it be better than this? Yes, we can do better than this with available money. With available money we can more fairly divide it, and we can more fairly divide the burden on the landowners who are educating children. And that all comes back to the very first thing I read, which was the constitution. It's a state obligation, folks. They're all our children. It's a statewide obligation. We cannot allow one group of kids to get the best possible education and another kid to get a substandard education because we don't have the political will to fairly distribute the resources. We cannot drive one farmer out of business because he has to pay a backbreaking tax levy when his neighbor in the next county pays literally two-thirds of the obligation he does. We cannot tolerate this anymore. And that has to start now. And so I know there are and I'm assured there are amendments coming immediately. [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR WHITE: And I thank you for allowing me to come forward. Senator Council will have some amendments to talk about that we think more fairly divides the pain. And then I will love to hear other people's observations. But remember, what we're talking about here is how do we fairly cut a pie? Everybody knows it's not as big as we want or as big as it should be. But, boy, we can cut it fairly and that's what we need to do. Thank you. [LB545]

SENATOR CARLSON: Thank you, Senator Giese and Senator White. Senator Dubas, you are recognized. [LB545]

SENATOR DUBAS: Thank you, Mr. President. Good morning, members of the body. It is very, very important that we have this debate and that this debate is a long and thoughtful and considerate debate. Next to the budget, it is in my mind among the most important things that we will discuss in this Legislature and make a decision about. And it impacts every child from Omaha to Scottsbluff and every place in between. We need to continue to talk about a sustainable formula and what does that mean, and how can we get there. In the past we had foundation aid. That didn't work. We moved towards this type of a formula where we brought different types of adjustments in. We were looking to create a fair and equitable way to educate all the children in the state. But unfortunately, fairness is in the eye of the beholder. We are diverse in size and in challenges to educate our children. But a solid K-12 education for all children goes a long way to address many other concerns that we have spent time talking about on the floor of this Legislature, issues that cost the state money, money that would be much better spent to educate our children. A good education is a great prevention tool. We are required constitutionally to fund K-12 education, but each year we find that more

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challenging and less economically sustainable. Senator Pahls did us all a great favor by opening up a much needed conversation about our tax system. If you keep doing the same things, you'll keep getting the same results. If we are truly serious about tax relief then that means we have to do something different. That means we have to step outside the box and look at different ways of taxing and spending our money also. I'm very happy that the Revenue Committee will be looking at this very critical issue with the intent to find solutions, but school funding must be a part of that tax change discussion. Schools are extremely important to the viability of our rural communities. As we work hard to attract families and businesses to our areas, schools are among the first thing that people look at. I'm proud of the schools in my district. Their students graduate and go on to do quite well, whether it's in furthering their education or stepping into the job world. My districts, as well as most other districts across the state, know how to stretch a dollar while not compromising the education of their students. There is no question that financial resources are a premium. Property taxes definitely put an extreme burden on our citizens. And that is why this discussion must be about so much more than just whether we keep or eliminate averaging adjustment. It needs to be how do we educate all of the children of the state where they live and how do we do it fairly? If Senator White is available, I would like to ask him a question, if he would yield. [LB545]

SENATOR CARLSON: Senator White? [LB545]

SENATOR WHITE: Yes. [LB545]

SENATOR CARLSON: Would you yield? [LB545]

SENATOR WHITE: Yes. Yes, sir. [LB545]

SENATOR DUBAS: Thank you, Senator White. I appreciate what you brought into this debate and the recognition that we know what size the pie is, now how do we cut that pie up? [LB545]

SENATOR WHITE: Right. [LB545]

SENATOR DUBAS: And you frequently referenced fairness and equity, and I believe that Senator Council may be working on some amendments. But help me understand, does equity mean dollar-for-dollar equity? How do we define fairness and equity? [LB545]

SENATOR WHITE: Well, and that's who we are, you know, is that's what this is about, and that's why the debate is important. I expect to learn, Senator Dubas, in this debate what that means. Okay. But I can tell you what it doesn't mean. It doesn't mean on the basic funding, which is this, which doesn't take into account... [LB545]

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SENATOR CARLSON: One minute. [LB545]

SENATOR WHITE: ...poverty or English as a second language, that you have huge disparities in the amount of state money going in their basic funding to district to district, especially to districts that are up against the levy limit, can't do anything more, and their kids are still getting a lot less on basic funding than others. That's not equity to me. So that's a major concern. [LB545]

SENATOR DUBAS: I appreciate those comments and it is very important that we continue with this debate. As I said, it is among the most important things that we will decide in this legislative body and it deserves our very serious consideration. Thank you. [LB545]

SENATOR CARLSON: Thank you, Senator Dubas and Senator White. Those still wishing to speak: Senators Gloor, Mello, Friend, Harms, Wightman, Nordquist, and others. Senator Gloor, you are recognized. [LB545]

SENATOR GLOOR: Thank you, Mr. President. I'm sure I speak for the remainder, the rest of the body when I say that the amount of respect and trust that I have in Senator Heidemann is such that I would have no hesitancy buying a new or used car from him, but I'm not buying his analogy or metaphor. I get those two confused. I need to get a dictionary in front of me. I'm going to toss another one out there, since we got into the car business all of a sudden. I am reminded of the friend I had in high school who was always under the hood of his car tweaking to squeeze a little more miles per hour out of a car. And you wanted to tell him, look, it's a 12-year-old Chevy Bel Air with a straight line 6; it isn't going to make any difference how much you tweak with it, it is what it is; leave it alone (laugh); let it work. What it was designed to do was get you from point A to point B and not very fast, and maybe with a fairly decent level of fuel economy. This isn't a new car we're working with. The formula that we have, we have put together. It has been designed to do something specific. And tweaking with it isn't going to make it into a 409 GTO with glass packs and a Hurst shifter. It is what it is. Put the hood down. Stop tweaking with it. Deal with a level of proportionality here, and let's see where this takes us. Proportionality. Leave it alone. Let it work. With that, I would yield the rest of my time, Mr. President, to Senator Friend. [LB545]

SENATOR CARLSON: Senator Friend, 3 minutes and 20 seconds. [LB545]

SENATOR FRIEND: Thank you, Senator Gloor. Thank you, Mr. President and members of the Legislature. Was in an Executive Session and I saw that the question...somebody tried to call the question and it was almost evenly divided. I thought that was amusing. Starting to wear off. Everybody is starting to really enjoy debate, is that it? We want to continue down, continue down the...down the path? Well, good enough. Staff members for Senator Adams are used to this over the years, so if you're worried about offending

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people, I wouldn't. I mean this is par for the course. That would be my guess, anyway, educated guess. Was talking about when I got an opportunity earlier to talk about...the conversation logically, when it comes to education, starts scattering in all different directions and it does that because that's what it is to all of us, is personal, like we were talking about yesterday. That's what happens. But if we try to...if we try to roll this back into not only averaging adjustment but to the discussion that seems to be going off on to the side and that is, wait a minute, there's X amount of people that are standing up and saying, we don't like the way the averaging adjustment came out. So in other words, we've got the Omaha Public Schools. Senator Friend is being, you know, provincial. Okay, I am. Millard Public Schools, I actually graduated from Millard, they're losing money under the averaging adjustment. I'm being provincial again. I used to live in Nebraska City. I'm being pretty provincial there. They're losing money, too, to the tune of \$70,000. By the way, I spent four years of my life in Grand Island. Boy, \$400,000 and plus in the averaging adjustment that they're losing. I am the most provincial person out on this floor. I don't think there's any question about it. My province right now under these circumstances is the averaging adjustment. And I'm trying to figure out, like I said earlier when I got done, is why do we still have it? I have never lived in a rural community. I wished that I... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR FRIEND: ...in a lot of ways that I could or could have, really rural I mean. I've lived in these small and larger urban communities. And it's my understanding that the averaging adjustment was created, not to be repetitive, was created when we created it last year as a calculation to help set up districts that spend less per pupil. Now according to the averaging adjustment, me being provincial again, OPS stands to lose upwards of...under their understanding of what they were going to receive, based on the averaging adjustment, upwards of around \$6 million. Everybody keeps saying, well, wait a minute, that's just a cut upon increases. Remember what I said, not to them. They're a school district. [LB545]

SENATOR CARLSON: Time. [LB545]

SENATOR FRIEND: Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Friend and Senator Gloor. Senator Mello, you're recognized. [LB545]

SENATOR MELLO: Thank you, Mr. President. Would Senator Heidemann please yield for a question? [LB545]

SENATOR CARLSON: Senator Heidemann, would you yield? [LB545]

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SENATOR HEIDEMANN: Yes, I...(laugh) I don't know what the question was, but... [LB545]

SENATOR MELLO: Senator Heidemann, looking over the TEEOSA state aid estimate that I received from the Fiscal Office, what percentage of an increase are we giving in General Funds to TEEOSA in years '09-10 and '10-11? [LB545]

SENATOR HEIDEMANN: General Funds, I believe they're held fairly flat, I think is probably what you're trying to get after. [LB545]

SENATOR MELLO: About a zero percent increase. [LB545]

SENATOR HEIDEMANN: Probably that's what you're getting after, yes. [LB545]

SENATOR MELLO: Okay. Thank you, Senator Heidemann. Members of the Legislature, I've been listening to the debate yesterday and today and I've been very intrigued by the frame of debate that's being used which is, we have members on the floor who have made comments suggesting that we are giving, we as the Nebraska Legislature, is giving a 10 percent and a 7 percent increase to state aid to education through TEEOSA over the next two years. For the record, the \$234 million that we are putting towards education is federal dollars from the American Recovery and Reinvestment Act. Those are not General Fund dollars that we're receiving. Those funds are going to the school districts regardless. You just heard my colleague, an Appropriations Committee member, Lavon Heidemann, say that we are giving a zero percent increase in General Fund dollars to state aid to education, zero percent increase over the next biennium. I don't think we are being honest with Nebraskans and the taxpayers and with our public education system by trying to say we are giving you a 10 percent and a 7 percent increase, when we know we are not doing that. We are simply passing through federal dollars that school districts were going to get regardless because of federal legislation that was act earlier this year. Part of this debate, I think in my perspective as an Appropriations Committee member, is what happens in year three. I briefly chatted with Senator Adams, and I want to reiterate, I applaud the work that he's done and the committee has done. They've been put in a very precarious situation. Obviously, I would like to see us fully fund the TEEOSA formula. Part of the debate that we have to start talking more about regarding LB545 and some of the amendments, is what happens in year three. We're putting \$234 million of money that will not be here in two years into our formula. And then we will have a formula in two years that has a gaping hole of \$234 million that will not be there. You can look here at the TEEOSA estimate that says in year three we have a 23.4 percent increase in General Funds. I, for one, do not believe this Legislature will fully fund that 23.4 percent and the reason I don't believe that is because we have not done it before. We continually change the state aid to education formula every two years to fit our budget projections and to try to balance our budget instead of fully funding public education the

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way our constitution says we're supposed to. I'm interested in hearing other senators' feedback on this because I know this is not part of the averaging adjustment debate that we're having right now. I think everyone knows that obviously I don't support the averaging adjustment or of cutting it. I think Senator Nordquist and Adams had a very good dialogue this morning regarding maybe we can look to ways to tweak it to have more of the tiered system again. But the argument I would like the body to start to consider is the bigger argument, which is we are not giving any more money... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR MELLO: ...in General Funds to public education over the next two years. We are instead using one-time dollars to prop up an aid formula that we know in two years has an enormous cliff. I've said it before and I'll say it again, that is not responsible budgeting and that's not our responsibility of trying to fully fund education, full well knowing that this is temporary money and that the money will disappear, and in two years we'll be in the same predicament that we are today. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Mello and Senator Heidemann. Senator Friend, you're recognized. [LB545]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I'll start anew. I just saw an amendment that was quite intriguing, one of the things that's actually now out on the Chamber Viewer, if anybody is interested. I just wanted to use this 5 minutes to explain, I think, where a lot of this was going based on a lot of the discussion we've had off the floor and on the floor. This is my take on it, and I guess I would ask respectfully to remember a couple of things. One, no one, least of all me, have I heard...I've heard no one out there screeching and whining and complaining that that pie that we're talking about needs to be a heck of a lot bigger. Now people have mentioned that and said, we're talking about fully funding education and how we're not fully funding education, and etcetera, etcetera. But we all know the lay of the land. There's X amount of money right now and that's how much we're going to be able to spend. What we have is a bunch of people fighting over the pie, right? Then the other thing that I wanted to point out or the other thing that I thought was important for everyone to remember, including myself, is that a lot of times we get out here in a legislative mode and we say, boy, Friend's acting really provincial. He's worried about OPS and he's worried about Nebraska City and he's worried about Millard and he's worried about all the things that affect him and he's not worried about our stuff. Oh, and by the way, what's your solution, Friend? I said this about two years ago. Sometimes the solution is just to kill stuff. That is a solution. Kill it. It's not a great solution all the time. You know I can't count on 2 hands, I can't count on 20 hands the amount of times somebody walked up to me or I walked by and they said, well, what's your solution then, Friend? You know what my answer was? (A)...twofold--(A) listen to me, then you might

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get something out of it and find out what my solution is; or (B) my solution is to kill it. Get rid of it. Watch it go away and then laugh or cry or worry about it for the next year, because more than likely, in an environment like the environment we're in, it's going to come back. You kill something and it resurrects itself. It always does. It's the life we live. So I laugh now. People say, well, what's your solution? I'll tell you what my solution to this is. They're out there on the Chamber Viewer right now. Actually, it's not my solution. You already heard mine. Kill it. Kill this amendment. What happens if this amendment dies? Has anybody talked about that for a second? This division of this particular amendment, what happens if it goes away? Not one person has brought up the idea that that could actually happen or that that should happen and what the ramifications would be. Well, I'll tell you what they would be. We would go back to the fully funded averaging adjustment, current law which we created last year because we thought it was a good idea. There are solutions out there. They don't happen to be mine. You know what mine are. I might back those solutions. I told you, I told you earlier a basic funding adjustment and, guess what, an amendment shows up to adjust basic funding, thanks to Senator Council, it's my understanding. I brought up another idea--age stabilization. We can adjust age stabilization. But I find it amusing, not offensive,... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR FRIEND: ...that people ask, well, what's your solution, Friend? You all should know me better, you all should know me well enough by now to know that when you walk up and ask me for the solution, sometimes you're not going to like the answer because the solution isn't going to be what you think a solution is. Legislation can go away. The second year here, I had people laughing because they said, you know what, I don't care if I ever pass a bill. And I honestly feel that way today. It doesn't matter, because we have enough laws to handle what we need to do. The question is, are you all, are we all willing to see that occur? What happens if something like this doesn't move forward? That is a solution. It's a legislative solution and it happens nationwide and it's been happening for 200 and some years. Sometimes things go away and they go away for the best. [LB545]

SENATOR CARLSON: Time. [LB545]

SENATOR FRIEND: Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Friend. Those still wishing to speak are Senators Harms, Nordquist, White, Haar, Lautenbaugh, and others. Senator Harms, you're recognized. [LB545]

SENATOR HARMS: Thank you, Mr. President and colleagues. Is Senator White here? Would he yield? [LB545]

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SENATOR CARLSON: Senator White, is coming. We'll see if he will yield. [LB545]

SENATOR HARMS: Oh, thank you, Mr. President. [LB545]

SENATOR WHITE: I'd be happy to yield. [LB545]

SENATOR HARMS: Senator White, I'd kind of like to maybe finish our discussion we had yesterday and that was on equal access to quality education. [LB545]

SENATOR WHITE: Yes, sir. [LB545]

SENATOR HARMS: Okay. When we had this discussion yesterday, we were talking about the constitution and I have to rely upon you because I'm definitely not an expert, and I would consider you pretty much a scholar in that line because that's kind of where you've been in your life, in the legal side of it. So what I wanted to ask, I think we agreed that the state has a responsibility through the constitution to provide equal access to quality education. Was that... [LB545]

SENATOR WHITE: Well, the Supreme Court said that we have a duty to fund the common schools. It is absolutely clear, we have an equal obligation not just because of the state constitution but because the federal constitution which is incorporated. It's a technical term meaning basically they told us we got to do it. So, yes, we have that obligation without question. [LB545]

SENATOR HARMS: Okay. So I guess the question that I have is that, as we would look at this issue and we would look through the eyes of the court, how do we define equal access to quality education? I mean, what is the criteria that we would use to determine this argument of equal access? Because this leads me to my other question that I'm going to get to about this formula, so. [LB545]

SENATOR WHITE: You know there's a difference between how I might do it or you might do it or the court might do it. It's a long history of law and one of the things, though, it will start with is Brown v. Board of Education, which Thurgood Marshall argued in which the U.S. Supreme Court said separate is inherently unequal. And so if you have high concentrations of poverty, high concentrations of minority, since the 1950s that has been unequal. If you couple that with disparate funding, lower levels of per student funding to high concentrations of minorities, you definitely have a violation of the Equal Protection Act. [LB545]

SENATOR HARMS: The question I guess I have, Senator, here, are we saying then that money is quality, that money equalizes this? [LB545]

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SENATOR WHITE: No. But as you know, Senator, there's only so many things and so many ways we can act. And the Legislature really has three kinds of powers it can act on. We can educate, we can coerce, and we can fund. Okay. You can't coerce people really. You can try to educate them saying the education is important, we hope the local schools and parents will support it. And then the only other thing we can really do is fund teachers. So I wish we had more methods of acting but those are it. [LB545]

SENATOR HARMS: Thank you very much, Senator. I guess as I look at this particular issue, yesterday I had the fortunate opportunity to speak to some citizens from Omaha and they said there were two issues for them. One of the issues centered around the fact they would like to spread out the pain of all this so that everybody is paying or getting their equal share of either the money or the loss. But what was really a center of their concern was the fact that they didn't feel that their children were achieving appropriately in the school. And that's why I was leading and having this discussion about, is this in relationship to money? Is this in relationship to this funding formula? Is this in relationship to what Senator Adams is recommending? I don't think so. And my experience is that just placing money many times into an educational system does not mean that you're going to be successful. And if our children are not achieving enough, I think we have to go back and we have to ask the question, before we can start placing a lot of dollars into that issue, about what is the problem. Why is it not happening? What is occurring and what is wrong with our educational system? [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR HARMS: Thank you, Mr. President. Why are we having these kinds of issues? Is it related to money? Is it related to the quality of the teachers? Is it related to we don't have enough staff? Or is it the fact that maybe we need to take a look at the system we're using? Maybe we should take a look at the fact that maybe we're not meeting the needs of our children and it's not being driven by money. So thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Harms and Senator White. Senator Nordquist, you're recognized. [LB545]

SENATOR NORDQUIST: Thank you, Mr. President. You know, I have heard of people who have bought that new car and driven off the lot and had a problem, had to come back and tweak it. So this time I'm going to make sure we kick the tires a little bit, pop the hood, check things out ourselves before we go forward with this. You know, somebody mentioned on the floor a number of states are making cuts. Well, I was looking on NCSL, I just want to clarify. Most states, when they say cuts, are actually doing what we're doing here and that is changing the projected funding formula, making a reduction in what was projected going into the next year. So let's be clear at that. We are cutting...what we were intending to spend. We are not increasing. We are staying

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flat in General Funds. And I think it's...Senator Mello talked a little bit about the stimulus funds. I think there's some distinctions that we need to be...need to made about that. If you go to ed.gov, which is the EducationDepartment/programs/statestabilization/guidance.pdf, there's the guidance that came out April 1 regarding the stimulus funds. And one of the points, these funds are not state aid. There was a question there. Are the education stabilization funds that the Governor awards to local educational authorities through the state's primary funding formula considered to be state funds? The answer was no. State funding formula are solely the mechanism to determine the amount of education stabilization funds that each local education agency will receive. These are federal funds. They're not considered state aid funds. Also, these funds have different tracking mechanisms, different budgeting. There are certain rules and stipulations on what they can and can't be spent on that are different from our state aid funds. Also, the guidance from the federal government which came out April 1 say that these need to be invested in a way that minimize the funding cliff. Well, unfortunately, that's...LB545 is setting us up for a huge funding cliff in FY '12 in the out years. As I said yesterday, Senator Heidemann reminds us when we're budgeting we have to look at the out years. This is going to leave us with \$191 million General Fund hole that is going to have to be filled. That is a huge funding cliff. So we need to look at solutions. We need to look at all solutions, whether it's a base funding cut that Senator Council proposed. I think we need to look at the averaging adjustment and look at a tiered system of some sort so that those districts that are up against a wall that have no place to turn get treated fairly. We can look at a temporary aid adjustment. Senator Heidemann, with his crystal ball, last year had concerns about LB988 that he expressed on the floor and he suggested putting it off for a year or two to see it run and see how it would play out. Maybe that's something we need to consider this year in these tough times. We had a temporary aid adjustment from 2002 to 2008, I believe. I mean this is something that we've done before. We need to look at all these solutions and see what we can do going forward to reduce the cliff and adequately fund education here in the state. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Nordquist. Senator White, you're recognized. This is your third time. [LB545]

SENATOR WHITE: Thank you, Mr. President. I apologize for the delay, ladies and gentlemen. What I'm interested in, and I know that many of us are interested in, is a chance to sit down and look at how the numbers can be adjusted in a way where a school with declining enrollment, that still has to keep a building up, doesn't get killed by a change in the average adjustment. But on the other hand, schools with large, diverse student bodies, who are up against the levy cap and who have available half the money that other schools have, can start moving that gap closer to being closed. It seems to me that we have to do that, folks. We have to do that. I think if the system goes now, because if you run the numbers out as they are, the gap between the haves and the have-nots gets huge in year three and four. It's bad now and it's going to get much

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worse. And if that's the situation we leave our children in, there will be a lawsuit and the courts will look at it. And given, given the racial distribution of the various school districts, it may not even go to state court, folks. You could make a case right now that on the projection of these numbers as they are, they have such an overwhelmingly disparate impact on minority children, that they're fundamentally a violation of the Equal Protection Act based on race, and that is a sad commentary for us as the planners. And it's not just this year and it's not just next year and it's the third and the fourth and the fifth year. So what I'm hoping for, and what I've asked a number of the members of the Education Committee and a number of the lobbyists for the various schools districts, is a chance to sit and look at what can be done to move us towards greater equality of resources for all our students. I would also ask you to remember that when Senator Pahls had his effort to bring his bill out, that I reminded you how important it may be because the way we fund school education may in fact be unconstitutional. If I were a landowner and I've got a levy of \$1.05 an acre and I'm getting the same price for my corn as a guy across the road and his levy is \$0.75 an acre, I'd sure as heck want to know why I'm being treated differently since it's a statewide obligation to educate kids. And that is happening here every day in this state. We not only distribute the proceeds in a way that probably violates equal protection, we don't distribute the burden of education on a level that is fair either. So what I'm asking for is open minds. What I'm asking for is not a specific amount of money for any one school district. I don't really care about individual school districts. What I am asking for is a commitment that we're going to move our children to access to a more roughly equal amount of money to meet their educational needs. I think it's the right thing to do for us, both because it's morally the right thing, I think it's educationally the right thing. [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR WHITE: And I guarantee it's legally the right thing that we do that. And I bet if we do it and we listen seriously to people like Senator Pahls about the problems inherent in our tax structure, we can also make it economically the right thing because we can make it a more economically fair tax system that will encourage people to live here, encourage people to do business here. But right now, it's fair neither to children nor to taxpayers. Thank you. [LB545]

SENATOR CARLSON: Thank you, Senator White. Those still wishing to speak: Senators Haar, Ashford, Pankonin, Wallman, and Council. Senator Haar, you're recognized. [LB545]

SENATOR HAAR: Mr. President, members of the body, when I came on the Education Committee, there were some principles that began to develop for me and I'd like to go through those and how I look at this amendment. The first one is equalization, and I strongly believe in that. All of Nebraskans have to work together, and so it doesn't matter whether you come from a sparse area, a very sparse, or an urban area, we

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all...we're all in this together. We're all Nebraskans. And so I support TEEOSA. I think it's an important concept. The second one that people talked to me about was need; that what TEEOSA attempts to do is to define the need of school children in this state. And that when we make policy decisions and decisions about how much to fund and so on, we really have to keep in mind that, the concept of need. What do students need? Now, I would agree that sometimes we can't fund everything that we define as need, but we have to...instead of looking at the dollars first, we have to look at need first. Then when it came to...and sustainability, obviously. TEEOSA has to be sustainable. If it, you know, double-digits every year, there's no way we can do that, obviously. So equalization is important. Need is important. Sustainability is important. Another one that we talked about a lot at the beginning of the education is looking at the budget we would have to spread the pain around. And then it seems to me that what...okay, another thing was that the formula has to have a chance to work. And we've talked about that. We did that with the junior colleges and so on, saying a formula has to have a year or so to work. And then I think we came to...through all the confusion, did we have \$100 million or not; what was the federal stimulus money about, and so on and so forth. And I think what it's come down to for me is that we have looked for a way to cut back on TEEOSA. And I think that may be legitimate, especially with economic times the way they are. And then what seemed to happen is that we zeroed in on averaging adjustment and we went through many different variations of averaging adjustment to come to the one that's suggested by AM1078. And I really think that we're balancing this budget then trying to get TEEOSA to where we want it through the averaging adjustment primarily, and I think that means that we're balancing the budget on the back of education. I do think we have to look at this again. And I expressed this in the Education Committee. Most everyone didn't agree with me but I think some...if we're going to feel the pain going back to that one, if we're going to spread the pain around, then a proportional cut makes a great deal of sense to me. It would leave the formula TEEOSA in place so that we can continue to look at the whole formula and not just try to grab for parts of it that will cut the overall funding. Maybe we find full funding money. I think there's going to be a number of amendments coming forward. One would be to hold harmless those districts that are...those schools that are going to be cut this year. So again, equalization... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR HAAR: Thank you. Equalization, looking at need, it has to be sustainable, but I believe we need to spread the pain around and I don't, I really don't believe that AM1078, with averaging adjustment, does that. Thank you very much. [LB545]

SENATOR CARLSON: Thank you, Senator Haar. Senator Ashford, you're recognized. [LB545]

SENATOR ASHFORD: Thank you, Mr. President. I just was...first of all, I want to

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comment on what Senator Howard said because it was really great stuff. I remember when I ran the housing authority and we moved some children, actually into Senator Friend's district that, to move into some public housing in a pretty much all-white neighborhood and the Boyd School had to take in 70 new children. And I remember the principal at that school telling me that...and she did a great job and, in my view, she was a heroine of the year in Omaha Public Schools for what she did with those children and brought them into the community. But she had no support personnel within the school system and...to help her and she did it all herself. She was working till 11:00, 12:00 at night. I think Senator Harms asked a great question is, what is really the problem here? Is it the differences in educational challenges or is it the whole educational system generally? What is the issue? And I think that's what we in the Education Committee and all the other committees working together need to think about. But I was thinking about, which I always seem to morph into my sort of spotted political career, I started out working with Governor Tiemann and Governor Tiemann lost his bid for election, reelection, basically because he said we need to have a statewide means of supporting education with sales and income tax. That's basically what he said and he was rewarded with a loss in his election against Senator...or Governor Exon and then Senator Exon. And he was...Governor Tiemann was a courageous man, in my view, and really started the debate moving forward. Then we move forward to my other years in the Legislature, and this is not about me but it's about everybody else, and LB1059, which was really a continuation of the debate that was started by my friend Governor Tiemann. And he talked about...we talked about the need to reaffirm and to move forward in the area of what Senator White is talking about, which is a statewide commitment to education. That bill passed the Legislature. It was vetoed by my friend Governor Orr, and then it was...that veto was overridden. And Governor Orr then subsequently lost the election. The voters agreed to sustain LB779 by a statewide vote. Governor Orr lost that election for reelection to Governor Nelson. And one of the issues in that election was how do you...how much property tax ought to be paid to support schools. And I remember very well the discussion about that. And Governor Nelson obviously won that election. The point is, is that we've politically come a long ways. The citizens of this state, in the election on LB1059, made it very clear that Senator White, what he is saying, it's not just a legal issue, but it's a political issue. The people of this state want, coming back to Senator Harms' question, want the schools of this state to be equal. They want the schools of this state to provide equal educational opportunity for all the students. Now that doesn't mean every student is going to go to Harvard, as Senator Harms is really, I think, asking that question. It's not that. They may go to Western Community College. They may go to Metro. They may go to UNO. They may go to University of Nebraska or wherever it is. But what we're trying to do is take children from all sorts of backgrounds, putting them through the public school system. And I think we do a heck of a job with the children we have, quite frankly. But politically and governmentally, we have been moving since the late sixties, both in the community college area and the public school area, to trying to educate all of our children. And the state has an absolute obligation to do that. Whether we would lose in court, I don't

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know. [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR ASHFORD: Senator White is the expert in that area. We may or may not win in court. But I know that when we passed LB988 last year, one of the critical issues was the settlement of the OPS lawsuit. And that's what I think Brenda Council is talking about. Brenda served, Senator Council served, excuse me for my familiarity, served 11 years on the Omaha Public School District Board. She knows what she's talking about. She is an absolute expert on this. So I think we all need to come together. The other point I'll make is this. Before...until this bill gets off of General File, it really still is in committee, in a sense. And Senator White has offered the...has suggested we all get together and work on this. I think we can and I think we can do it in a way that fits into the budget. But in reflecting on all this, we should think back on our history where this state was in the 1960s, before Governor Tiemann was elected,... [LB545]

SENATOR CARLSON: Time. [LB545]

SENATOR ASHFORD: ...and where it should be as we move forward. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Ashford. (Visitors introduced.) Those still wishing to speak: Senators Pankonin, Wallman, Council, Wightman, Lautenbaugh, and Haar. Senator Pankonin, you're recognized. [LB545]

SENATOR PANKONIN: Thank you, Mr. President and members of the body. I know Senator White is over there under the balcony but I'm going to ask him a couple questions, theoretical questions from a legal standpoint on some of the things we've talked about this morning. We've talked about trying to be the most equal we can be, both on property taxes and to help our students. And so, just taking it a step further, I've got a couple questions. The first one, Senator White, I'll ask them together is... [LB545]

SENATOR CARLSON: Senator White, will you yield? [LB545]

SENATOR WHITE: Yes, sir. [LB545]

SENATOR PANKONIN: ...is, what if we divided the total dollars of assessed valuation in this state, put some...determined a rate, and then we...and we assess that and then divide it by the number of students and so we have so many dollars per student? That would be one part of a formula. The second part would be, determine the dollars that we can spend on K-12 education as a state, then divide that by the number of students. We add those two numbers together, we'd have property tax equalization across the board, we would have splitting your pie in even pieces across the board. If you take that to the

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extreme degree, it would be total equalization on both sides. Why can't we have a formula like that? [LB545]

SENATOR WHITE: Well, I mean, would the courts allow that under the terms of equal protection? They'd probably say yes. But does that mean that's the best way to go about it? I would say no. Under that circumstances, without some other calculations, you would have kids in rural schools that would have a hard time keeping it open because they got five kids, and how do you give them adequate education. And so on just a per capita, may not meet their needs. Would it be equal protection between students? Absolutely. Yeah, I think it probably would be because we're not discriminating among the students. Doesn't mean it's necessarily the best policy nor does it mean it's exactly what we have to do. We have leeway in here. We really do. And...but on basic funding, I would tell you that would move us closer towards equal protection than not. If you then took into effect things like they got a long way to travel so we need more money for buses, that in order to get them an educational...get them into a college, a good college, you got to offer them some languages and different things, so we got to make adjustments for that. Yeah, then you can. On the other hand, in Omaha where you've got enough people for all of them, but you got, I think the number is 80, over 80 different languages are spoken in the Omaha Public Schools. [LB545]

SENATOR PANKONIN: Thank you. Thank you, Senator White. Senator Adams has joined us. Did you hear my question, Senator Adams? [LB545]

SENATOR CARLSON: Senator Adams, would you yield? [LB545]

SENATOR ADAMS: Yes, I will. No, I didn't hear your question. I was outside. [LB545]

SENATOR PANKONIN: Senator Adams, I'm going to ask you the same question, try to do it quickly so we don't use up all our time. If you divided the total amount of assessed valuation in the state, determined a rate, and then divided it by the number of students, you would have a number that would be equal across the state from a property tax standpoint. Second part of the question is, if you determine how many dollars we can spend on K-12 education, you divided it by the total number of students, you add those two numbers together, you'd have a per capita on both property tax and state money being spent in equal pieces of the pie. Why not, you know, in theory why can't we do that? [LB545]

SENATOR ADAMS: The problem with that...basically, if I understand what you're asking, it reflects back to the pre-LB1059 days when we had what we called foundation aid. We just divided it up equally. It does not account for the different needs. It does not account for different needs and it is very unequalizing because we're not looking at comparative resource base, we're not looking at the need side and it doesn't account for

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that. That's why we have equalized and nonequalized school districts in some cases. [LB545]

SENATOR PANKONIN: Thank you, Senator Adams. Thank you, Senator White. The point I'm trying to make is, this is...we are making policy decisions and obviously there's certain things that we... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR PANKONIN: ...need to determine. But these are policy and, to a certain extent, political decisions made to try to take care of needs and so it's a matter of degree. And I am open to listening to the debate. I appreciate the work the Education Committee has spent. I'm sure that was, hopefully, their intent, I think it was, to try to make this as fair as possible. But I just want to make the point that it is something we have to talk about and there's a lot of different interpretations of how we get there and that it's not just...this other method would be very easy and simple but it, unfortunately, like many of our decisions, that's not the way it works. Thank you. [LB545]

SENATOR CARLSON: Thank you, Senator Pankonin, Senator White, and Senator Adams. Senator Wallman, you're recognized. [LB545]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Would Senator Dierks yield to a question? [LB545]

SENATOR CARLSON: Senator Dierks, would you yield? [LB545]

SENATOR DIERKS: Yes. [LB545]

SENATOR WALLMAN: Were you a product of a one-room school? [LB545]

SENATOR DIERKS: No. (Laughter) [LB545]

SENATOR WALLMAN: Well, I was. Do you think they were efficient? You have some in your district, I think. [LB545]

SENATOR DIERKS: Oh, yes. My experience with those is that, as president of the school board for 14 years, I passed out the diplomas, and I know that full well 90 percent of our valedictorians and salutatorians came from the Class I schools. [LB545]

SENATOR WALLMAN: Thank you. We closed a bunch of them down. That was made in here. That decision was made here. Was it good? Was it bad? There's one state in the Union that's going the other way. They're making smaller school districts, transportation cost, less trouble with discipline. Community schools, community action

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outfits, they're not always consolidating for efficiency. That's not necessarily the case. Maybe bigger schools have more opportunities to different things, but smaller schools have opportunities for different things also. But whenever we talk about school funding, the emergency blanket is always property tax. That scares homeowners, that scares farmers, that scares business people. And if you want to open a new business in town, what's one of the first things they ask for? Tax increment financing. So does that spread the property tax around? It spreads it out on smaller and smaller group of people, and it's the farmers. Is that right? The farmers...my family, we started the one-room school, has the Wallman name on it. They started it, they paid for it, they set it on some land and the local farmers, like a township, would pay the taxes to support the teacher. And most generally, the teacher stayed with the school board president. That's efficiency. Do we have that today? No. We have difference in salaries from different school districts, tremendous. There's lots of things we have to get our handle on and we probably can't do it in here, but I appreciate Senator Pahls trying to get a handle on financing, whether it be for teachers. We haven't addressed teacher pay. Teachers pay below...this state is below all of our neighboring states about. Is that right? Is that going to bite us in the future? I'm afraid it is. Our brightest and best teachers are probably going to be teaching in Iowa or Alaska or some place like that. So this financing thing, I appreciate the Education Committee. Is this the best we can do this year? If it is, I can support it, because this is an important thing, to finance education for our children. God's gift to us is our children and how we take care of them is up to us. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Wallman. Senator Council, you're recognized, and this is your third time. [LB545]

SENATOR COUNCIL: Thank you very much, Mr. President. I just rise to indicate that it has not fallen on deaf ears the questions that have been presented as to what is the alternative. And I will tell you that throughout this debate, I have been trying to develop an alternative that I believe that would be palatable, and that would fairly and equitably address the issue of providing requisite state aid to schools in the state of Nebraska. And before going any further, I want to make it clear that I don't purport to be substituting my judgment for the judgment of the committee, but nor would I stand up and say that what the committee has proposed needs to be modified without coming forward with a proposed modification. I have had prepared an amendment and a lot of questions that have been asked about, you know, how do you address this. I've heard a lot of my colleagues talk about proportionality, because everyone is legitimately concerned, first and foremost, I believe, about providing for the educational needs of all of the youngsters in the state of Nebraska. Secondly, it's a concern about fairness in terms of trying to address the \$60 million difference between what the LB988 formula projected, and the \$234 million in stimulus dollars that are available to us. With that in mind and recognizing the impact of the alterations to the averaging adjustment and the effect that would have on the 26 largest...26 school districts, and particularly a school

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district and school districts that have tremendous needs, educate some of the children who have the greatest educational needs, and in that regard I'd just like to read to you briefly from a report that was commissioned by a coalition of concerned individuals with respect to the economic situation in north Omaha, which is part of the district that I represent. This report was prepared by a renowned and reputable institute, the Pew Partnership, and this is what they reported. Particularly alarming was the finding that 40 percent of Omaha's African-American children live in poverty. The story for African-Americans in Omaha can be told using that one key statistic. Poverty among African-American children in Omaha was evident in school performance from the early grades to disproportionate high school dropout rates. These children are too often behind when they start school and require a lot more to catch up. That is obviously a negative factor in achieving long-term economic success. So when I have repeatedly made the point that this is not just an issue about the education of children in my district, it is about the future of the state of Nebraska because these are children of the state, and these are children that we want to prepare to be productive, contributing citizens of this state. And so we have an obligation to address their educational needs and in that regard, the proposal... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR COUNCIL: ...that is reflected in the amendment is to leave LB988 alone with one exception and that is to raise the floor, which is what is represented by need stabilization and aid stabilization, to raise that floor, conduct the calculation under the current LB988 formula, and then take a 1.5 percent across-the-board cut from the basic funding that results from that calculation. You don't affect the averaging adjustment. You don't affect the growth adjustment. You don't affect any of those allowances because that percentage reduction does not occur until all of those amounts have been calculated and the basic funding amount is determined. That would result in a proportional cut, the pain would be spread, and this would go into effect... [LB545]

SENATOR CARLSON: Time. [LB545]

SENATOR COUNCIL: ...next year and we'd spread it out over two years. [LB545]

SENATOR CARLSON: Thank you, Senator Council. Senator Wightman, you're recognized. This is your third time. [LB545]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I do have some of the figures that I had talked about obtaining from the Department of Education. I will assume they're accurate because they are official figures, but they are actually from select data from the 2009-2010 model under LB545. And I've been asked what each of these show and it may take Senator Adams to answer some of those questions, but what you need to focus on is it ranks all of the school districts in Nebraska in order

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and there's three different tables. One of them you'll see starts at the top under column 3. That's the stabilized needs per formula student and starts with McPherson County. One...the left-hand column, column 1 ranks all of the school districts in order on the general state expenditures per formula student. And formula students, as I understand it, basically is the entire student enrollment in the fall figures that are furnished by the school district. And then the third one is aid per formula student and they're ranked in order, starting with Santee Community Schools. And I think you can understand, looking down, why some of those are extremely high. And on that particular one where they're ranked in order of aid per formula student, you'll see that Lexington is the sixth rated district at \$7,650.26. And the only reason I keep using Lexington as an example, because it's only one of the school districts, it is the largest school district in my district. But it ranks...all of the schools in my district, as well as all of your districts, on how much aid per formula student will be receiving. I think the figures that you were furnished earlier by the Education Committee probably showed the state aid figures, but they showed them in total rather than per formula student. So that gives you a little bit of an idea of what these figures are. But it does show that even though Lexington has very little valuation, they do have substantial needs and that comes about as a result of language barriers. We have almost 85 percent of our elementary students--it may be slightly higher than that, some grades are higher than 85 percent--are minorities. Most of them have a native language different than English and so we do have high needs. We do have a low valuation, as I talked about yesterday. I'm not sure of the figure. I heard a figure that we had about \$284,000, I'm not sure that's correct, evaluation per student. And that's one of the things that the Education Committee and the formula takes into account, is how much valuation per formula student a school district has. So I want to talk just a few minutes about Lexington's situation. I think Senator Harms summed it up fairly well that sometimes it isn't how much money we pour into a district but what they do with it, how well they use it. And I think Lexington is doing fairly well. One of the ways that we've used, and I've certainly mentioned this on the floor before, is that we implemented a dual language program in...that's now present in two of our elementaries, probably represents about a third of the students. It will go through the fifth grade. It's only in its fourth year of operation so actually they'll start in kindergarten and go through the fifth grade, so six years of students will be learning both English and Spanish at the same time. It's entirely voluntary but more and more of the parents are opting for this program. And as a result, I think you could come to Lexington and you would find... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR WIGHTMAN: ...Lexington doing a very good job in educating its students. We're doing it with fewer dollars, perhaps. If you look at the...one of the three tables that ranks the spending per formula student, you'll find Lexington, I believe, somewhere in the middle of that, actually over on the third sheet. And it's showing that we only spend, would spend \$8,978 per formula student. So we're spending less. I think we're getting

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an awful lot for our dollars and I think you would find that there are many districts who aren't receiving as much that are probably educating their kids as well. I don't think that shoveling a great deal of money to students necessarily means that they're going to receive a good education. With that, I will say that I support the amendments and do support the underlying bill, LB545. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Wightman. Senator Lautenbaugh, you're recognized. [LB545]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I have been listening to this debate and this is a very complex issue, to say the least. It's tough to know where to go with something like this. I know we're admonished not to be terribly parochial. I don't think I can be because I have five school districts in my district and they're all treated differently under this in varying amounts, of course. And everything we propose treats each one a little differently, and how do you untangle that? How do we proceed? I do worry some about the constitutional arguments we're hearing today on this. I think a corollary of what's been said might be that you cannot adjust anything you're giving to OPS or else you're subject to a constitutional challenge. And I don't know that that's the case. I'm not on the Education Committee. I don't serve on the Education Committee. I applaud Senator Adams for the work he's done on this. I don't really like proceeding under the threat of a lawsuit or threat of litigation, depending on which amendment we adopt, which amendment we don't adopt. Some of the lobbying on this has been unusual and contradictory, to say the least. I was going to joke about seeking out other Heisman Trophy winners so I had a cross-section of opinion on what we should do here, but I didn't do that. Again, I'm bothered by the fact that what we did last year becomes a promise that can never go down or never be adjusted so that the rate of increase changes or we're subject to some sort of constitutional challenge or infirmity. And I say that knowing that these amendments giveth and taketh away, depending on which of my many districts we're talking about. I would urge you to pay close attention, as I know you all have been and I have. Once again, I applaud the Education Committee for their hard work on this. I applaud Senator Adams for the serious way he has approached this. Well, he approaches everything seriously, it is Senator Adams after all. And I appreciate the debate and I'll continue to listen. I would urge us not to be stampeded into any action or vote under the threat of litigation. Thank you. [LB545]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Those still wishing to speak: Senators Haar, Ashford, Wallman, and Price. Senator Haar, you're recognized. [LB545]

SENATOR HAAR: Mr. President, members of the body, as I sit and listen to this, it was very interesting for Senator Mello to bring up the point that in terms of General Funding for education, it is flat. The only increase, and there is an increase in funding for K through 12, but it comes from the federal stimulus money. So once again, I would like to

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just give my opinion that we're basically balancing our budget in these tough times on the back of K through 12 education funding. Thank goodness we have the federal stimulus money. I'd like to give the rest of my time to Senator Council, if she's interested. [LB545]

SENATOR CARLSON: Senator Council, 4 minutes. [LB545]

SENATOR COUNCIL: Yes, thank you very much, Senator Haar. Again, with respect to trying to come to some resolution of this very critical issue in terms of what this body's obligation is, constitutionally, and there's been a lot of discussion about the constitutional issues, but I think what should be paramount in our minds is what's best for the children of the state of Nebraska, and how can we best achieve a goal of providing equitable educational opportunities for all children in the state. And I use that term advisedly, Senator Harms, because there's a distinct difference between equal and equitable. And it would be near impossible for us to devise a system that provides exactly equal educational opportunities. What we're looking at are the equities here and in balancing those equities we have to take into account what educational research has shown us. We've had a lot of conversation about educational policy as established by this body. And this body has, quite frankly, established that educational policy through LB988 and its predecessor. And in establishing that educational policy, it says that this body recognizes that there is a distinct impact that poverty has on educational development and achievement. It's recognized in the formula that the cost of educating youngsters who come from poverty is greater than the cost of educating children who do not come from poverty. So that policy decision has been made, recognized and made by this body. This body also recognized the effect that children who do not have English as their primary language, that it costs more to provide education for those youngsters. And I think Senator Ashford made mention of the number of languages that are spoken in the Omaha Public Schools. It's like over 100 different languages and dialects. And we have an obligation to provide proper, adequate, and, quite frankly, excellent education to those youngsters. That costs more. This body recognized that, developed a policy, implemented it through LB988. It also recognized that from a policy perspective the burdens placed upon local property taxpayers could only reach a certain level. We have a levy cap of \$1.05. There's a recognition that not all school districts can generate the same amount of money with that levy, and that's why we implemented the averaging adjustment. [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR COUNCIL: We have the needs and aid stabilization allowances for those reasons as well. So in an effort to come up with the most fair and most equitable method of fulfilling our obligation to provide funding for the common education of youngsters in this state, I again urge my colleagues to give consideration to trying to balance the pain associated with a \$60 million gap between the funding that's available

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and the needs that have been identified by spreading that proportionately across all districts in the state of Nebraska, and spreading that over the next two years with a 1.5 percent reduction in basic funding, with a raising of the level of the need and aid stabilization... [LB545]

SENATOR CARLSON: Time. [LB545]

SENATOR COUNCIL: ...so that we can have equity and fairness. [LB545]

SENATOR CARLSON: Thank you, Senator Council. Senator Ashford, you're recognized. This is your third time. [LB545]

SENATOR ASHFORD: Thanks, Mr. President. And you know, this really is an excellent conversation and it really is more of a conversation than a debate, and this is when we do our best work. We will resolve this matter and we'll come out today with a resolution, I'm absolutely convinced of that, and it's a resolution that meets the needs of the entire state. I was reminded of Helen Boosalis in 1986, a former mayor of Lincoln who ran for Governor, and she ran on a platform of...that the tax system ought to be equally proportioned a third, a third, a third between property...I think my history is right on these things and, if I'm not, maybe Senator Sullivan, she's not quite to my age but she could remember, but...or Senator Haar certainly, and Cap would remember. But she ran on the theory that the property tax and the sales tax and income tax ought to be equally divided--a third, a third, a third. And that was really the debate in that election and Governor Orr suggested that such a resolution would raise taxes and that...so Helen wasn't elected Governor. But the idea was a good one and here we are 20-some years later, 23 years later, and we're still bogged down by heavy property tax burdens. Senator White has a...was talking about how the world has changed and we haven't had...we're sort of talking about that issue as well, that the world has changed, education has changed, the needs have changed. Some of the problems that Senator Council reiterates are the same--poverty. Minority individuals in our state, many of them are in poverty, and poverty students historically and statistically don't do as well in school as children who are not in poverty. There's rural poverty and there is urban poverty, and it's excruciating no matter where it is. Part of the problem is that we are tethered to a system of taxation which burdens property over other forms of transactional tax. I'm not saying Europe is the place to be or Eastern Europe is the place to be, but I'm reminded in thinking about the new emerging countries in Eastern Europe and Hungary and Czechoslovakia and Czech Republic and Slovakia and Slovene and all these countries that have really abandoned property as a means of taxation and gone to other forms of tax, a service tax or value-added tax or whatever it is. Until we figure out how to get out from under that burden...we can do it. We have the means to do it. We have the methodologies to do it. We have the examples to follow to relieve our system and to relieve our constituents of the heavy burden of property tax. That's what holds education back, quite frankly, is property tax. That is a bad deal. I

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mean, and we get into discussions about, we get into discussions about, with my colleagues in rural areas, about, you know, how difficult it is to...in production agriculture to right off the top pay an exorbitant amount of money in property tax. Whether it's 70 percent or 80 percent or whatever the percent is, it's a burden. And it's a burden on the citizens in the urban areas. I just hope Senator Pahls gets something going on his ideas behind removing exemptions from sales tax, or else reducing significantly property tax. What we were trying to do in LB1059 was a good thing. We were trying in LB1059, and the citizens...and what's amazing to me is that by over 60 percent of the vote the citizens of Nebraska... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR ASHFORD: ...decided to tax themselves, to raise their sales tax, I believe it was by 1 cent, and to increase their income tax, and my numbers are probably wrong but I remember something around 10 or 20 percent increase in income tax to reduce property tax. I mean, I don't know how many times our citizens have to tell us that's what they want. But what we do, we tend to do, is we tend to retrench from that because we have special interests, and we're all guilty of it, everyone one of us, that we...there are special interests that want exemptions. There are special interests that want this and want that, so we really don't get at the problem. I think what's really cool about today is we're starting to think globally again. How do we make our state more competitive? Well, better schools and an economy that's thriving. And one of the best ways to do that is to change our tax system and to make it more twenty-first century. We're dealing in a 150-year-old tax system. It absolutely does not work for our citizens. [LB545]

SENATOR CARLSON: Time. [LB545]

SENATOR ASHFORD: Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Ashford. Senator Wallman, you're recognized. [LB545]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I appreciate Senator Ashford's comments and some of the others. Farmers and business people, if we pay the taxes I'm told we can take it off our income tax form for federal government. That is true, but it has nothing to do with wealth. If you make money on your ranch or your farm, you still have to pay income tax and property tax, or have a business or anything. But so....some countries do fund most of their schools through sales tax. And with that, I'd yield the rest of my time to Senator White. [LB545]

SENATOR CARLSON: Senator White. [LB545]

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SENATOR WHITE: Thank you, Senator Wallman. Thank you, Mr. President. Here is what we need to do, in my opinion. We need to get a better assessment of what funds are available right now from the stimulus package to help us make a transition. We need to honorably and honestly look at how we fund schools and then we need to talk, and that's a Revenue Committee issue primarily, and then the Revenue Committee needs to understand from the Education Committee what is the best method to divide available funds to ensure a decent opportunity for an education to all the students in the state. And we're not doing any of it. And our failure to change with the changing economy, our failure to change with the times have caused all the political problems that Senator Ashford just described. And in other states they have caused staggering social problems, if you look at the city of New Orleans, the city of Chicago, the city of New York where federal governments literally were talking about taking over the entire educational obligation inside of those cities because they have so failed. We have taken an outmoded system of financing schools further than anybody could have thought it could be taken. Overall, our students do extremely well. Overall, our children get real opportunities. But there is a growing subsection of children who don't. And many of them have come to us as immigrants. And we can argue about how they got here and whether or not they've done the right thing, but it's clear by the federal law and it's clear by other rules that we must educate them or we'll live with consequences far worse than educating them. What I'm hopeful is that this body will sit down and look at a method this year of moving us towards a more fair, equitable method of dividing the pie. I commit to working on the Revenue Committee, to addressing fundamental inequities on how we finance schools. Cap Dierks has talked for years about how we were driving family ranchers, who have literally pioneered the land, out of this state to other states because the taxation system in their districts make it impossible for them to compete raising cattle. Folks, that's just not acceptable. To have that kind of disparity, both in burden and benefit, is not something that we can continue to survive as a state with. We have to accept that the old methods of financing, the old methods of dividing the proceeds... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR WHITE: ...for those school children have caused a crisis not only in education but also in economics. And we need the political will to honestly look at it. I wanted to thank Senator Adams. He's been incredibly kind to talk to us about at least ideas that will help move some of the folks, who feel that they are moving away from an equality, towards it and he's been very gracious in talking to them. I am hopeful that those discussions can bear some fruit. It's not going to be a perfect division of the pie, but if we can make some movement towards it, I, for one, would be deeply grateful to the Education Committee as a whole. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator White and Senator Wallman. Senator Price, you're recognized. [LB545]

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SENATOR PRICE: Thank you, Mr. President, members of the body. Lots of great commentary here this morning, yesterday afternoon. And in listening, a few remarks have sparked some thoughts of my own, Senator Ashford speaking about the European comments how things go on in Europe, and Senator Gloor talking about the car analogy, and I'm mindful of the BMW 850 CSI, 5 liter, 12 cylinder engine--what a beauty. For those of you who have not had the opportunity to drive a car like that on the Autobahn with no speed limits in certain areas, what a thrill. When you push the pedal past...and you're not even touching...you're not even going through the firewall, you're just touching a solenoid so there's no noise in there really. And you hit that thing and what happens is, up to the first 80-plus miles an hour, you're working off of six cylinders. And when you get a little bit over 80 those back six drop in, and I'm telling you, you are moving. It is awesome. Why do I talk about that? In trying to learn more about the subject at hand, I looked and I've asked, and Senator Raikes had even afforded us some preliminary training and he talked about state aid. State aid is needs minus resources. Again, as Senator Adams said, not complex but complicated. So let's look at that a little bit. What are needs? Well, we've already heard a lot about needs, but we haven't heard a lot about resources. What constitutes resources? Well, as we've been talking about, property tax. I mean, we're dealing with the here and now, property tax. You also have fines and licenses. You also have income tax rebate that comes back to the area. And in looking at that, earlier this year I had carried a bill, LB418, which died a hideous death. It wasn't hideous because it was a great battle, no gladiating going on there. More, it was a mind over matter--they didn't mind because I didn't matter type of thing, you know? But in doing LB418, we found out some interesting things. We found out in Douglas County they assess their property approximately every five years. I say approximately because we can provide stacks of properties that haven't been assessed in six years. And when they go about their assessment practice, they only take a 25 percent sampling rate, as I understand, as opposed to like another county, like let's say Sarpy County, that does it every year and they do a 75 percent sampling rate. So the question comes to me, in many of the analogies where we talked about children and we talked about is it someone else's child or your child, you're telling one child you'll get less and this one will get more, my question is have we really peeled back the concept of resources. And we heard Senator Ashford, excuse me, pardon me there, Senator White said the assessment of available funds right now. How much is left on the table with the assessment practice of only going at 95 percent versus 98, at only doing it every five years instead of each year? No one has talked about that yet. No one wants to talk about that. So again, state aid is derived from your needs... [LB545 LB418]

SENATOR CARLSON: One minute. [LB545]

SENATOR PRICE: ...minus your resources. Thank you, Mr. President. Everybody understands needs, but have we really talked about the available resources? Thank you, Mr. President. [LB545]

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SENATOR CARLSON: Thank you, Senator Price. There are no more lights on. Senator Adams, you are recognized to close on your amendment, AM1078, to AM1119. [LB545]

SENATOR ADAMS: Thank you, Mr. President and members of the body. I, frankly, didn't expect to end quite this quickly. Been a lot of discussion on the mike and off about this issue and a lot of things on my mind, so I'll try to pull together a summary at this point, more extemporaneously I suppose than anything else. I want to first of all thank Senator Friend. He approached me yesterday about dividing the question and I think it's exactly the right thing to do. It's been productive, because seemingly the real issue is the averaging adjustment. And we've had a chance to really focus on that now, to really focus on it. You know, so often when we look at state aid there's so many components to it that it's hard for any of us to sit there and really concentrate on each individual part. This has made that possible. I want to take a moment and I want to thank my bench partner. He's been eloquent and he can craft the words as well, if not better, than anybody in here. We don't agree on this issue, but I very much respect the way he has treated the issue and treated me throughout this at this point. It seems to me that in part what we're doing today is fighting over the increase in the increase. I know there's also underlying issues for Senator White, Senator Gloor, Senator Council. But it may very well be a fight over how much increase to the increase. And each one of us in here, but particularly Senator Gloor, Senator Council, Senator White and whoever else, they have to look at their individual districts. I guess, because of this committee Chairmanship, I don't quite have that luxury. I'm compelled to have to look at Omaha. I'm compelled to have to look at Dundy. I'm compelled to have to look at York. I'm compelled to have to look at 254 different school districts and, in so doing, make some difficult decisions about what I believe stays within the focus of our philosophy of equalization, that stabilizes the growth in aid, that's as fair as we can make it, and we arrive at this point of AM1078. We've tried to keep LB988 intact as best as we can, substantially it is. Are we making changes, adjustments? Yes, we are. Why? To slow the growth. But as we look at the averaging adjustment, there was also the matter of just simply sustaining the growth in aid over the long haul, long beyond this recessionary period. I'm asking to amend the averaging adjustment, not do away with it. Remind you again, that's where we started. But doing away with it, I'm not. I've tried to listen. I've tried to be compromising and I can continue to be. It's just the way I am. I will continue to be. But this is where I'm at right now on AM1078. [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR ADAMS: As I looked at some quick numbers, not meant to scare anybody off, but I want you to think about something. In the school year we're just finishing up right now, the averaging adjustment made up 3.89 percent of state aid. This year, without any modifications, without any changes in this next year as we prepare to certify for aid, the averaging adjustment alone will account for 8.61 percent of the increase.

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Those were some of the numbers that I'm looking at, may be growing unsustainably. By the way, when I developed AM1078 I did it in counsel with all kinds of schools, with all kinds of business, finance people, with superintendents, and I would tell you that, probably begrudgingly some of them, but of these 26 schools who get the averaging adjustment, most of them, nearly all of them are okay with AM1078. I know that there are schools who aren't and I'm trying to listen and I'm trying to be sympathetic to that cause. But that's what brought me here to AM1078. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Adams. You've heard the closing on AM1078. The question is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Has everyone voted that wishes to vote? Record, Mr. Clerk. [LB545]

CLERK: 33 ayes, 8 nays, Mr. President, on the adoption of the amendment to the committee amendments. [LB545]

SENATOR CARLSON: The amendment is adopted. An announcement, Mr. Clerk? [LB545]

CLERK: Items: Senator Dubas offers LR93; Senator Price, LR94; both will be laid over. Senator Christensen, an amendment to LB430 to be printed; Senator Harms to LB679. (Legislative Journal pages 1147-1150.) [LB545 LR93 LR94 LB430 LB679]

And a priority motion: Senator Christensen would move to recess the body until 1:30 p.m. []

SENATOR CARLSON: You have heard the motion to recess until 1:30. All those in favor say aye. Opposed, the same. We are recessed. []

RECESS []

SENATOR LATHROP PRESIDING []

SENATOR LATHROP: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Mr. Clerk, please record. []

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

SENATOR LATHROP: Thank you, Mr. Clerk. Do you have any items for the record? []

CLERK: Mr. President, one report: Committee on Revenue, chaired by Senator Cornett, reports LB264 as indefinitely postponed. And that's all that I have. (Legislative Journal

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page 1150.) [LB264]

SENATOR LATHROP: Thank you, Mr. Clerk. We will proceed to the first item on the afternoon agenda. Mr. Clerk. []

CLERK: Mr. President, returning to LB545, I have the second component of the committee amendments pending, specifically AM1119. I do have an amendment to that component. (AM1137, Legislative Journal pages 1150-1152.) [LB545]

SENATOR LATHROP: Senator Adams, I think we'll start by having you give us an update on where we're at. [LB545]

SENATOR ADAMS: Thank you, Mr. President. The update is really very simple. The amendment, AM1078, that was passed right before we went to lunch, in effect, takes the place of this amendment, AM1119. [LB545]

SENATOR LATHROP: Thank you. Senator Council, you're recognized to open on AM1137. [LB545]

SENATOR COUNCIL: Yes, thank you, Mr. President. And my apologies to the body. I got hung up trying to make sure that I was going to be presenting this amendment properly. AM1137 is designed to substitute a means of addressing the issue of providing state aid at the level that is the equivalent of the stimulus dollars. We've discussed yesterday and today the issue of the best way to address the reduction of \$60 million, which is essentially the difference between what LB988 would calculate as being the state aid for the upcoming year and the \$234 million in stimulus dollars. AM1078, which was just adopted before lunch, provided for maintaining the averaging adjustment but adjusting that averaging adjustment significantly where the result was it would still have some very significant effects on a number of school districts. As I discussed previously in an effort to try to arrive at as fair and as equitable a way of arriving at the growth in state aid that would be equal to the stimulus dollars and to also begin to address what has been referred to as the cliff effect, which is what happens in the outer years after the \$234 million in stimulus dollars is no longer available, also in an effort to address the issue of spreading pain, for lack of a better descriptor, so that the...reaching this \$234 million number would have as little an impact on each individual district as possible, I will tell you that one of the reasons I was late is that I'm having a substitute amendment prepared. Because I alluded, in my earlier comments, to the fact that we didn't want to harm small schools, we didn't want to harm the school districts that rely upon the averaging adjustment. Well, most assuredly some districts will be harmed regardless of what approach we adopt. But it is my firm and sincere belief that the approach that I am proposing under AM1137, with the amendment that will be forthcoming, helps us to arrive at that goal. And essentially what AM1137 does is provide for an across-the-board proportionate reduction in basic funding under the

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LB988 formula. And as Senator Adams has, I think, very ably described what the basic funding is, basic funding is a variable, just like the adjustments are a variable. And the basic funding is a portion of the formula that determines the adjustments. So in terms of doing anything with basic funding, it is going to have an effect on the adjustments that are available to every school district. Under AM1137, the basic import of the amendment is that the basic funding would be calculated for each district using a formula that looks at districts with enrollment below 900 and districts with enrollments above 900. And after calculating what their General Fund operating expenditures are, there would be a multiplier of .985. The practical effect of that is that the operating would be...the basic funding would be reduced by 1.5 percent across the board. Now recognizing that that could have a more significant impact on smaller districts whose needs may be less this year than they were last year, and under needs stabilization their needs stabilization funding would not go below last year's, that needs stabilization and aid stabilization is a floor. So what the amendment, as soon as it is drafted, will do is to raise that need stabilization and aid stabilization floor so that the effect of the 1.5 percent reduction in the basic funding will have more of a proportional impact on school districts than just reducing everyone's basic funding by 1.5 percent. Now recognizing that all this does in terms of the action that has already been taken and what AM1119 to LB545 does, this continues and does not disturb the Education Committee's recommendation that the growth rate percentage be reduced from 2.5 percent to 1.5 percent. That's a number that's used in determining the basic funding. This will not alter that. This will alter nothing more than restoring the average adjustment at its LB988 level and application and in lieu of eliminating or altering, and I respect and Senator Adams made it perfectly clear that the...AM1078 did not eliminate the average adjustment, it reduced the average adjustment. What this does is restore the averaging adjustment and then spreads the \$60 million over a two-year period so that we arrive at the same result, and that is an increase in the state aid that is equal to the stimulus dollars. Again, I believe that this results in fairness and equity. Do some districts gain a little more under this proposal? Yes. But one of the things this proposal also does is soften or reduce some of the loss that districts would otherwise experience under LB545 as amended by AM1119. And with that, I would urge the body to favorably consider AM1137 with the recognition that if this amendment does move forward before I can substitute an amendment that addresses the need stabilization and aid stabilization, that I will be introducing an additional amendment to address that so that we do arrive at that equity and fairness. Thank you, Mr. President. [LB545]

SENATOR LATHROP: Thank you, Senator Council. Wishing to speak: Senators White, Friend, Ashford, Adams, and Fulton. Senator White, you're recognized. [LB545]

SENATOR WHITE: Thank you, Mr. President. It's so odd to see you there, sir. Clearly, the Speaker has handed over the throttle to this enterprise to an unknown character. (Laughter) Ladies and gentlemen, I would rise in favor of this amendment and I'd like to tell you why. As drafted, the amendments put an unfair burden on a select group of

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students that lose and balance our budget on 24...and it's not on the school districts, it's on the children in 24 school districts while other school districts see net increases. Now I do understand that politics is a game of compromise and we need to accept that sometimes we don't win everything, and sometimes we only win part of what we want, and on rare occasions we lose everything. And right now for Omaha, for some other school districts, we're going to lose everything. There is no incentive. We are bearing a burden. And you could say, well, that's because you would have gotten the growth. The problem though is this particular section of the statute was passed to correct decades of unfair allocations. The people who say, well, this is where the growth is, the problem is the growth was put there because the children here had not been getting even close to the same kind of money on average that other students had, and we felt as a body that that was morally wrong and we were going to correct it. So we put in a process to bring them up even. And by the way, because this law was passed, a lawsuit was dismissed. People counted on us. Okay, now we've hit tough times. I get that. And maybe we can't all have everything we wanted. I get that. But to balance the budget on those who had least is just wrong, I mean it's just wrong. And this amendment from Senator Council says to our students, times are tough, your parents are struggling. We're all going to, we are all going to have to do more with less. Is this perfect? No. But it is much more fair than the proposal that we currently have before us unamended. I mean, how do you justify, how do you justify to the children of Bellevue that next year they're going to lose \$1,184,907, and in the year after they're going to lose \$2,901,765, and then they're going to fall off a cliff. How do you justify to the property taxpayers in the Bellevue School District that that's what you're going to do? How do you justify to Millard? Millard Public Schools should get \$10,210,000, next year they'll lose \$2,609,000, and the year after that \$6,381,309. How do you justify that they take those kind of hits when other children see the net state aid go way up? Now if you could say, if you could fairly say it's because we need your parents to step up and tax themselves in the form of property tax at a higher rate, they're not doing enough, but here's the cruel irony. [LB545]

SENATOR LATHROP: One minute. [LB545]

SENATOR WHITE: You take this money from Omaha Public Schools and they're at the levy lid. Omaha Public Schools will lose \$6,314,960 this year, and \$15,494,654 next year, and they're at the levy lid. And they have kids who are the most at risk. They have more non-English speakers, more poverty, more abused children, more learning disabilities. How do you justify that? We're cutting the pie with slivers for the poor and the minorities, and we're growing chunks of pie for the white kids. It's wrong, I mean it's just wrong and it's shortsighted. Even if we pass this, it will get challenged. [LB545]

SENATOR LATHROP: Time. Senator Friend, you are recognized. [LB545]

SENATOR FRIEND: Thank you, newly minted President. Members of the Legislature, I think this is, in a way, what the body was...that I was railing against earlier but what the

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body was kind of asking for. And I don't think Senator Adams was asking for it. As a matter of fact, (laugh) I think he'd rather not see it and I understand that. But I think now we have an opportunity to dig into something and actually ask some formative questions. AM1137 probably...and I've discussed this not just with stakeholders, and I didn't get a chance to discuss it with Senator Council yet but I don't even think it probably goes far enough. And let me explain: 1.5 percent reduction across the board, we're talking about basic funding in this particular amendment, 1.5 across the board as Senator Council eloquently explained this amendment. The argument, and it is up for debate and obviously that's why we're here, is that it can provide more equity. Well, I think we have to go almost a step further, and I'll talk about that in a second. Consider a sliding scale, a basic funding group over here in my left hand. And if your spending per student is low and you have a low number of students, that basic funding group is way up here. I think we all know that. I'm not trying to, you know, be condescending. But I've had to sort this out in this manner over my years and then also today again and yesterday. The basic funding group is right here. Low number of students, spending per student is way up here. There's a need, we all know it, we want that school to continue, it's up here. Down here, high number of students and another basic funding group over on the right, another basic funding group, probably a lot bigger, but it's down here. There's...and sometimes below the statewide average, right? That's where the averaging adjustment tends to come in. Sometimes below the statewide average is the basic funding group down here with a lot of students in it and a lot of needs as well. But Senator Adams is probably right. They can absorb a little more. I mean these things...these guys can take it. The guys on the right over here can take it. What Senator Council is doing now is saying, yeah, let's take these two funding groups and let's go like this (makes squishing noise). Okay. Yeah, that was a...I don't know what that was. (Laughter) We were squishing the basic funding groups closer to the statewide average line. If I'm not mistaken, to a certain degree, that's what this amendment does. Now I think we take it a step further, and we can talk about that later, I think we'll have an opportunity to talk about that later, and that's where you have to talk about aid stabilization. When you make that squeeze and when you make that weird noise and you push everything in different directions...or, excuse me, they're going in different directions but they're coming closer to that statewide average. They're coming closer to each other. When you take those basic funding groups and you push them closer together, you need some stabilization because somebody down below is going to say, well, wait a minute, somebody down below, doesn't matter who, whether they're in a high needs area, a low needs area, their spending per student is high or low, whatever, they're going to need some aid stabilization. Well, this particular amendment doesn't deal with that. Here's what I mean. Now picture a staircase--I'm not going to make any noise, I don't know how to make a noise for a staircase--picture a staircase where you have two stairs on it and you go from 2.5 percent and you drop... [LB545]

SENATOR LATHROP: One minute. [LB545]

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SENATOR FRIEND: ...to a 5 percent cut, that's pretty decent stabilization. But we could provide better stabilization. We could provide another step, 3.5 percent for example. So when you squeeze basic funding together, if you do, and you have an aid stabilization piece in there, you know the end result. The pain is less on either side. The gain is less on either side. Here's the problem though, right? We're talking about that pie at the very beginning of yesterday that we're dealing with. I mean there's only so much to go around. And Senator Ashford or Senator Adams, I'm sorry, knows what I'm talking about. All of that would have to fall under that premise, the stability that we talked about, the years of stability. We're taking stimulus money now, remember, and we have to provide that stability for years to come. Well, let's discuss that. What does AM1137 do to that stability? [LB545]

SENATOR LATHROP: Time. [LB545]

SENATOR FRIEND: Thank you, Mr. President. [LB545]

SENATOR LATHROP: Senator Ashford, you're recognized. [LB545]

SENATOR ASHFORD: (Laugh) Wow. How did...never mind. I was just going to ask a question about the staircase thing, because I...but I should have been watching it and I was just listening for the sound effects. And anyway, seriously, I think I just want to comment on my perception of Senator Adams' approach. I have never seen one human being work harder than Senator Adams in trying to figure out how to deal with this issue. And, you know, this is the third year I've been on the Education Committee. For the first two years we spent most weekends, I don't even know how many hours wrestling with the learning community issues and the lawsuit. I mean the lawsuit really transcended all of our discussions. In fact, the OPS lawsuit was out there until the very end. And it was essential to the creation of the learning community that we get that lawsuit settled because that was...there was a liability out there that far exceeded the \$21 million that originally went into state aid for OPS. And it was done and it was a glorious day. I mean we...LB988 was a beautiful piece of work. And for the first time in my 11 years in the Legislature, I understood what we were doing really because we...because there was...in state aid, because there really was a nexus created between the needs. Needs is just a word. But when we debated LB988 we talked about needs in terms of things that really helped education: poverty allowance, you know, the ESL students that were in such need of additional help. And we came up with a piece of legislation that passed this body and I think this body was very proud of it. Yes, it settled the lawsuit. It was not done to settle the lawsuit necessarily, but the effect of it was to address, not only in money but also formalistically, some of the very exceedingly important needs that were raised...those issues raised by OPS. I'm going to support Senator Council here because I don't think it is very far away (laugh), quite frankly, from where Senator Adams wants us to go. We...LB988 is essentially intact, whether we adopt Senator Council's amendment or whether we adopt the bill without Senator Council's amendment. I mean

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it's essentially intact. The difference is that there, because of how the amendments spun that came out of the Education Committee, there is a significant disparity in how different districts are treated, especially districts with high needs and relatively low spending. So it seems to me all we're doing, and with Senator...and when we were in the committee and we were struggling with this, and I remember talking to my friends on the Appropriations Committee saying can you get us \$60 million, because quite frankly that was where I was going. I was thinking we were going to need \$60 million to right this ship. We were going to need \$60 million more than \$234 million. And I think the Appropriations Committee, as they clearly have done, have worked diligently, and there wasn't \$60 million. And I started out yesterday saying I was prepared to find \$60 million by taking away sales tax exemptions, and I'm still prepared to do that. I don't...this is such a critical issue. And I've mentioned that to Senator Adams and I think he agreed with me. And he can correct me, but he...if you can find \$60 million, Brad, let's fund this thing and let's make everybody whole here. [LB545]

SENATOR LATHROP: One minute. [LB545]

SENATOR ASHFORD: So I know it seems like we may be miles apart but we really aren't. We're working with LB988. Senator Council has come up with a very plausible way to deal with this. And with the stabilization factor that Senator Friend talked about, it addresses the needs of smaller school districts that are high spending districts. If you don't have the averaging adjustment, you don't really have what...clearly Senator White is absolutely right, you don't have what settled the lawsuit. But that's not really what we're here to talk about. We're not talking, heaven forbid, we're not going to...we don't want to get into that mess again. Millions and millions of dollars spent on that lawsuit. But what we want to do is do the right thing. We're not that far apart. Senator Council has brought us, I think, to... [LB545]

SENATOR LATHROP: Time. [LB545]

SENATOR ASHFORD: ...the middle and we ought to take her up on it. Thank you, Senator Lathrop, Mr. President. [LB545]

SENATOR LATHROP: Thank you, Senator Ashford. Senator Adams, you are recognized. [LB545]

SENATOR ADAMS: Thank you, Mr. President, members of the body. You know, this will sound a little strange but I'm going to thank Senator Council for bringing this amendment. Strange because it's going to make an afternoon of it and we have other things to look at. The reason I say that is because, (A) I appreciate and we all should the fact that she's trying to find some common ground, but (B) what she is proposing, in my opinion, cuts right at some basic philosophic issues when it comes to state aid. And it gives us an opportunity to talk about those things. On the surface, what Senator

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Council has offered seems fair, seems simple, seems easy. And if that doggone Adams would just go along with it, we could make this afternoon go a whole lot better and we could get on to other things. I wish I could. I wish I could. But principally, principally here's my problem with what she's suggesting. We go across the board at basic funding and we nip, I forget what the number was, 1.5 percent off everybody's basic funding. Well, seems fair, seems simple, seems easy, and makes our afternoon go better. But consider this. Once we calculate basic funding then the next thing we do is start adding back in allowances and adjustments. What if we have a school district that gets no allowances or adjustments? We've nipped them 1.5 percent, and we haven't given anything back. Secondly, it to me feels a bit regressive. If I'm a district with...that I'm in pretty good shape, I take a 1.5 percent hit, all right, it's a hit, and I'm a district that has a much smaller budget, basic funding. And I take a 1.5 percent, it looks equal, it feels equal, but in a way it's a little like sales tax. Now let's talk about the nonequalizing effect here. If I am a district and I get taken down, my basic funding gets taken down by 1.5 percent, I'm up against the lid or I have very low value, I have no way of making it back up. Some other district that's sitting at 90 cents, 92 cents has room, boom, because they have different resource base they can recover better from that 1.5 percent. Here's another problem that I have with it. We have a state aid formula that is based on needs. If we accept what Senator Council proposes here we ignore the needs. We just say, let's pretend like they don't exist and take a percent and a half off of everybody's basic funding. We've ignored the needs. And just as a matter of mental exercise, flip that so today we have recessionary problems... [LB545]

SENATOR LATHROP: One minute. [LB545]

SENATOR ADAMS: ...and we're going to cut a percent and a half off. What do we do about the next time around when we see an increase in aid and it's 5 or 10 percent? Should we also say, let's put 5 or 10 percent back on everybody's basic aid? Who will yell loudest? Who will be most concerned about that? One last thing before I run out of time. Even though this may seem like a remedy in the short term, the reason that we looked at the averaging adjustment was also the long-term sustainability of state aid. And we're not dealing with that here and that's bothersome to me. Thank you, Mr. President. [LB545]

SENATOR LATHROP: Thank you, Senator Adams. Senator Fulton, you are recognized. [LB545]

SENATOR FULTON: Thank you, Mr. President, members of the body. I've been somewhat silent on the issue. I'm really listening intently and it seems clear to me that this is complex, was the word that Senator Price used yesterday. Certainly that's true. There will come a time when we're going to...we will have to, by way of necessity, revisit TEEOSA, the overall, you know, the overall structure of the equation, if you can call it an equation, and its predictability, its sustainability. Because, you know, whether or not

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it's sustainable at present rates, it's not with the state budget. It's also very difficult to predict on the part of school districts. I've heard that from folks within my district as well as people across Nebraska. The...this is a...I guess, this is a...I'm going to "seg"... "seg" a little bit off of Senator Adams here and then I'm going to touch on a related point. If you express what is in AM1137 algebraically, basically, it's what we had previously multiplied by .985, so take 1.5 percent off. How does that address the long-term sustainability of the averaging adjustment? I don't think that it does. I think that's what Senator Adams was touching on. And I'm going to yield him some time, if he'd like it, to address that. But what we would be dealing here it seems, AM1137 seems to be dealing more with the philosophy of equality and what is more fair in this budget cycle as opposed to how the overall TEEOSA formula will be sustainable going forward. Now this is interesting and I've loved to listen to this because we are touching philosophically on another aspect of our service here in the Legislature and that is are we state senators or are we senators representing district, fill in the blank. Well, we are both. And how that plays out within our own particular service is the matter of prudential judgment for each individual senator. But I can tell you part of what we have to do is to determine the overall sustainability of this. At least part of what we do has to be something more than just the good of our district. And I don't know that AM1137 talks about the long-term sustainability of that adjustment that we enacted last year in LB988. So for that reason I'm opposed to AM1137. Now (microphone malfunction) that I think, thank you, that I would like to touch on. And we talked a little bit this morning about this. Maybe it's not something that people have an interest in, but I think folks that are out there paying attention in the public and those of our constituents are going to have a hard time following the debate over, you know, whether we take students times General Fund expenditure over students in a particular array and multiply that by .985, they're not going to follow that. But what they might follow is the very simple equation that our aid is needs minus resources. And Senator Price talked on resources a little this morning. I'm going to talk a little bit on need and Senator Harms's question as to whether indeed throwing money into a school district represents the addressing on the part of the state of a need. I've been doing an informal survey this morning of my fellow members and anyone who I've talked to, to see which of us...who of us have gone to school here in Nebraska, public schools, K-12. I did. I went through Auburn Public Schools, District Number 29, back in Auburn, Nemaha County, K through 12 before there was TEEOSA. I graduated in... [LB545]

SENATOR LATHROP: One minute. [LB545]

SENATOR FULTON: ...1990. Now if the argument stands that putting more money, putting more state aid is how we address need, then what are we saying about those of us who went through our schooling without TEEOSA? I can add, I can speak decently, I understand English, I can structure my sentences. I came from an ESL home. My mom spoke English as a second language. In fact for the first couple of years of my time in Auburn I had to learn how to pronounce words. My family situation was a poverty

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situation. I think I'm classified as a minority. And I managed to get through school without excess aid. A lot of us here were able to do that. If we're going to talk about need constitutionally, then don't we also have to look at what has occurred in the past and what we're getting, what we actually are expressing by way of need now? [LB545]

SENATOR LATHROP: Time. [LB545]

SENATOR FULTON: Thank you, Mr. President. [LB545]

SENATOR LATHROP: Thank you, Senator Fulton. Next is Senator Carlson and you are recognized. [LB545]

SENATOR CARLSON: Mr. President and members of the Legislature. And, Mr. President, unlike Senator White said, I don't think you look odd. (Laugh) Now I've listened today and this is my first opportunity to talk. I heard a lot of statements about things being fair and things being unfair. I rise in support of AM1119. And I certainly appreciate the work and the effort that Senator Adams and the Education Committee has put into bringing this bill forward. But I think Senator White and I agree that property tax is a real issue in education. And I thought about something that I believe is a fact that I'd like us to think about a little bit. Too much of education is covered by property tax. And something that makes that even more difficult, if you have an equalized district that gets no state aid, their education is paid for by their property tax for the most part. But they still pay state income tax and state sales tax. Well, where do those dollars go? They go for students in other districts and that's a sore spot. And those property owners, they don't like that. I understand why they don't like that. As has been mentioned by Senator White, recent ruling of the Supreme Court shed some doubt on how much longer we can depend on local property tax to fund what clearly is a state obligation. And having spent yesterday afternoon and this morning in the chair where Senator Lathrop is, you get a different perspective of what's going on in the body and it's pretty interesting. You can't talk and that's frustrating but it's interesting. And I looked this morning across this body and thought we're talking about stimulus dollars, \$234 million that all of a sudden has come into this body. It's like a big family that gets a big inheritance and now we're arguing about how to use it and who should get it. And so we've read the will. We're receiving this large call it an inheritance, and we got to figure what's fair and what's unfair. Fair is not always equal. Now I'm going to be a little bit harsh here and I try not to be, I really wish we didn't have the stimulus dollars. If we didn't have them we'd get along, we'd figure out a way and probably in the long term be better off. And then I listened to discussion about sources of money. In our education system we have local dollars through property tax, we have state dollars through sales and income tax, and we have federal dollars. And I heard some comments about federal dollars. Now what are federal dollars? Those dollars are our dollars. They're not dollars of the federal government. They're dollars that are our dollars that we have paid. And if they're federal dollars and they're part of the stimulus, how did those dollars get

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here? [LB545]

SENATOR LATHROP: One minute. [LB545]

SENATOR CARLSON: And there would be two possibilities. They came from our taxes which were paid in and now they come back. That's not what happened here I don't believe. Or they come from a loan taken out by the federal government against our future taxes to pay it back, \$234 million for education. Now if we had a debate today about funding state aid and we decided as a body let's borrow, as the state of Nebraska, \$234 million to help us balance the budget next year, let's borrow it against future taxes paid in the state of Nebraska, how far would that discussion get and how many votes would that get? Not very many. So we've got a loan against future taxes... [LB545]

SENATOR LATHROP: Time. [LB545]

SENATOR CARLSON: Thank you. [LB545]

SENATOR LATHROP: Thank you, Senator Carlson. Senator Fischer, you are recognized. [LB545]

SENATOR FISCHER: Thank you, Mr. President and members. I would like to give the first minute of my time to Senator Council, please. [LB545]

SENATOR LATHROP: Senator Council, you are recognized. [LB545]

SENATOR COUNCIL: Yes, thank you very much, Senator Fischer. With the consent of the body, I would like to withdraw AM1137 and substitute AM1141, which is the amendment that I referred to in my opening on AM1137, which, in addition to addressing the reduction in basic funding, also addresses the issue of aid stabilization. [LB545]

SENATOR LATHROP: Are there any objections? So ordered. [LB545]

CLERK: Mr. President, I then have AM1141 as an amendment by Senator Council to the committee amendment. (Legislative Journal pages 1152-1155.) [LB545]

SENATOR LATHROP: Senator Fischer, you have 3 minutes and 52 seconds left. [LB545]

SENATOR FISCHER: Thank you very much, Mr. President and members. I have not had a chance, of course, to see Senator Council's amendment. But if it is similar to the previous amendment that we had up, I would have to stand in opposition. The policy in

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this state is for equalization. We support our schools through equalization aids. And it has been pointed out that not all districts in this state receive state aid to schools. They are nonequalized districts. They are viewed as property rich and, therefore, they receive no aid from the state of Nebraska. But of the districts, and the majority do receive state aid, it's an important part of many of those districts' budgets. I got on the Department of Education's Web site and tried to look up some districts across the state. And, of course, I focused on the 21 districts in my district, my legislative district, as all of us look at our schools. I have some districts that are supported by property taxes by 75 percent or more of their General Fund receipts. In Omaha, I believe that was 41 percent, and that is still a large amount of money coming from property taxes. But state aid that we're talking about here doesn't go out to all of our school districts equally. When we're talking about a 1.5 percent cut across the board, and we talk about that being equal and fair, I would respectfully disagree with that. We are equal and fair in the factors that we choose to be in the state aid formula. That's a deliberation made by this body. Senator Adams and I had a discussion on some of those factors on the floor. We've been talking about the averaging adjustment now. Those are decisions made by the Legislature. We are fulfilling our constitutional duty when we set those as needs for school districts and then we fund them according to their weighted factor in the formula. When we take an across-the-board cut of 1.5 percent, we have totally thrown out the policy of equalization. I believe that's wrong. I believe that is shortsighted. We're looking at districts now under this bill that are not receiving the money they anticipated they would receive in state aid. And I sympathize with them because for four years I have fought school financing on this floor, I have been a strong opponent of school consolidation... [LB545]

SENATOR LATHROP: One minute. [LB545]

SENATOR FISCHER: ...because of the effects on my legislative district, my school districts, the families in my area. But when we have school districts saying, well, we're not getting as much money as we expected, let me tell you, I have districts that aren't receiving any money and they're seeing cuts. So if we want to take that viewpoint, I can say I have districts that are going to lose 17 percent. It's not just less than they expected and they're still going to get some. It's a cut, 17 percent, 12 percent, 15 percent. And these are districts that have a high percentage of students under free and reduced lunch, which I will address next time. Thank you, Mr. President. [LB545]

SENATOR LATHROP: Thank you, Senator Fischer. Senator Harms, you are recognized. [LB545]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Council, would you yield for a couple of questions, please? [LB545]

SENATOR LATHROP: Senator Council, will you yield to a question? [LB545]

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SENATOR COUNCIL: Yes. [LB545]

SENATOR HARMS: Thank you very much, Senator Council. Now as I look at AM1141, your amendment, is it only that...the only difference in this, compared to the other, is that you're bringing the stabilization factor in? [LB545]

SENATOR COUNCIL: No, in fact,... [LB545]

SENATOR HARMS: Could you help me better understand? And then what I'm really after is are we truly comparing...and first of all, let me back up. We're talking about size of schools to start with. So you have five large, five small, basically similar here. Now what are the components that actually go in and actually analyze this so that we are truly looking at apples with apples and oranges with oranges? Because there's a chance that we may not be doing that. Could you explain that to me? And then I'll go on with my other question. [LB545]

SENATOR COUNCIL: Okay. Yes, thank you, Senator Harms. If you look at what is provided in AM1141 and a couple of points I want to make, again there's been concern about equality. And I tried to make that point earlier. There is a distinct difference between equitable and equal. There's nothing we do here that makes it equal. What we are trying to do is spread the effect as equitably as we can. Now one difference in AM1141 from AM1137, instead of a 1.5 percent reduction it's only 1 percent, and that's going to be spread over 2009-10 and 2010-11. So that's a difference. Instead of 1.5 percent, it's now 1 percent and it addresses the aid stabilization. What I referred to this morning about raising the aid stabilization so the effect of that 1 percent now reduction would be less harmful to those districts that rely on aid stabilization. And it gets to the point that Senator Friend was also making. [LB545]

SENATOR HARMS: Thank you, Senator. I have one other question that I'd like to ask. Have you run any numbers at all on this change and what impact this has to the overall funding issue, what it does to the schools? And, you know, I know we're state senators. But when I go home, I'm elected from my local district. And even though I want to be friendly and helpful and do all the things I want to do, to be that way I still have to answer to the people who I represent as well as the state. And so my question is, what happens to us with the numbers and what happens with the overall funding of this, and are we driving this budget up or not? I don't know what this does. And so, until I can see the numbers, like anyone else who's in here, I don't think I can support this unless I understand it. So... [LB545]

SENATOR COUNCIL: Okay. And, Senator Harms, you make a very valid point. And those numbers are being run at this point and we can show you on a district-by-district basis. But one of the things that we have tried to avoid doing is making this a district

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versus district issue and trying to look at the best way to achieve the intended result, which is to bring state aid within the \$234 million. And to do that as fairly and equitably, not to be confused with equally, as we possibly can. [LB545]

SENATOR HARMS: Well, I would agree with that. I just wanted to understand. I have a district that loses, you know, over \$400,000 and it's a small rural school. I don't want to see it lose any more. So I mean there is a point here where we have to be realistic of the schools that we represent and the people we represent. So let's talk a little bit about equity. Would you explain to me what you mean in this formula by equity? [LB545]

SENATOR LATHROP: One minute. [LB545]

SENATOR COUNCIL: Yes. [LB545]

SENATOR HARMS: Oh, thank you, Mr. President. [LB545]

SENATOR COUNCIL: And what we mean by equity is that the way the formula will work under AM1141 is that the numbers you saw with the eliminating of the averaging adjustment or the number you saw with the reduction in the averaging adjustment, instead of penalizing the 26 districts who rely on the averaging adjustment, having them bear the brunt of making up the \$60 million is...the equity is found in spreading that pain, and everyone has used that word. That's where the equity is. Because the way it is if you eliminated averaging adjustment, and I know that that's not what AM1078 did, but it compressed it to the point that those same 26 districts still bear the overwhelming brunt of making up the \$60 million shortfall. [LB545]

SENATOR HARMS: So we're just sharing the pain here. Is that correct? [LB545]

SENATOR COUNCIL: We're sharing the pain, Senator. (Laugh) [LB545]

SENATOR HARMS: I got the picture. [LB545]

SENATOR LATHROP: Time. [LB545]

SENATOR HARMS: Okay. Thank you, Mr. President. [LB545]

SENATOR LATHROP: Thank you, Senators. Clerk for an announcement. [LB545]

CLERK: Mr. President, Health Committee will have an Exec Session now under the north balcony; Health Committee, north balcony immediately. [LB545]

SENATOR LATHROP: Thank you. (Visitors introduced.) Next in the queue is Senator White, and you are recognized, Senator White. [LB545]

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SENATOR WHITE: Thank you, Mr. President. I'd like to talk about a couple of concepts. And with all due respect to Senator Adams and the Education Committee, I think what happens, if we go with AM1119 as it is, we are actually moving towards greater inequality. We're not moving towards equalization; we are moving towards greater inequality. The underlying bill was designed to move us to having, not actually getting, but toward having the same rough amount of basic funds for all students. Over the debate and over time I've come to understand the educational aid bill is kind of like the fingers on your hand. Together they make up a hand and there are different aspects. You know the thumb, the main player, is what we're talking about, basic funding. Then you have aid for poverty, you have transportation aid, you might have special education aid and those become the different fingers. But the thumb is the basic fundamental aid to schools. I get what Senator Fischer said, that it's enormous frustration for landowners to 100 percent fund their children's education with no help from the state. I also get the enormous frustration of parents in Lincoln or Omaha or Scottsbluff or Grand Island or Lexington or Blair or...well, I'll give you a list of some more, who despite the fact they have taxed themselves to the maximum amount that they can because they love their kids and they want them...they know they got to have a good education to have a shot now more than ever. And they've taxed themselves to the maximum that we allow and they still don't have anywhere near the money on a per child basis that perhaps a child in Senator Fischer's area might have. That makes them crazy. And that all arises out of the fact that we have a dysfunctional financing system and we have tried to correct it by correcting an overly complicated dysfunctional formula system. And there was a lawsuit, folks. And as a guy who not only as an adult made my living as a lawyer, as a child grew up in the home of first a district county attorney and then a judge, trial judge and then a Supreme Court judge, believe me I know trials, I really do. And we were getting sued and it was costing the state millions of dollars to fight that lawsuit. And that was dismissed when this underlying bill was taken. Would Senator Nantkes please yield to a question? [LB545]

SENATOR LATHROP: Senator Nantkes, will you yield to a question from Senator White? [LB545]

SENATOR NANTKES: Yes. [LB545]

SENATOR WHITE: Senator Nantkes, as a member of the Appropriations Committee, can you explain to the members what kind of toll it took on our budget, away from children and education and to lawyers, when we were fighting the funding lawsuits? [LB545]

SENATOR NANTKES: Absolutely. Thank you, Senator White. I think that's a great question and, as I mentioned to you off mike, something that's been absent from the debate thus far, particularly when people talk about whether or not this is a parochial

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kind of argument. Well, it's not. If we are not adequately funding certain school districts and certain school children, that impacts all of us, all taxpayers in Nebraska. When we see millions of General Fund flow either through...to the Attorney General's Office to defend the state in terms of school funding adequacy litigation or out through the AG's Office into private attorney generals in private law firms,... [LB545]

SENATOR LATHROP: One minute. [LB545]

SENATOR NANTKES: ...that's less General Fund money that we have available for any of our other many and ongoing obligations. And in the last cycle it was literally millions of dollars in litigation fees that the state expended. [LB545]

SENATOR WHITE: Thank you, Senator Nantkes. And you know what, as an attorney who's done literally multimillion dollar cases for years, the amount of money we're fighting over here will disappear like a toothpick in a bonfire compared to what we will spend on litigation because it just doesn't fit our principles, because we won't look at the other side, because we won't be flexible. There is nothing more expensive than that. And the losers are our children. [LB545]

SENATOR LATHROP: Thank you, Senator White. Senator Avery, you are recognized. [LB545]

SENATOR AVERY: Thank you, Mr. President. The question we're debating, we hear a lot of talk about what is fair. One side of the debate argues that what is fair is to distribute the aid on a proportionate basis. I think that is what AM1141 seeks to do, that is to spread the money equally among all school districts. The other side argues that fairness in distribution is to give each school district enough funding to meet their needs. That's what I think we ought to do. As I said yesterday, I am firmly committed to a needs-driven approach to school aid that this state has employed since about 20 years ago. When we provide aid to schools according to their needs, that is fair. Not all schools have the same needs and the TEEOSA formula takes that into account. If we distribute school aid proportionately, some schools will get less than they need and some will get more than they require. I think we have to understand what fair means. Fair means that we need to meet the needs of schools based upon the current formula. The real issue, I think, that we've been debating seems to be not what is fair but who gets what and how much. I would point out that Douglas County schools will receive, under LB545, a total increase, now I said increase, a total increase of nearly \$30 million, and nearly \$5 million of that will go to OPS. This does not include, this does not include funding for the learning community that totals nearly \$46.5 million. We're talking about new money. Now it is, of course, true that some school districts will not receive the amount of increase they expected, but it is still an increase. And I think we're hearing too much talk about cuts. These are not cuts. These are increases that are less than what perhaps some thought they would get or expected. I would remind everyone that

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the averaging adjustment element of the formula was added only last year. And this is the first year that any school has received this money. And now some school districts, and in fact probably all, are already hooked on this money and somehow can't seem to live without it. Last year's LB988 that added the averaging adjustment to the formula, I think we can agree, produced some unintended consequences, as often legislation does. The unintended consequence was that it is producing much higher costs than perhaps anyone anticipated. When you project the costs of the averaging adjustment in the formula into the future, it is clearly more than we can afford. It is simply not sustainable. This is the reality. We might wish that it not be so but it is. We have to operate in the real world and that world often delivers unpleasant news and unpleasant results. It's not fun to reduce the expected increases for schools. I don't get any pleasure in this, the committee did not get any pleasure in this, the Chairman did not. But we have to do this or the rest of our budget cannot be funded. Think about that. [LB545]

SENATOR ROBERT PRESIDING []

SENATOR ROBERT: One minute. [LB545]

SENATOR AVERY: If we don't do this the rest of the budget cannot be funded. We will give this issue full and fair debate. And at the end of the day, and I think it will be the end of the day, I trust that you will do the right thing and pass LB545 as amended by the committee. It's the right thing to do, we must do it for the sake of what we need to be doing elsewhere in the budget and for the rest of this session. Thank you, Mr. President. [LB545]

SENATOR ROBERT: Thank you, Senator Avery. Those wishing to speak: Senators Council, Nordquist, Ashford, Cook, Nantkes, and others. Senator Council, you are next and recognized. [LB545]

SENATOR COUNCIL: Yes, thank you, Mr. President. I want to address a couple of issues that my colleagues have raised during the discussion of AM1141. First, Senator Fulton's comments about his education in Auburn, I'm sure that I probably went to elementary school and high school 10 or 15 years prior to Senator Fulton. I doubt that Senator Fulton knows what state aid formula, if any, was applied when he was in school. I couldn't tell you what state aid formula was applied when I was in school. But whatever that state aid formula was, it didn't provide a building of adequate size for all of the children in my neighborhood to attend. I vividly recall utilizing the basement of the church that was on the corner for our gymnasium because we didn't have one in our school. I remember going to kindergarten on the third floor of that church because we didn't have classroom space in my school. I remember vividly not being able to put my sack lunch in the closet because the mice would eat it by noon. And, yeah, I came out okay. But the point of the matter is that the facilities that were available to me, where

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could I have been had I had laboratory equipment? Didn't have it at my junior high school, didn't get to see those things until I was in high school. I vividly recall taking French at my junior high school, which was predominantly African-American, and not having it count when I reached high school. But my classmates who took French at a predominantly white junior high school in Omaha, when they got to high school their French counted. So I mean these disparities, these inequities, we can go on and on. I'm talking about the here and the now and today and what these young people in the state of Nebraska need in order to achieve the best education possible. I have heard comments to the effect that AM1141 will have a less equalizing effect than LB545. I'm sorry, I don't understand that. The averaging adjustment was designed for equalization. If you're altering the averaging adjustment, how can that alteration be more equalizing than restoring the averaging adjustment that's provided in LB988? I have problem following that. I also heard a couple of senators say that by going to AM1141 we are ignoring the needs. Well, again, the way I understand it, LB988 is designed to determine the needs. And if anything is ignoring the needs, what's ignoring the needs is that we're not funding education at the rate and at the level and at the amount that LB988 said we should, which is \$295 million. We're all ignoring the needs because all of our efforts are designed to bring state aid within the purview of the stimulus funds, \$234 million. So if we're going to talk about ignoring the needs, we ignored the needs from the very outset of this discussion, which gets to the comment that my colleague...and, respectfully, Senator Avery, this... [LB545]

SENATOR ROBERT: One minute. [LB545]

SENATOR COUNCIL: ...this is not talking about increasing dollars. It's talking about decreasing dollars. AM1141 adds no more money to the budget than LB545 does. It adds no more. What it does is proportionately apply that reduction so that we can achieve equity. They talk about slowing the growth rate of state aid. I guess reasonable minds can argue whether a 1 percent reduction in basic funding will over time slow state aid growth. At the briefing I was told that a reduction from 2.5 percent to 1.5 percent would slow state aid over the course of time. I have trouble understanding why it slows growth in one instance... [LB545]

SENATOR ROBERT: Time. [LB545]

SENATOR COUNCIL: ...and doesn't slow growth in another instance. [LB545]

SENATOR ROBERT: Time, Senator. Thank you, Senator Council. Mr. Clerk, for an announcement. [LB545]

CLERK: Mr. President, the Government, Military and Veterans Affairs Committee will have an Executive Session at 3:00 p.m. in Room 2022; Government Committee, 3:00, 2022. [LB545]

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SENATOR ROBERT: Thank you, Mr. Clerk. Senator Nordquist, you are next and recognized. [LB545]

SENATOR NORDQUIST: Thank you, Mr. President. Senator Council is right on the money. AM1141 doesn't change the picture, we're still looking at the same pie here, it's just everyone's piece of pie is going to get proportionally smaller to make the change to fit TEEOSA in our budget but yet provide some equity in our funding formula. And she's also right when she says...when she addressed the concerns of other senators, the statement that this ignores needs. It does nothing to ignore needs. We're not changing the formula. Elementary site allowance, elementary class size allowance, poverty allowance, LEP, transportation allowance, you can go on and on, all of those adjustments are still there. We're not ignoring those needs. We're going to continue to meet those needs. It's just we're in tough times, we have to fit this in our budget. Everyone is going to have to come together, take a little bit of a hit. We're going to meet your needs the best we can. We're not ignoring needs. AM1141 is proportional. And in tough times that's what we need in this state to go forward, is a proportional reduction. One other comment I think I heard about the learning community. I want to be clear that the impact that LB545 could have on the learning community funding picture, the learning community distribution is based on formula need. So any changes we make in LB545 is going to have an impact on each district's cut of the learning community funding as well. And that's pretty significant. It's going to make a significant change to that legislation. So I support the amendment to the bill. And if Senator White is available, I'll yield the remainder of my time to him. [LB545]

SENATOR ROBERT: Senator White, 3 minutes. [LB545]

SENATOR WHITE: Thank you, Mr. President, I appreciate it. I'd like to talk to some of the folks about what this means in terms of just property tax relief. Senator Ashford, could I have my list back for a moment? Thank you. I mean for a minute forget, as hard as it is, the kids and look at property tax relief. If you have Millard Public Schools in your district, because we're not putting, by the way, one dollar of state money in this. The \$100 million we had in the budget for this has disappeared. This is federal money. We were going to find \$100 million to fund this and we've walked away from that, and that was real time property tax relief dollars. And we've walked away from that and now we're talking about walking away even further. Now here's what it means: Millard, \$6,381,809 a year in property tax relief from year two on out, next year \$2,609,000 property tax relief; Norfolk, property tax relief, two years out \$744,000 a year property tax relief; Hastings Public Schools, \$996,000 property tax relief; Gretna, \$967,000 property tax relief; Grand Island Public Schools, \$1,194,000 property tax relief; Elkhorn Public Schools, \$1,266,000 property tax relief; Westside Community Schools, \$1,399,000 two years out, per year property tax relief; Bellevue Public Schools, \$2,901,765 property tax relief. [LB545]

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SENATOR ROBERT: One minute. [LB545]

SENATOR WHITE: Folks, here's the bottom line. I have fought property tax, and you can ask some of the people who knew it, the first day I hit here. I have talked about property tax relief from the time I've hit the floor here, and I have never stopped. And I've come to realize you cannot have property tax relief without a rational school finance system, because over half of all property tax dollars collected go to schools, period. So what that means is until we come to grips with the fact that taking money from sales and income tax to help pay for the education of our kids, we're never going to have real property tax relief ever. And this bill moves us closer to property tax relief if it was done properly. And the way they want to do it, it really dumps on a lot of folks who are already with their backs to the wall, struggling to keep their homes and their businesses, their farms and their ranches. [LB545]

SENATOR ROBERT: Time. Thank you, Senator White and Senator Nordquist. Senator Ashford, you are next. [LB545]

SENATOR ASHFORD: Can I ask Senator Fulton a question before he leaves? [LB545]

SENATOR ROBERT: Senator Fulton, will you yield to a question from Senator Ashford? [LB545]

SENATOR ASHFORD: If I could, I was struck by your comments, and this is not even remotely a criticism. But I want to understand them because I think it gets to the crux of the point. Last year I think we both voted for LB988, I think, didn't we, or did you? I did. Do you remember? [LB545]

SENATOR FULTON: I don't think I voted for it. [LB545]

SENATOR ASHFORD: All right. Well, let me ask you this. I mean let me ask you, if you didn't, fine, or not, but one of the points that I am struggling with here is trying to understand what it is that is unsustainable about a proposal that takes a 1 percent across-the-board cut off? What is not sustain there? What...if you can adjust...or let me put it this way. If we have the ability in this body to adjust the...this factor of 1 percent that Senator Council has proposed, what is unsustainable about that? [LB545]

SENATOR FULTON: Yeah, my point wasn't that it's necessarily not sustainable. My point was that what would cause us to make this choice is an argument of equity as opposed to the argument of sustainability. I've actually got my light on because I'd like to ask the question, what will this...how much will this reduce our General Fund obligation? [LB545]

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SENATOR ASHFORD: Right, right. And I asked Senator Fulton this because he's a member of the Appropriations Committee. And whether he voted for LB988 or not doesn't matter. But I mean the point is they have a tough job every two years to do this. And I think we have to spend some time thinking about the sustainability of this proposal. To me, and again maybe I'd ask Senator Adams, because I think we just need to have a dialogue because I may just be overlooking something. If I could ask Senator Adams a question. [LB545]

SENATOR ROBERT: Senator Adams, will you yield to a question? [LB545]

SENATOR ADAMS: Yes. [LB545]

SENATOR ASHFORD: What is unsustainable about this proposal, I mean, in your view? Because I... [LB545]

SENATOR ADAMS: First of all, let me tell you that my view is somewhat tainted by the fact that as we look at this, regardless what side of it you're on, nobody has run the numbers. All right? So we're looking now at a 1 percent cut. Well, does that get us the savings that we needed? We're looking at aid stabilization. And I'm taking up too much of your time. [LB545]

SENATOR ASHFORD: No. [LB545]

SENATOR ADAMS: That's something that I need to talk more about. But aid stabilization, what we're in effect doing, now we're saying let's even spend more to stabilize the aid of some school district so it doesn't drop below a certain number. And whatever that number is, I don't know. [LB545]

SENATOR ASHFORD: Right. And thanks, Senator Adams. And that's fair. And I think that's really where we are here. I think we do need to see some numbers and I'm sure we will be seeing some numbers. But if we felt that LB988 was fair, that it addressed equity, and most importantly that it addressed needs, if we can address the issues of districts that need stabilization and if we can do that within the budget, and if we can then look at this in two years, and if we need to continue on with this 1 percent number, or if we need to make other adjustments we can. But if we can stay within the \$234 million, if we can fulfill the promises of LB988 and, yes, of course, it helps 26 school districts that would lose money if the averaging adjustment is changed, obviously that's a consideration for state senators who represent those 26 districts. There's no problem there. But if in fact... [LB545]

SENATOR ROBERT: One minute. [LB545]

SENATOR ASHFORD: ...it does, if in fact we can stabilize those districts effectively that

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would be adversely impacted by this proposal, I'm having a hard time figuring out why we don't do it. I'm having a very difficult time figuring out why we don't do it. Because the averaging adjustment was put in there for a very specific purpose, to bring...to address the needs that we've all been talking about today. If we can do that within \$234 million with this proposal, and I wish we would have had this proposal earlier because it is very thoughtful, why...I'm sitting here waiting for an explanation of why we would not do that in this biennium; why we would not maintain the principles behind LB988 in their entirety and address it with this 1 percent cut and at the same time deal with stabilization. That gets us through the next two years. We obviously can adjust it in the out years to keep the spending under control. Nobody wants... [LB545]

SENATOR ROBERT: Time. [LB545]

SENATOR ASHFORD: ...to keep spending out of control. Thank you, Mr. President. [LB545]

SENATOR ROBERT: Thank you, Senator Ashford. Senator Cook, you are next and recognized. [LB545]

SENATOR COOK: Thank you, Mr. President, members of the body. If you'll indulge me, I started this job about 65 days ago, this is my first experience of a debate, a floor debate, on the all-important state aid formula. And I just have some observations. And I'd like to add in kind of my personal perspective as we learn more about what the numbers actually say. I'd first like to start out by saying that I rise in support of Senator Council's amendment, AM1141. My argument may start out sounding a little bit parochial, but that's my story. I am also a proud product of the Nebraska public school system, most specifically the Omaha Public School District. I didn't go to Auburn with Senator Fulton for lots of reasons. But I did graduate from Omaha Central High School, and both my parents are retirees of the district. And they served at Omaha Benson School, and my father was a third grade teacher at King Primary School. He interestingly, we've talked about needs and poverty and disparities, was oftentimes the only man in the lives of the children in his classroom. He's still very proud of that job. He retired from the Air Force and went back to school to become an elementary school teacher. And his license plates, his Nebraska license plates to this day say "Mr. Cook." The students in Legislative District 13 are, by statistics, live 40 percent in poverty, just like the national...just like the city average from an earlier part of the debate. But as we look at the long term, before any of us see the numbers and analyze the numbers and further discuss and dialogue on the numbers, I guess, what I was thinking about after Senator Fulton got up and shared his wonderful experience in the Auburn Public Schools and I reflected on my experience in the Omaha Public School District, we were talking earlier about how each of us had good postsecondary educational experiences in private universities. And there we were with our diploma minted from Nebraska and we were competing for grades with students who had attended Swiss boarding schools

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and super double expensive private schools across the country and around the world. So, I guess, as we think about supporting this amendment and supporting an educational policy that looks forward to little kids from all over the state living in rural poverty or urban poverty or starting out learning English on their own or in school, that we remember that the long-term strategy is to ensure that these students grow up and become well-educated enough to contribute to society so that maybe we are looking beyond a property tax levy to support the educational system or Medicaid or whatever else we're going to have to support with these kids staying in the state, but looking beyond this cliff and looking beyond today to investing in students' education so that they are able to contribute to the sales and income portions, and that they'll want to stay here and Nebraska will be someplace that they can be proud of. With that somewhat unscientific analysis and personal documentary, I would like to offer the remainder of my time, Mr. President, to Senator Council, if she would like it. [LB545]

SENATOR ROBERT: Senator Council, 1:15. [LB545]

SENATOR COUNCIL: Yes. Thank you, Mr. President. Thank you, Senator Cook. Quickly, in this 1:15, I hope I can do it, I was really surprised by my colleague Senator Avery's reference to the learning community and the funding associated with the learning community, as if to suggest that there is some type of windfall that would go to districts in the learning community. And I'm going to speak specifically to Omaha Public Schools, that if the averaging adjustment is reduced in the amount that AM1078 calls for it to be reduced, the needs of the Omaha Public School District aren't being met according to the application of the LB988 formula. And as Senator Avery, as a member of the Education Committee, well knows, it's those needs that are...form the basis for what OPS's percentage of the common levy from the learning community will be. So if you take this to its logical extent, OPS gets a double hit. They get their needs reduced and correspondingly their state aid, and then those reduced needs are what...the factor that determines... [LB545]

SENATOR ROBERT: Time. [LB545]

SENATOR COUNCIL: ...what their percentage share of the common levy is. [LB545]

SENATOR ROBERT: Time. [LB545]

SENATOR COUNCIL: So while we can talk about what the community...learning community has, it's not going to be distributed in that manner. [LB545]

SENATOR ROBERT: Thank you, Senator Council and Senator Cook. Senator Nantkes, you are next and recognized. [LB545]

SENATOR NANTKES: Thank you, Mr. President. Good afternoon, colleagues. Just

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wanted to rise in support of the amendment and offer a few general propositions to the dialogue and the debate this afternoon. I want to thank Senator White for the time he afforded me earlier to visit a little bit about how potential litigation issues truly will become each and every taxpayer in Nebraska's concern if we move forward in the manner presented. And I think that the point that I wanted to make, we have so many really bright and dedicated folks on the committee and in the body who have specific expertise far beyond mine in regards to school funding, but the point I wanted to make is there's really not a need to be a constitutional scholar or a TEEOSA expert in addressing these issues. It's really just basic common sense that tells us that the districts in the areas with the most kids with the highest needs should have the most resources, and I think that's a strain or a similar strain on the proportionality dialogue that we've heard a lot about today and really is what...the issue and the heart of these matters. Finally, I think the amendment that Senator Council presents to us represents something that's a workable solution. And we hear a great deal about the need to be consistent, and as politicians we're particularly nervous to be accused of flip-flopping in any way, shape or form. But the beauty of this body, of the Nebraska Unicameral in particular, is that different perspectives amongst different members with different philosophies can change minds, can bring different ideas to the table and say, as an Education Committee, wow, here we do have a workable solution that allows us to be unified and to move forward. And I'm hoping that we can really get that commitment from the committee now, today on this amendment or in general before we would move to Select File. Because I think in some ways people are really dug in now and that's a product of the hard work and passion and dedication that they've invested in the topic. But maybe just by taking a step back and a moment to breathe and having a clear evaluation of the options available we can find that common ground that our constituents sent us here to find. With that, I will yield the remainder of my time to Senator Nordquist. [LB545]

SENATOR ROBERT: Senator Nordquist, 2:20. [LB545]

SENATOR NORDQUIST: Thank you, Mr. President. Senator Nantkes is right on the money. This is a workable solution that we can all come to the table and discuss. It makes proportional reductions for everybody. I just want to be clear on my previous statement about the costs. No one has run the numbers on this so obviously we don't know the official bottom line impact. And I'm not as articulate as Senator Adams so I may have misspoke. We can...this is a solution that we can tinker with to get the pie to stay the right size. This gets us close. We can make the final adjustments, modifications to make sure the pie is the same size and it's a proportional reduction on every piece of that pie. Thank you, Mr. President. [LB545]

SENATOR ROBERT: Thank you, Senator Nordquist and Senator Nantkes. Those wishing to speak: Senators Friend, Hadley, Dubas, Carlson, Fischer, Fulton, and others. Senator Friend, you are next and recognized. [LB545]

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SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. We got a handout about the concept in regard to AM1141. It proportionately reduces the basic funding by 1 percent. It's not 1.5 anymore, right? We need to be on that train. In 2009 and 2010, and 2010 and 2011, the basic funding is a fundamental element of formula needs that all school districts share. We know that. Changes in formula need allow the changes to run through the formula and maintain the construction of...or construct of equalization. The addition is the increase and to extend stabilization to school districts utilizing the aid stabilization provision, increasing the aid stabilization floor for 2009 and 2010 and extending aid stabilization to 2010-2011. So we're adding that 3.5 in there, a fail-safe, if you will. With all that said, let's break this down to its simplest form, if we can. There's been a lot of talk out here the last couple days, and approximately about eight hours--I'll get to that in a second--approximately eight hours of discussion and in that eight hours discussion about how we need to provide stability for the future. Make no mistake about this, members of the Legislature, make absolutely no mistake, nothing we are doing here today, nothing, provides stability and predictability and growth for education or anything else for the future. Senator Council was absolutely correct. This is a here, this is a now. There are a bunch of schools fighting over money right now. That's what this is. It's as simple as that. That's in its simplest form. Senator Carlson was right too. We're borrowing money to do it, by the way, sort of, from the federal government to do it. That leads us further down the road of understanding that there's absolutely no stability for the future. We're fighting for the children...I can't believe I just said that. (Laughter) We're fighting. We're fighting for funding and we're fighting for resources. That's what these schools are fighting over right now, right now, not two years from now, not four years from now. And by the way, I've also heard discussion about, remember, we're fighting over that pie, the \$234 million? We're not asking for new money. Senator Nordquist and Senator Council had brought this up. We're not looking for new money in this fight that the schools are having, that we're having for them. But it's all right to go out and go find \$15 million new dollars to dump into behavioral health. And half of that money we're not sure we're throwing it down a rathole or not, do we? That's somewhat offensive to the sensibilities. We can go ahead and...haven't I heard over and over again how the education is the most important thing? We're trying to come up with some sort of equity but, goodness, don't ask for any more than that \$234 mill. And, by the way, don't you dare go in and try to move the shells around because the shells are just fine the way they are right now. Let me get to the final point--the eight-hour deal. I've heard the word "cloture" tossed out here a little bit, okay? I've even thrown it out myself. I usually used to like cloture. Let me give you the definition of a filibuster in a parliamentary procedure, the definition of a filibuster: One person or two people trying to block the will of a body. [LB545]

SENATOR ROBERT: One minute. [LB545]

SENATOR FRIEND: Based on this discussion, which is a viable policy discussion that

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we've got going on here, a very viable policy discussion...and I'm sorry if people are getting tired. I'm just getting my wind. I'm just starting. I could go forever on this subject and we should. Why (laugh) the man who sits here saying nothing, easy for him to say. We can...what else would you rather talk about? Your priority bill? Who cares? Are you saying that this is not important enough discussion matter? We've been on this amendment for, what, an hour and a half but we've had enough discussion, we should cloture it? I would vote against cloture and I'll tell you why. If we had one or two people blocking the will of the body right now, blocking the will of the body, I'd say...and there was no formative discussion going on, I'd say, yeah, go ahead, let's cloture it. [LB545]

SENATOR ROBERT: Time. [LB545]

SENATOR FRIEND: I love the smell of cloture. Not under these circumstances. Thank you, Mr. President. [LB545]

SENATOR ROBERT: Thank you, Senator Friend. Speaker Flood, for an announcement. [LB545]

SPEAKER FLOOD: Good afternoon, members, Mr. President. I've been asked repeatedly about the thought of using a cloture motion at this point. We are dealing with a state aid formula that spends upwards to \$1 billion. It deserves an ample amount of debate. It is one of those issues that will require a lot of debate and Senator Council has given us something to talk about here with AM1141 to AM1119. For that reason, it is my intention to go until 5:00 tonight. I will not, under our rules, allow a cloture motion to be received by the Chair of this body at any time before 5:00 p.m. or immediately thereafter. Tomorrow morning we will, in the morning at 9:00 a.m., take up some General File that is not LB545, but at 1:30 p.m. tomorrow afternoon we will return to LB545. By 5:00 p.m. tomorrow night we have to, as a Legislature, act one way or the other. We have to make a decision as to where we're going. By that time we will have in upwards of 13 or 14 hours on this bill, which I can defend given the complexity of the formula, the amount of money involved, and the impact on everyone across the state. For that reason, we will continue debating this until 5:00, unless a resolution is arrived at prior to that. We will go to General File tomorrow that is not LB545 and at 1:30 p.m. we will resume discussion. Thank you, Mr. President. [LB545]

SENATOR ROBERT: Thank you, Speaker Flood. Returning to discussion on AM1141 to the committee amendments, AM1119, those wishing to speak: Senators Hadley, Dubas, Carlson, Fischer, Fulton, Heidemann, and others. Senator Hadley, you're next and recognized. [LB545]

SENATOR HADLEY: Mr. President, members of the body, one of the things that concerns me, we're throwing a lot of numbers around with no numbers. What is really the impact of what we're talking about? I don't know and that bothers me. I will tell you, I

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hadn't said this before in the two days, I have four school districts and every one of them lose under the LB or AM1119. I don't have a winner there. But also, I've talked to all four superintendents and they're willing to live with that. They understand the situation and they understand what we're going through and they're committed to what the Education Committee came out with. Lastly, let me just take a second to tell you a little bit of a personal story. I worked in a university system that used a formula-based system, and they started out funding that formula at 100 percent. Then they found out the formula was not sustainable and, instead of changing the formula, they changed the percentage that they funded the formula, which is exactly what we're trying to do with AM1141. And as a Legislature, this state found it very easy then to solve their problems by just keeping ratcheting down the percentage that they funded of the formula. So I worry that we're setting a precedent here by reducing the formula by 1.5 percent across the board. What happens in two years from now? We come in and say, boy, this isn't sustainable so let's reduce the formula by 5 percent this year? I'm telling you, it would make our jobs pretty easy because all we do then is determine what we want to spend. We compare that to the formula and we figure out a percentage and that's what we fund. I think our formula is much more complicated that...or complex, whatever term you want to use. The last thing: I am concerned about the sustainability of this path we're on. I go back, a lot of us will be going home on this last weekend. Talk to your neighbors. Talk to the people in your district. Ask them how they feel about a 10 percent increase in their salaries, in their revenue. Whether you're a rancher, a farmer, run the hardware store, 10 percent, that's an amazing number in this day and age. So again, we're not talking about overall decreases there. It's a 10 percent increase. And, yes, it's coming from stimulus but it would be ridiculous not to use that to try and tide us over. We may have to face the problem again in two years, but at least it gives us two years to look at it. Senator Adams, I would yield any time left if you would like to use it. [LB545]

SENATOR ROBERT: Senator Adams, 1 minutes and 40 seconds. [LB545]

SENATOR ADAMS: Thank you, Senator Hadley, members of the body. There's a lot of things that I want to say yet and I do have my light on, but let me at least get this in. As we look at what we're trying to do here, I'm going to speculate on something and I may be held wrong. If you were to go up and ask many of the superintendents of the 26 schools that we're talking about on the averaging adjustment, what do you think about a 1 percent cut across the board and even it up,... [LB545]

SENATOR ROBERT: One minute. [LB545]

SENATOR ADAMS: ...my guess, and I'm speculating, they would say, for my district I like that, but in terms of what we try to do with the finance formula and what we try to do philosophically and principally, it's not a good idea. It's not a good idea. Thank you, Mr. President. [LB545]

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SENATOR ROBERT: Thank you, Senator Adams and Senator Hadley. Senator Dubas, you are next and recognized. [LB545]

SENATOR DUBAS: Thank you, Mr. President, members of the body. This is a good debate and it is one that deserves every bit as much attention as we gave to roadside trapping, so I am glad that we are going to go on. We've talked about state aid and the state aid formula probably for as long as we've talked about property tax relief. And I can remember talking about and hearing about property tax relief ever since I was just a small child. It's just one of those things that constantly demands our attention and our discussion. It's kind of like the weather--it's always there. And I don't disagree that we need to look at how do we consider state aid. I know we have many school districts across the state, rural and urban, who are struggling at times just to provide basic education and supplies for their students. I personally know of many teachers who are buying supplies for their classrooms out of their paychecks because their schools don't have the resources to help them take care of their students. That's a problem. That truly is a problem. My schools also are not thrilled with this formula. They wanted LB988 left alone and they wanted that formula to be given an opportunity to work. But I kind of liken school aid and the school aid formula to how...to what my husband and I do at the beginning of every year when we sit down and do our farm's cash flow. My cash flow is how I plan for my financial picture to work. It's how I anticipate my income and plan for my...the cost of my inputs. But as the year progresses and I start to see really how things are going to play out, reality sets in and then I have to make changes. Schools also know what they want. They plan. They determine. But then reality usually comes into play and they have to go back to what is it they actually have access to. They recognize the devastation of actual cuts to their income versus just not receiving as much money as they had anticipated, and as I've talked to my superintendents, that's their game plan now. They are recognizing that they're probably not going to get as much as they had originally anticipated. They are, if not...if they haven't already, are in the process of making adjustments to what their budget will look like when they talk about it this summer and are dealing with reality. And unfortunately, that's where we're at most of the time. We don't get what we want usually. It's reality that forces us to really look at the big picture, ask the hard questions and make the difficult decisions. I totally understand what Senator Council, Senator White and others are doing. If I was in their position I'd be doing the exact same thing. That's what we are here to do. We are state senators but we also have to work to represent our district in what we see as the best interest of our district, and that's why we're having this discussion today. If Senator Council would yield to some questions, I'd appreciate it. [LB545]

SENATOR ROBERT: Senator Council, will you yield to a question? [LB545]

SENATOR COUNCIL: Yes, Mr. President. [LB545]

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SENATOR DUBAS: Thank you very much, Senator Council. We've bantered a lot of verbiage around here today. We've talked about equal and equitable and sustainable. And all of those things, depending on who you talk to, you're going to get probably a different kind of a definition. But I guess my question to you is in what...in the amendment that you have brought forward, how does it address sustainability, equity, and how does it avoid the cliff effect that we've been talking about today? [LB545]

SENATOR COUNCIL: In terms of sustainability, and, Senator Dubas, I guess I have to assume certain things because the term "sustainability" has been used in a variety of contexts during this discussion,... [LB545]

SENATOR ROBERT: One minute. [LB545]

SENATOR COUNCIL: ...if we're talking about sustainability of state aid or if we're talking about sustainability of the stabilization. But in terms of what the under...the understanding that I received as out of the briefing is that what we want to be able to do is slow the growth of state aid. So if that's the definition that's being provided to stabilization then, to a degree, yes, this does slow the growth of state aid because of that 1 percent reduction. But we have to understand again this whole discussion of ignoring needs. LB988 determines the needs and if that formula is applied, currently we're not meeting those needs under any of these scenarios. [LB545]

SENATOR ROBERT: Time. [LB545]

SENATOR DUBAS: Thank you. [LB545]

SENATOR ROBERT: Thank you, Senator Dubas and Senator Council. Senator Carlson, you are next. [LB545]

SENATOR CARLSON: Mr. President and members of the Legislature, again, since I wasn't able to speak this morning, I'm going to speak for the second time and then I'm done. But I want to go back to the fact that we're spending a lot of time talking about something that, in fact, in education is a \$234 million loan. And to emphasize this a little bit, I'd like to address Senator Hansen, if he would yield. [LB545]

SENATOR ROBERT: Senator Hansen, will you yield to a question? [LB545]

SENATOR HANSEN: (Microphone malfunction) Yes. [LB545]

SENATOR CARLSON: Senator Hansen, as we're discussing our need in state aid and funding of education, if I brought forth a bill this session and I said in order to meet these needs I think the state of Nebraska and the Legislature needs to pass a bill that would allow us to borrow \$234 million to get this done for the next two years, would you

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vote for that bill? [LB545]

SENATOR HANSEN: Senator Carlson, I'd probably think about it a little bit and say no. [LB545]

SENATOR CARLSON: And why wouldn't you vote for it? [LB545]

SENATOR HANSEN: (Laugh) Well, we're in the...I mean the whole country is in a recession and Nebraska is getting there. We're trying to be fiscally conservative and not get into that particular shape. [LB545]

SENATOR CARLSON: Okay. Thank you, Senator Hansen. And I'd really be interested. If I brought forth a bill like that and we took a vote on it, I don't think it'd get...I don't know if it'd get any votes because I think we're smarter than that. But that's what the federal government has allowed us to do with not only \$234 million but approximately \$1.2 billion. That whole situation is scary and, in a way, I think it's sad. But thanks to our federal government, we are stuck. We have to accept this big loan against our future tax payments. And I would be one that would vote to accept this loan against future tax payments, because if we didn't take the loan some other state would take it and we're still stuck with the bill. So we're going to repay it either way you look at it and, therefore, it's in our best interest to accept this loan. Now we're plying the state aid formula and I've listened to discussion today and I would think it's important that we remember that, as much wisdom has gone into developing our state aid formula, some people treat it as though it's gospel, but I don't think it's gospel and I don't think it's absolute truth. My book of truth doesn't have a state aid formula in it. The formula is okay. And Senator Adams and the Education Committee has done a lot of good work. It's an estimate. It's a tool. But we have to be able to annually revisit it, adjust it so we can be fair, so we can uphold the constitution and so that we can provide the opportunity for a quality education to all students in our state. Thank you, Mr. President. [LB545]

SENATOR ROBERT: Thank you, Senator Carlson. Senator Fulton, you are next and recognized. [LB545]

SENATOR FULTON: Thank you, Mr. President. I think I've forgotten what I was going to say. "Parson" Carlson, you are preaching the word and I appreciate what you are preaching. The sustainability, I guess I'm going to ask this question again. I don't know if we have numbers back or not, but would Senator Council yield to a question? [LB545]

SENATOR ROBERT: Senator Council, will you yield to a question? [LB545]

SENATOR COUNCIL: Yes, Mr. President. [LB545]

SENATOR FULTON: Whether...Senator, I...we may not have numbers back, but could I

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get an idea, does this...does your amendment cause our General Fund obligation to decrease or is your amendment basically reallocating within the existing pie? [LB545]

SENATOR COUNCIL: It's basically, Senator Fulton, it's taking the \$60 million difference between the stimulus money and what the formula said the needs were. The formula said the needs were \$295 million. The committee decided to apply the \$234 million in stimulus money to achieve that and not increase above the \$234 million. AM1141 takes that \$11 million and spreads that requisite reduction proportionately across the school districts. It does not provide for any increase above what the stimulus dollars. And the adjustments that have been made between AM1141 and AM1137, instead of 1.5 percent reduction which was reflected in AM1137, it's down to 1 percent. And the aid stabilization floor, and if you understand the formula, because it doesn't appear to do what it does, but if you look at it for 2009-2010, the stabilization aid percentage is 3.5 percent. And with a smaller percent, that means more stabilization so that's how to try to spread the pain in a more equitable manner. [LB545]

SENATOR FULTON: Okay. Thank you, Senator Council. Senator Adams, would you be willing to respond to that? I... [LB545]

SENATOR ROBERT: Senator Adams, will you yield to a question? [LB545]

SENATOR ADAMS: Yes. [LB545]

SENATOR FULTON: I think I have a general understanding and I still maintain that what we'd be doing here is really a question of answering or responding to a concern of equity as opposed to answering or responding to a concern of sustainability. I'm going to turn it over...I'm going to yield the rest of my time to you, if you'd take it. I'd like you to pick up on that a little bit. [LB545]

SENATOR ADAMS: You know what, one of the... [LB545]

SENATOR ROBERT: Two minutes, twenty-four seconds, Senator Adams. [LB545]

SENATOR ADAMS: Yeah. Thank you. One of the things you have to think about, Senator Fulton, is this. I understand what Senator Council is doing here and I'm...it's good work. Now the problem, when we're talking about aid stabilization, is this: (A) it's going to cost the state more money to stabilize that aid; and (B) inherent within that is that in districts that have increasing property valuation, even there, there's aid stabilization. So the resource is increased and yet we're still stabilizing aid, and there is more money involved. Thank you, Mr. President. [LB545]

SENATOR ROBERT: Thank you, Senator Adams and Senator Fulton. Senator Heidemann, you are next and recognized. [LB545]

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SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. We've had some good debate. We've talked quite a few hours. Seems like the Chamber is somewhat kind of emptying out here a little bit. I just been listening to the debate and we've had a lot of talk about cliff effects, we've had a lot of talk about, you know, extra money maybe for education. I do want to let you know that we've done a lot of tough work in Appropriations and, from where we thought we was going to start, what the...what was proposed to the committee, we cut over \$300 million already. And I think we've made some tough decisions in Appropriations. We made responsible decisions. And now I think it's up to us as a body to make responsible decisions with the education, the TEEOSA formula, so that we can keep the budget that we have and, after this biennium and when times get better, move the state forward in a positive manner. Education is a huge part of that and I will agree with that. I want to...we talked about this morning, I talked a little bit and then Senator Nordquist talked about what other states are doing. I'm going to...from the Daily Herald out of Springfield, Illinois, I'm going to read this just a little bit to you: State officials announced Monday they received \$1.4 billion in federal education stimulus funding but don't look for a similar increase in actual school spending. The state has a total budget deficit of more than \$12 billion and is counting on billions in federal stimulus funds to help balance spending. In the case of education, the federal dollars will help fill the gap left by dwindling state tax revenues. Illinois State Board of Education spokesman Matt Vanover said \$1 billion would help erase the back-load (sic) of operational funding owed to schools this year and the remainder would help increase funding the next year. The extra \$400 million would give education an extra \$174 million above the fiscal year '09 current budget. That amount, \$174 million, is the increase in kindergarten through high school funding that the governor proposed in his plan for the coming budget year. It goes on a little bit but I just wanted to let you know that in other states they receive \$1.4 billion in stimulus funding. They're not even passing it on. We have so much to be proud of when we have \$234 million of stimulus money and we're actually able to give it to what it was intended for, and that's the schools. We've had conversations about the cliff effect and we're worried about the cliff effect and what it's going to cost us. The one thing that I do want to emphasize to this body, without LB545, TEEOSA, and without the stimulus funding, TEEOSA will cost this body and this state \$295 million extra this biennium. You will hear eventually probably they are going...somebody will stand up and say that in the out biennium TEEOSA is going to cost us an increase of \$244 million. That is a large increase. But without LB545, we've already hit the cliff because it's going to cost us \$295 million this year. We need LB545. We need AM1119 to LB545. We don't need AM1141, because that muddies the picture. I think we need to move on. We've had good debate. We're going to continue to have good debate, but I think we need to continue to focus about what we need to do. Thank you. [LB545]

SENATOR ROBERT: Thank you, Senator Heidemann. Senator Adams, you are next and recognized. [LB545]

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SENATOR ADAMS: Thank you, Mr. President. Let me point out a couple of things about what we tried to do in LB545 and my amendment, and also what we look at here. In LB545 and this amendment, we are taking \$26 million in increased aid over this next...this year that we're talking about certifying and spreading it out over 254 school districts. That doesn't mean everybody gets something but there \$26 million of it is being spread out of the increase in aid. You know where the other \$60 million is going? It goes to averaging adjustment. Now I know that those 26 schools where that averaging adjustment money goes have got most of the students. But if the discussion here is about the proportionality of how we are divvying up this aid, think about those numbers. Think about that. LB988, when we passed it last year, I don't remember, maybe because I blanked it out, if it was as gruesome a task as what we're dealing with here. It was changing the whole formula, changing the whole formula, but we got there. And I don't want to go back and look at vote counts. I suspect a lot of the folks that voted for LB988, saying that it was a good equalization formula, that it was better than what we had, are concerned now that it's not working, that it's not equalizing, that it's not fair. Well, wait a minute. What we have talked about doing in the Education Committee amendment is just slowing the growth where most of the growth is at. And we don't know what Senator Council's bill, particularly with the aid stabilization, is going to cost us because the more land values go up the less resource a school is qualified for. Well, in effect, when you have aid stabilization they get it anyway. They get it anyway and that's problematic as well. So I want you to think about those kinds of issues and everybody in here who have spoke to this has brought up a lot of different things. Thank you, Mr. President. [LB545]

SENATOR ROBERT: Thank you, Senator Adams. (Visitors introduced.) Returning to discussion, those wishing to speak: Senators Loudon, White, Council, Haar, Mello, and others. Senator Loudon, you are next and recognized. [LB545]

SENATOR LOUDON: Thank you, Mr. President and members of the body. As I've listened to the discussion all afternoon and this morning, and I hadn't weighed in on any of it, but I looked over some of these amendments and I've talked to some of the education people that represent the state, and what I've come up with, the district I represent, there are nine schools in the district that I represent. Two of them don't get any state aid whatsoever, so whatever we do here won't have much effect on them because they haven't gotten any state aid. Sioux County I don't think ever did get any state aid. And out of the other seven, six of them all lose money and most of that loss came from LB988 last year. One of them gets about \$96,000 this year. But the way I understand it with this AM1141, there would be another 1.5 percent cut on top of what they've already lost, so I don't know if we can stand it two years in a row, especially when I look here that Omaha stands...I think they got \$20 million plus last year and this year they stand to get a plus \$4.9 million this year. So anyway, they're getting money when all the districts in our area are taking a hit. And then you put in here an

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amendment to take another 1.5 percent hit on top of that, is more than I think the camel can bear. So I think I certainly won't vote for AM1141. When you talk about your state aid and your needs and all that, can you describe what the needs are? That's a moving target. And over the years that's been the problem when you started to fund education through the state, clear back when we had LB1059 or whatever the number was years ago when we first started state aid. Nobody ever did define what the needs would be or what the state would fund. It's always been whatever they kind of decided at the time, and that's moved around over the years till finally you have a \$900 million bill sitting out there and everybody is wondering how to pay for it. Now whether you're going to have a sales tax or an income tax, and that's what's paying for it now because the state doesn't levy any property tax, but some areas that we don't have any state aid, you mentioned that...I think I heard mentioned on the floor that 35 percent of your property tax goes to support schools. Well, I give you a little clue. Where I come from it's more like 65 to 75 percent of our property tax goes to support schools because we don't receive state aid in many of those cases and so it is important out there. I always point out that when people complain about property tax, the first thing they have to do is did they go to the budget hearing with the schools the summer before out in these rural areas where you have these type of school systems, your Class II and III school systems. That's when it's decided what your needs are. And many of those areas have found the system that if you work your needs accordingly, why, you do receive more state aid. It's very easy to get up to that dollar mark or that 98 cents or so and then you can receive your state aid and, for some reason, that seems to be a goal to achieve in many districts. If districts are far enough away...low enough in their levy, they don't try to do that, so consequently we don't have that problem. [LB545]

SENATOR ROBERT: One minute. [LB545]

SENATOR LOUDEN: But the way the thing sits here is I think the original LB545 and the amendment that the Education Committee has worked out probably works the best for us. This is probably the least amount of loss that we will take. And I understand that somewhere along the line you're going to have to get a handle on state aid to education. So I think we have to be very careful when you start what you're asking for because, the way I see it, no matter what you have here, Omaha comes out ahead. So I don't know what the problem is. So with that, Thank you, Mr. President. [LB545]

SENATOR ROBERT: Thank you, Senator Louden. Senator White, you are next and recognized. [LB545]

SENATOR WHITE: Thank you, Mr. President. Ladies and gentlemen of the body, Senator Heidemann quite properly recognized that we're still relatively fiscally sound, but let's look at why. First of all, there are three major areas of expenditure in a state: education for the young people; roads; and then general expenditures, things like healthcare, prisons, justice system. Our roads are funded by a gas tax into a trust fund,

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they're not part of our general budget, and we're having real long-term problems with that. But we only...we tax what we have to. We set how much we're going to spend and the system takes care of it. Our school education is overwhelmingly supported by property taxes and our constituents are up in arms. So on the one hand--I wish Senator Heidemann hadn't left--on the one hand, we're applauding the fact that we have...still fiscally solvent because we're paying disproportionately for our schools on property taxes, but what makes us feel good makes our constituents miserable. They've lost jobs and they know if they don't pay their taxes they lose their house. Their businesses aren't making money and they still got to pay property tax. Corn has dropped in value half; their own property values have increased and they still got to pay property tax. It's not because we've done such a brilliant job of managing money, though we've done okay. It's because we set up a system that puts it on the backs of people who can't evade paying the taxes whether we're in good times or in bad times. Like it or not, you got to pay your property taxes. You want to get to job, get to work? You got to buy gasoline. You're going to pay those two legs whether you like it or not. And it's one of the reasons our constituents are so unhappy about property taxes because property taxes have no relationship to whether a person is making money, whether their home is...whether they're able to afford it, whether their farm is productive or not. They either have to pay it or they lose it. So as we celebrate ourselves, understand that's built on pain from our constituents. At the same time we applaud ourselves for being fiscally conservative, understand 48 states in the Union carry more of the burden through general funding than property tax than we do. We rank 48th in state aid to education to kids. That is no reason to celebrate. And the thing that is frustrating, as we talk about we're only slowing growth, we're only slowing growth, we're only slowing growth, think of the money as calories. You've got children who are literally on the edge of starvation for calories and you've got kids who are eating more than is healthy for them. And we're saying, well, we're sharing, we're slowing the growth for the kids who were going to get the most growth. Well, those were the kids farthest behind in calories. The people who weren't getting enough money and whose districts were up against property caps and levy lids, they are the ones who are taking all of the pain. And meanwhile, when you go back home to all the districts and it's time to defend this, and that's whether you're from Gretna or Elkhorn or Omaha or Norfolk or Grand Island... [LB545]

SENATOR ROBERT: One minute. [LB545]

SENATOR WHITE: ...or Lexington, the money you claim you're saving here today you're taking out of the hides of the property taxpayers back home. Don't kid yourself. That's exactly what we're doing. And you might be able to kid ourselves inside of this room, inside of Lincoln, but the folks back home know. They're paying property taxes because we're not finding the money from General Funds to lessen that load and we stand 48th in the nation, and that's why our property taxes are backbreakers. And on top of it, our kids are not getting equal access to funding necessary for education. Thank you, Mr. President. [LB545]

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SENATOR ROBERT: Thank you, Senator White. Senator Council, you are next and recognized. [LB545]

SENATOR COUNCIL: Yes, thank you, Mr. President. Just a couple of points: The issue with regard to needs, and it's very interesting to me that there are members now who are questioning what district needs are or may not be, but the needs themselves this body, in LB988, said the formula that's set forth therein determines the needs. Unlike my colleague Senator Loudon, I wasn't here last year to participate in that discussion. I don't know how the vote was on that discussion. But what I do know is that that is the bill that was introduced. And part of the reason for the formula that's developed in LB988 is for the purpose of providing equalization in terms of funding the needs of the school districts in the state of Nebraska. Now we want to speak about Omaha Public Schools. Yes, my district falls completely within the boundaries of the Omaha Public Schools. And we can talk about expectations or you can talk about needs, and it was this body that said that the results of the application of the formula in LB988 determines the district's needs, and those needs can be present in some districts and not in others. Some districts have higher poverty rates than others. Some districts have more students who speak English as a second language. Some districts have greater transportation needs. But whatever those needs are, this body said those needs would be addressed in this formula. What LB545, with the amendment that is set forth in AM1141, says, we're going to continue what this body determined last year to be the method of calculating school district needs. But you know what, folks? We're not able to provide for all of those needs and most assuredly some districts aren't going to get what the formula says that they were going to get, some were going to get less than they may have received under another application. But the fact is that we can talk about the proportional effect of the \$60 million and the reduction, but I want to ask Senator Adams a question, if he would yield. [LB545]

SENATOR ROBERT: Senator Adams, will you yield to a question? [LB545]

SENATOR ADAMS: Yes. [LB545]

SENATOR COUNCIL: Senator Adams, we've talked about the averaging adjustment and you've correctly noted that the averaging adjustment was added through LB988 last year. Is that correct? [LB545]

SENATOR ADAMS: That is correct. [LB545]

SENATOR COUNCIL: And one of the reasons it was added was because of the issue of equity in funding. Is that correct? [LB545]

SENATOR ADAMS: It was. We had an identified group of schools that were up against

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the lid that needed some assistance, given the problems they were faced with. [LB545]

SENATOR COUNCIL: Okay. And during the briefing that you graciously provided last week in an effort to increase our understanding of the bill that was being advanced by the committee, you discussed what you characterize as unintended consequences of the averaging adjustment. [LB545]

SENATOR ADAMS: That's correct. [LB545]

SENATOR COUNCIL: And you describe what the unintended consequences of the averaging adjustment was, was that those dollars that were provided to... [LB545]

SENATOR ROBERT: One minute. [LB545]

SENATOR COUNCIL: ...to equalize would be added to the general operating fund expenditures the following year. Is that correct? [LB545]

SENATOR ADAMS: That's correct, and continues to push that average up and compounds itself, yes. [LB545]

SENATOR COUNCIL: Well, but isn't it also true, Senator Adams, that by increasing the resources that are available to those below-average school districts that over the course of time that difference will decrease and the averaging adjustment will also decrease? [LB545]

SENATOR ADAMS: We'd like to think so. One of the problems, I think, is that it's many of the smaller rural schools that have declining enrollments that are pulling that average up all the time. [LB545]

SENATOR COUNCIL: So...but in terms of the averaging adjustment, it's not the averaging adjustment and what the urban school districts or the larger school districts that are getting that, that alter that per student cost; it is exactly what you just stated,... [LB545]

SENATOR ROBERT: Time. [LB545]

SENATOR COUNCIL: ...which is the smaller school districts and their declining enrollments. [LB545]

SENATOR ROBERT: Time. Thank you, Senator Council and Senator Adams. Those wishing to speak: Senators Haar, Mello, Ashford, Nantkes, Wallman, and Friend. Senator Haar, you're next and recognized. [LB545]

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SENATOR HAAR: Mr. President, members of the body, I wish Senator Fulton were here because I wanted to respond to his talk a little while ago. And the trouble with being my age is that I have gone through a lot of cultural changes and we had no running water at home and we had no indoor plumbing, and I still grew up okay. So somehow we have to acknowledge our past and go from there. And I went to a small Lutheran school in Freeman, South Dakota, two rooms, and I grew up pretty well because of that too. Some of the things that have been said here, for example, we talk about borrowing the \$234 million. Really, I see it as there is no additional state aid going to education this year. It's the federal stimulus money. And I guess one of the things that bothers me about that is we're really not getting the money from the federal government. We're borrowing from China. And if you look at this across the board, basically, America's education system this coming year, through the stimulus program, much of it will be funded by China, by our debt to China, our loans to China, and that really concerns me. So really, the money isn't coming from the state. It's not coming from the federal government. It's coming from China. That's the way it is. One of the frustrations for me through this whole process of trying to work with TEEOSA, it is very difficult to run the numbers. And I know that's not the problem of anybody in this Chamber, but if you want to try a change in TEEOSA and see what it will...what numbers it will produce, it's almost impossible. It takes weeks, and we've got to improve that. Somewhere down the road we've got to be able to model...if TEEOSA is truly a model, we've got to be able to model it. We've got to be able to run numbers and all of us in the committee have to be able to run numbers to try out our different theories. That has to be fixed. That's been a frustration of mine that's kind of boiling over today. I can't propose a model really because I haven't been able to run the numbers. That's the way it is. Now there's been a lot of talk about the cliff that's going to happen two years from now, and I can predict, I know there will be a cliff. Nothing we can do is going to change the cliff that happens if the economic downturn continues and when the federal monies runs out. So there will be a cliff and school boards have got to know that. That's part of local control. That's part of local responsibility. There will be a cliff and we can't solve that with TEEOSA. And so what I'm going to talk about today is when I came to the Legislature there's so many issues you have to finally decide on what makes policy sense, how do you make sense out of complex issues, and I want to go through how I've tried to make sense out of education issues, in particular out of TEEOSA. So there are about five points and I want to talk about each one of those points. First of all, there's equalization. I believe in equalization, and equalization is a sore spot, not just...and I heard it here, all kinds of places today, did Omaha get more money one year or a school in Sioux County or whatever. [LB545]

SENATOR ROBERT: One minute. [LB545]

SENATOR HAAR: Well, thank you. When I go door to door in Lincoln campaigning, as I just did, equalization is a big sore spot. And the one I hear all the time is how come so much highway money is leaving Lincoln to go to other parts of the state? Now first of all,

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I don't know if that's true. I guess I assume it's true. But it's because we're all Nebraskans. We all live in this state. So equalization is an important point not just for TEEOSA funding, not just for junior colleges but for roads and everything else we do. All the...all the murals in this great building basically have one theme--that we're Nebraskans and we work together for a common good. And since I have very few seconds left, I'm going to take up from here next time. Thank you. [LB545]

SENATOR ROBERT: Thank you, Senator Haar. Senator Mello, you're next and recognized. [LB545]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I want to bring back a point that Senator Friend mentioned earlier in the debate which essentially we are operating from a false premise and that false premise is that the \$234 million that we are getting in stimulus funds will solve our needs problem and will solve the needs portion of TEEOSA, which I think he said in a much more eloquent way than I want to rephrase it. But I think ultimately we have to reconsider that idea and that premise, that by putting the \$234 million or matching our TEEOSA formula to fit an arbitrary number doesn't fulfill the needs that we have to public students, our public education students across the state. And I think we can debate the education policy of that. I think that's also bad budgeting. Which leads me to my next point. Senator Heidemann, I believe, is not here on the floor. We did have a conversation about one of the TEEOSA state aid estimate forms that are floating out there and what it does state is that in the out years, in year three of this formula of LB545, by voting for LB545 what you are voting for is also saying that the state of Nebraska will be putting \$191 million to fund TEEOSA, additional funds to fund TEEOSA in year three, and \$52 million additional funds to fund TEEOSA in year four. That's \$244 million that we are committing to by voting for LB545. Now I have no problem committing more resources to public education, but from the conversations that I've heard and the debate on the floor today, when we discuss sustainability we also then have to talk about those out years because those out years are being decided by LB545. More than anything else...I think the debate is going to continue a little bit on the averaging adjustment, but I want to reiterate the point that it is irresponsible for us as a state to balance our budget, particularly balancing our education funding, I should say, of using one-time dollars that will completely change the out years of our formula. And with that, I would like to yield my time to Senator Nantkes, if she would like it. [LB545]

SENATOR ROBERT: Senator Nantkes, 2:22. [LB545]

SENATOR NANTKES: Thank you, Mr. President. Thank you, Senator Mello. I was hoping that Senator Adams would yield for some questions, please. [LB545]

SENATOR ROBERT: Senator Adams, will you yield to a question? [LB545]

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SENATOR ADAMS: Yes, I will. [LB545]

SENATOR NANTKES: Thank you, Senator Adams. I know that you've worked very, very diligently on this issue, as you do on every issue presented to you, and I want to commend you for that work. And I think as an outsider to your committee and your committee process, I was hoping that you could help me understand a little bit better some of the dialogues that happened within the committee dynamic. And, you know, we know on the floor that several interested parties and several school districts supported an idea of more proportional reductions and I'm wondering, did the Educational Committee consider those statewide proportional approaches, did they model those approaches, and if no, why not, I guess? If not, why not? [LB545]

SENATOR ADAMS: I'm trying to recall, first of all, Senator Nantkes, where that whole concept or when that whole concept of across-the-board cuts came and where we were at in our Exec Sessions in trying to put all of this together and, frankly, you have me there. I don't know where it fit in. I do know that we did have that discussion at least once... [LB545]

SENATOR ROBERT: One minute. [LB545]

SENATOR ADAMS: ...before we moved the amendments to LB545 out in Exec Session. [LB545]

SENATOR NANTKES: Thank you, Senator Adams. I really don't want to put you on the spot. I'm just trying to get an understanding and to build the record, and I've got my light pushed in a few minutes here as well. But I want to talk a little bit also about the committee discussions in relation to the basic funding approach and the possibility of looking at a total aid adjustment or a temporary aid adjustment and wondering if the committee would commit to working with these interested parties, either now or in between General and Select, on modeling how those proposed solutions might impact the bottom line and impact educational policy as a whole. [LB545]

SENATOR ADAMS: You know, we did talk about...we talked about temporary aid adjustment. We talked about rather than... [LB545]

SENATOR ROBERT: Time. [LB545]

SENATOR ADAMS: ...we didn't... [LB545]

SENATOR ROBERT: Thank you, Senator Adams and Senator Nantkes. Senator Ashford, you're next and recognized. [LB545]

SENATOR ASHFORD: This is probably my third time, isn't it, Mr. President? [LB545]

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SENATOR ROBERT: This is your second time on this amendment. [LB545]

SENATOR ASHFORD: Okay. Senator Adams, I just...could I...because I'd like to continue the discussion about the averaging adjustment. [LB545]

SENATOR ROBERT: Senator Adams, will you yield to a question? [LB545]

SENATOR ADAMS: Yes. [LB545]

SENATOR ASHFORD: And without...because the numbers, they all go around in our heads, but when we are...the statewide average that we use for comparison purposes is based on an average of spending of all the districts... [LB545]

SENATOR ADAMS: That's correct. [LB545]

SENATOR ASHFORD: ...in the state. And that statewide average is \$9,000, let's say, or something like that. [LB545]

SENATOR ADAMS: Okay. [LB545]

SENATOR ASHFORD: But when you calculate the averaging, and that's based on the spending of all districts. So it could be, as Senator White, I think, started out this morning or yesterday talking about some districts or a district is spending \$21,000 per student for whatever reason. And there are 254 or so districts in the state? [LB545]

SENATOR ADAMS: 254. [LB545]

SENATOR ASHFORD: Two hundred and fifty-four districts, which, by the way, is quite a bit fewer than when I was here before. I think it was then almost 500, 400 something. So at least there's been some effort to...a lot of effort to bring that number down. But anyway, the statewide average is \$9,000 and that average continues to go up. [LB545]

SENATOR ADAMS: It continues to go up, that's right. There's a pull-push effect, if I might take the time to explain that to you. [LB545]

SENATOR ASHFORD: Right. [LB545]

SENATOR ADAMS: The pull effect is that we have districts of all sizes, but particularly our smaller districts with declining enrollment, their cost per student goes up and it's not necessarily because they're putting computers in everybody's hands or adding more curriculum. It's simply because they have fixed costs and a declining enrollment. All right, so you have that effect that is pulling the average up. What's pushing it up is that

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as we, with the averaging adjustment, we try to bring underspending schools up to that average. We give them more money. They turn around and spend that money, reasonably so. That's what we expected them to do. And that continues to also push the average up because they're spending more and more. [LB545]

SENATOR ASHFORD: Right. So how...and there's been some discussion today about are we representing our districts, are we representing the state, and I like to think I'm representing the state and my districts. I have a couple of districts in my...or three districts in my area. But I'd like to think I'm trying to make good policy when we do this and this is why this is such an interesting conversation. But when we talk about sustainability, sustainability means are we...I mean do we...do we have enough money in our budget to pay for education on an ongoing basis. That, to me, is what's sustainability. [LB545]

SENATOR ADAMS: That's right. And you know, pick a percentage. [LB545]

SENATOR ASHFORD: And reasonable, if it's 7 percent. When I was here before when we did LB1059, school spending went up over 20 percent, like 40 percent, because we increased sales and income tax, so spending went up exponentially. But then after that, it started going down to 5, 5, 4, 5, 6 percent or whatever it was. Now we're in a situation where spending is at about 10 percent or whatever it is, 7 to 10 percent, and we're trying to control that, which is a reasonable thing to try to do. [LB545]

SENATOR ADAMS: That's right. [LB545]

SENATOR ASHFORD: How can...and still maintain equality so that poverty kids, for example, get what they need to succeed and districts that are sparse...I know there are issues involving sparse districts or whatever it is, but we want all these children to have an opportunity to succeed. If we are...if this...is there something fundamentally flawed in this idea that the spending goes up and up and up and up? I mean OPS at \$7,200, for example, if that's what they're spending per student is, will never get to the statewide average. [LB545]

SENATOR ROBERT: One minute. [LB545]

SENATOR ASHFORD: Will they? [LB545]

SENATOR ADAMS: Well, I see what you're saying and I don't know. You're probably quite right. [LB545]

SENATOR ASHFORD: So how can we think... [LB545]

SENATOR ADAMS: As long as we have these external mechanisms and the

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compounding effect that's pushing the average... [LB545]

SENATOR ASHFORD: Well, and so here...I guess...I guess here's the quandary that I don't see. Our state spending on education is far less than what we contemplated in LB1059 and as educators, as you're an educator, you could see that happening in your school. So you, at one point, we need to get...and Senator Council has brought up this point too. If it goes up 10 percent or 12 percent or 16 percent, is that really the issue? I mean we are so far down in state spending that maybe that isn't the kind of indicia we should be talking about. But on the other side of the coin also we're talking about a formula that drives spending and, by definition, cannot be sustainable under any definition. I mean, to me, this is a great discussion because I don't know if this amendment or any other amendment is going to really get at the underlying problem. We need to spend more on education. [LB545]

SENATOR ROBERT: Time. Thank you, Senator Ashford and Senator Adams. Senator Nantkes, you are next and recognized. [LB545]

SENATOR NANTKES: Thank you, Mr. President. Senator Adams, I was hoping that maybe we could continue the dialogue that we started earlier. Again, to be very clear for the body, it's really not to play got you, and I know that you've been through a variety of rounds of debate on this before we got to the point where we are here today. But one of the criticisms that I think deserves a clear answer about is were the other approaches that were presented to the Education Committee seriously considered and/or modeled? [LB545]

SENATOR ROBERT: Senator Adams, will you yield to a question? [LB545]

SENATOR NANTKES: So thank you. [LB545]

SENATOR ADAMS: If...let me go back again, I think to about where we left off. What we were looking at, as I remember, was a proposal that was being floated around by the lobby to reduce...if state aid was going...I don't even remember what the numbers were, but if state aid needed to be reduced by 10 percent then let's just go 10 percent across the top. We had more than one discussion in committee about that and we looked at it. In terms of modeling, I don't recall how much modeling we did. We talked about it in terms of principle and impact. [LB545]

SENATOR NANTKES: Okay. That's very helpful. And then I guess in relation to the issue that's been presented to us through Senator Council's amendment and that we presently have before us, I'm guessing, and maybe it's not a clear or a simple answer, but doesn't this really try and alleviate a lot of the concern and consternation that has been presented in a way that removes the urban-rural differences and potential split in...contained potentially in the underlying policy? And I know that there has to be a

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greater reason that this isn't a workable solution, but I guess I'm just wondering, you know, is there something morally inappropriate about this response or if it's just it is a little different than what the Education Committee had presented and so that's, you know, maybe more of a procedural issue. And I'd yield the rest of my time to you so you could have a chance to expound on that, that just basic question, I guess. [LB545]

SENATOR ADAMS: All right. Thank you. [LB545]

SENATOR ROBERT: Two minutes, forty-five seconds, Senator Adams. [LB545]

SENATOR ADAMS: I think...I don't know that we have a moral issue here but in terms of a principle issue of identifying need, equalization, and proportion when we're distributing aid, and that discussion occurs constantly in the committee. And with new committee members this year, we spent an inordinate amount of time principally talking about those kinds of things. In response to what Senator Council has brought to us, quite candidly, we have been looking more at what would happen if, in the prior scenario, we had to reduce across the top rather than look at this plus aid stabilization. So this amendment kind of comes at us today on the floor without a whole lot of opportunity to do any modelling of it. I've already tried to express for me principally some of the problems that I see with it. But in terms of actual numbers and is it going to be \$7 million, \$10 million, we've not had the opportunity to look at that portion of it. Thank you, Mr. President. [LB545]

SENATOR ROBERT: Thank you, Senator Adams and Senator Nantkes. Senator Wallman, you are next and recognized. [LB545]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I find it ironic we're discussing about school funding when there used to be a Governor that set that policy out, 45 percent of income and sales tax go for funding of schools. It never reached that point. Why? I don't know. We used the money for something else. We used it over here, we used it over there, but we never seem to fully fund like that bill, LB1059, was supposed to do. And like somebody said, it did cost Governor Tiemann his election. So I would turn the rest of my time over to Senator White. [LB545]

SENATOR ROBERT: Senator White, 4 minutes, 16 seconds. [LB545]

SENATOR WHITE: Thank you, Senator Wallman. I appreciate it. I want to talk about a couple of issues. Senator Nantkes had asked Senator Adams a question and one of the things I'm puzzled about. This is a proposal. It says very simply, okay, we're going to try to cut across the board, as I understand it. And yet, it's never been considered. It's never been modeled. The numbers have never been looked at. I wondered if Senator Adams would yield to a question, and it's very simple. Senator Adams, were any (microphone malfunction). [LB545]

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SENATOR ROBERT: Senator Adams, will you yield to a question? [LB545]

SENATOR ADAMS: Yes. [LB545]

SENATOR WHITE: Were any concepts other than the one adopted here actually run through a model, something similar to this? Because I know they were out in the lobby and other areas. [LB545]

SENATOR ADAMS: They were in the lobby. We didn't run these concepts. We were going to try to stay within the formula and make adjustments within the formula rather than taking this across-the-board approach. [LB545]

SENATOR WHITE: And at this point, if I counted right, Senator, we've got 4-3 on you committee, at most, supporting that. I mean Senator Ashford seems to at least come over to Senator Council's side. Can you explain to the body why other alternatives weren't at least run through a model financially to look at what it did across the board? [LB545]

SENATOR ADAMS: Senator White, we were trying to stay within the formula and amend or to modify the needs rather than go out and look at other scenarios that leave us short. [LB545]

SENATOR WHITE: But the formula defines the needs. [LB545]

SENATOR ADAMS: Exactly. [LB545]

SENATOR WHITE: In fact, we are changing the formula to say we're staying inside of it. It's like I want to fit inside of my belt and I always wear this third...buckle on the third hold in my belt. Well, I can't do it because I've been eating too many doughnuts so I go and I buy another belt and I'm still wearing the third notch in the belt but it's a size two inches bigger. I mean, we're moving money around, claiming we're staying in the formula, but in fact we're moving money around. We're changing the formula as we underfund it. Why, instead of that, didn't we at least have the alternative to look at that said, okay, I get your position, certainly, Senator, you have every right to present that to the body, but why couldn't the body at least have a number and said, okay, here's another way to look at it and here's the numbers we ran, which is just about as basic a method as you can? The alternative is we just say we can't afford to fund 100 percent of the adjusted growth so we're going to fund 60 percent or 40 percent or 30 percent, whatever it is. Why didn't we just have those numbers and then understand what that would do to children across the state? [LB545]

SENATOR ADAMS: Senator, you hit on it. We modified the needs. We have done that.

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We always examine the needs and we modify the formula accordingly to meet where we're at. [LB545]

SENATOR ROBERT: One minute. [LB545]

SENATOR ADAMS: Now one of the things that...and I'll speak to it personally that you were...that when we look across the board like this, I don't find that within the scope principally, philosophically, of our formula; that rather than let's not change any of the needs, let's just reduce the funding to those needs. [LB545]

SENATOR WHITE: Well, and here's the part I would tell you is. The problem I have is what is a need for a child's education is a need for a child's education. And it's just like a diet. A child needs a certain amount of calories, a certain amount of fat, a certain amount of calcium, a certain amount of vegetables, a certain amount of protein. You need that. That's the need. The kids need to be educated. That's the need. Now if you can't afford to feed them to that need then you don't say, well, he doesn't really need that fat, when he does; he doesn't really need that protein, when she does. And so you say, well, if we just cut out the, quote, need for chicken or beef then we don't need that now we...if it's our grocery budget. [LB545]

SENATOR ROBERT: Time. [LB545]

SENATOR WHITE: That doesn't make sense. [LB545]

SENATOR ROBERT: Thank you, Senator White and Senator Adams. Senator Friend, you are next and recognized. [LB545]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I just had quite a few interesting discussions off the mike. I won't share with you all of the details, but the interesting part about this place is it gets you to the point where you feel like you're a little bit dizzy and you want to do something that you wouldn't normally do. Let me give you an example. We have discussed this. We've discussed this initiative, particular initiative, AM1141 to AM1119, for, oh, almost three hours now or two and a half hours at the very least, and normally I would argue and I'm maybe even making the statement now that that might be enough. Think it depends on the function of the debate. It depends on the content of the debate. And I think, frankly, the content of this debate has been pretty decent. It hasn't been too bad. That's just my opinion. You guys might not agree. And I don't know that I have ever called the question for anything. I don't care if it was ground...I don't care if it was prairie dogs. I don't care if it was something I hated with a...I don't think I've ever called the question. I don't think I'd do it to my enemies. I don't think I'd do it to my friends. I wouldn't do it for anyone. I wouldn't do it for my mother. And I love my mother and I wouldn't do it for her. If she said, call the question now, I'd say, no, Mom, I will not call the question because I just don't do that.

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So where does that leave us? We've got a bunch of people in the queue talking about an initiative and talking about it in what I would consider pretty, you know, specific and functional terms, reducing the basic funding rate by 1 percent and then talking about...and talking about a change to increase and extend the stabilization to school district utilizing the aid stabilization provision. I've heard Senator Heidemann chime in. I've heard others chime in. What's the point, you ask? The point is should we move on by 5:00? Are we done with this issue? And maybe none of you care what I think about this, and that's fine too. My gut tells me that we are. And I've never really been in a filibuster mode. I've told you what I think a filibuster is. A filibuster is a single individual or maybe two individuals thwarting the will of the body, flying in the face of what a parliamentary body wants to do. I don't see that going on here. I see a lot of...we just talked about if there's eight or nine people in the queue that want to legitimately talk about this, I don't know what their modus operandi is. They didn't share it with me. So, frankly, I don't know if there's a filibuster going on here now at all. (Laugh) And further, their definition of filibuster might be totally different than mine because I haven't seen this in the last two hours. It has...I learned filibuster from a totally different direction and it was a cobra and he bragged about how he didn't like to go...the cobra doesn't like to go after dead things, it goes after live things. [LB545]

SENATOR ROBERT: One minute. [LB545]

SENATOR FRIEND: He...that was how I learned it. And this doesn't have...it just doesn't look like it. But the fact of the matter is and the point now is we're at a...I get the feeling we're at a decision making...we're at a precipice here. I think we know what AM1141 does and Senator Adams even said, look, I know what this would do and it's probably functional; I don't like it; I don't think we should do this but it's probably somewhat functional. Maybe we make the decision. I don't think it's a horrible idea to try to do what we've been talking about all afternoon on AM1141, and if there is a filibuster going on maybe somebody could knock on my door and tell me because I, you know, I didn't recognize it. Mr. President, that's all I'd have. Was that my third time? [LB545]

SENATOR ROBERT: That was your second time. Time. Thank you, Senator Friend. Senator White, you're recognized and this is your third time. [LB545]

SENATOR WHITE: Thank you, Mr. President. And let me explain the difference between a debate and a filibuster. A filibuster is we're going to frustrate you till you give up; a debate is talk to us, engage us in ideas. Okay, I want to lay an idea out to you right now as an attorney. We cannot stop trying, at least on a minimal level, to close the gap in funding available for minorities versus white kids, okay? You do that, we're going to get into a lawsuit and it's going to cost us far more than sitting and making a compromise right now. Now is AM1141 the perfect answer? I don't know. I'm not on this committee. But I do recognize the following, that three of the four people on the committee support AM1141, three of the four, and yet we cannot get an articulable

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reason why it's not a good idea. I mean I understand it doesn't meet the formula, but the thing we're doing is, rather than say the formula sets needs, we can't feed them all 100 percent of what they should get so everybody gets 60 percent of their needs. We're going to change what we define their needs as. Well, that's legerdemain. That's sleight of hand. I mean, please, if...there's one need--our kids need to learn and they need to learn so they can function in a competitive world that they are going to be doomed to poverty if they don't have skills. That's their need and I don't care if they're from Scottsbluff or Chadron or Falls City or Norfolk or Omaha. That's what they need. And guess what? We need them to be able to do that. That's the need, all right? Now one of the real logical ways to look at are we meeting the needs is how much money is generally available for each child to get educated? And what has happened here, and you need to hear this very carefully, in a place like Omaha, in a place like Grand Island, in a place like Lexington they have taxed to the maximum we allow and, to be honest with you, the property tax owners can't take anymore. They can't. We've taxed to that maximum amount and these kids still aren't even close to the average spent on education for children across the state. They're not even close. Well, you know what? At least a child from Lexington deserves to have a chance to get to the average. But that's uncomfortable because it makes our budget uncomfortable, so we're going to pretend his needs are different than they really are. Let's not do that. Transparency is about we only have this much money, we have these number of children. Our formula has already defined their needs, but we can't fully fund their needs. You know what? I don't know one Nebraskan that wouldn't look us in the eye and say, I don't like it but okay, fund them as far as you can but cut the slices of the pie the same size. And that's all we're asking. And yet, and yet--and this is troubling--and yet we stand here and say we suggest that basic fundamental proposition, the pie is too small, cut them equally, and they say, well, we've never run those numbers. Why not? That is so commonsensical, so fundamental: We don't have enough money but here's what we could do. Well, that's outside the formula. Well, guess what? The formula has led us into a property tax crisis. We've got a lawsuit history for underfunding children. [LB545]

SENATOR ROBERT: One minute. [LB545]

SENATOR WHITE: Rethink the formula. Nobody said we have to pass it, but at least tell us. At least do the homework enough to say what would this have done fiscally. It's not unreasonable to ask at all and, matter of fact, not to do it is unreasonable. Thank you. [LB545]

SENATOR ROBERT: Thank you, Senator White. Senator Nordquist, you are next and recognized. [LB545]

SENATOR NORDQUIST: Thank you, Mr. President, colleagues, friends all. I'd like to ask Senator Adams a couple questions about the issue at hand, the averaging adjustment, if he would. [LB545]

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SENATOR ROBERT: Senator Adams, will you yield to a question? [LB545]

SENATOR ADAMS: Yes, I will. [LB545]

SENATOR NORDQUIST: I'm trying to get my hands kind of around the logic you laid out here. With the averaging adjustments and through additional funds to school districts with below-average spending, the difference would decrease. But when we're talking about above-average spenders due to fixed costs, we're talking about the difference in the averaging adjustment would increase? I guess, let me put it this way... [LB545]

SENATOR ADAMS: If I'm Arthur County Public Schools, I am the only school in the whole county and I've got a declining enrollment, but I got fixed costs to cover. [LB545]

SENATOR NORDQUIST: Uh-huh. [LB545]

SENATOR ADAMS: So if I pull up the numbers and, whatever they are, I see that I'm spending \$21,000 a kid, it's not because I've got expanded curriculum or computers in every kid's hands. It's because I've got this declining enrollment. I don't know where else I'm going to go with these kids, all right? Those, as they're part of that state average... [LB545]

SENATOR NORDQUIST: Yeah. [LB545]

SENATOR ADAMS: ...and that continues to pull the average up, all right, the average per-pupil spending. And then we have the larger school districts, the 26 that we're talking about, and those school districts, if we just look at economy of scale, they're going to have a lower per-pupil spending than the school out west, all right? So that, in effect, pulls the average up. It pulls the average up and these other schools come along with that average. Now it isn't just that. It isn't just that. We also have the fact that if we give a school district more money and they put it in their GFOE, as they rightly should, and they spend it, then that shows up the next year and that, too, pushes...that pushes that average up. [LB545]

SENATOR NORDQUIST: Okay. Okay, I think I...I think I have an understanding of that now. Thank you for clarifying that. And then I guess one other thing on basic funding. Did you...I think maybe you said that basic funding is outside formula needs. Did you say something to that effect? [LB545]

SENATOR ADAMS: No. [LB545]

SENATOR NORDQUIST: Okay. [LB545]

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SENATOR ADAMS: Basic... [LB545]

SENATOR NORDQUIST: Okay. [LB545]

SENATOR ADAMS: No, go ahead. [LB545]

SENATOR NORDQUIST: No, I just wanted to clarify that because I...it's my understanding that it is a primary component or the primary piece of the basic...basic funding is a primary piece of formula needs, so that's...I just wanted to clarify that. I guess I could just yield the rest of my time to Senator White. Thank you. [LB545]

SENATOR ROBERT: Two minutes, Senator White. [LB545]

SENATOR WHITE: Thank you, Mr. President. Senator Adams indicated economies of scale, and they're there. You know, if you've got a class of five kids and you need a chemistry teacher, it costs you more per kid. But the difference here is that it doesn't work like economies of scale normally do when you're dealing with children. Economies of scale indicate that if I make a thousand cars, I can make the thousandth car a lot cheaper than I can make the first car. But the problem we've seen, whether it's in Grand Island or Lexington or Omaha, is you don't get economies of scale alone. You get problems of scale along with them that are enormously expensive. And what kind of problems of scale instead of economies of scale? The small school in rural Nebraska, God bless them, they don't need metal detectors at the door. Some of my schools do. Those schools don't have a high percentage of... [LB545]

SENATOR ROBERT: One minute. [LB545]

SENATOR WHITE: ...kids who are being raised in homes where both adults are addicted to methamphetamine. My schools do. Those schools don't have the same number of children who come from Ethiopia and Somalia. My schools do. So economies of scale, that's one aspect. But guess what? It's not...it's like half the equation. It's the problems of scale that drive the costs along with it. And I understand and respect a declining enrollment might show a higher cost per student on some levels, but it will also show lower costs on others. You have...people are already in place. You don't have to new hire. You have buildings that are already in place. You're not building new buildings. You have other aspects to save money. [LB545]

SENATOR ROBERT: Time. [LB545]

SENATOR WHITE: Thank you. [LB545]

SENATOR ROBERT: Thank you, Senator White and Senator Nordquist. Senator Cook,

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you're next in the queue and recognized. [LB545]

SENATOR COOK: Thank you, Mr. President, members of the body. I would like to first thank the body and reflect a little bit on the halcyon days of last Friday, April 17, when every single state senator on the floor agreed to advance my bill--thank you--LB340 to the Governor for his signature. That seems like a long, long, long time ago right now. Thank you. You may be getting a note. It just depends. But here we are actually today in a very different environment. And as I was telling a couple of other senators off mike, this is a new place to be, but here we are and this is part of the experience. I am developing a measure of understanding on the bill itself, the funding formula, the adjustments, and I would like to, if I could, yield the rest of my time to Senator Ashford. He was going in a direction that was illuminating my understanding of it, and with his permission, Mr. President, I would like to yield the balance of my time to Senator Ashford to continue along those lines. [LB545 LB340]

SENATOR ROBERT: Senator Ashford. [LB545]

SENATOR ASHFORD: Sure. Thanks. Thanks, that's quite a compliment, one the likings of which I've never received here in my 11 years, so I hope I can get that quote or get the tape of this. But in any event, Senator, let me try to get to your point. Senator Haar actually...let me talk a little bit about the committee process. We did not look at this particular issue in the committee, this particular proposal that Senator Council has given us. We did look at lots of other proposals that were kind of like it, and we were all...it came to the point, I think, in the committee, where we needed to do the best we could and get the bill out here so that...knowing that we were going to have this kind of discussion. But clearly, Senator Adams gave us a number of ideas and proposals. And we talked about, for example, the idea of adjusting the averaging adjustment up and down to meet the needs of the budget. We also...and we talked a lot about the averaging adjustment. One of the problems is that the averaging adjustment is an adjustment in aid. It's a need that is based upon the difference between what a school is spending, we all know this, and what the state average is. And many schools in the 26 that get the averaging adjustment or they wouldn't get the averaging adjustment, are below that. They have a certain property tax rate that is...that is they're spending up or near their lid and they...but they don't have the...they're not spending at the state average, so we give them some extra money. OPS is one of those, as are many other districts. I think Westside, Millard, and our...my districts all are in the same place. So we're trying to arrive at the right way to do it. And we...the bill that was moved out of committee did not...actually phased out the averaging adjustment, but soon thereafter Senator Adams came up to us and said, you know, I think we can keep the averaging adjustment but we're going to have to bring it down. And during this whole process I think there was also discussions with the Appropriations Committee about, you know,... [LB545]

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SENATOR ROBERT: One minute. [LB545]

SENATOR ASHFORD: ...do you need all the \$100 million that we gave back to you; is there any way we can put some more money back in there to bring the averaging adjustment back up again? So I don't think this was necessarily an assault on the averaging adjustment. I think we were trying to find a means to...but Senator Haar had a really interesting idea and I think it's an idea that we need to think about in conjunction with what Senator Council is doing as a way of looking at other options, and that is essentially--and I believe, Senator Haar, I'm right in saying this--your idea, and it was a thoughtful one and we talked about it a lot, was to the averaging adjustment, in effect, the \$80 million--and I hope that number is right, is that right--the \$80 million averaging adjustment and taking it out of the formula altogether and basically setting it aside as a separate fund, you know, maybe much like special education. I don't know what the analogy would be, but... [LB545]

SENATOR ROBERT: Time. [LB545]

SENATOR ASHFORD: Thank you. [LB545]

SENATOR ROBERT: Thank you, Senator Ashford and Senator Cook. Those wishing to speak: Senators McGill, Council, Haar, Ashford, Nantkes, and others. Senator McGill, you're recognized. [LB545]

SENATOR MCGILL: Mr. President, I yield my time to Senator Ashford so he can continue. [LB545]

SENATOR ROBERT: Senator White...Ashford, 5 minutes. [LB545]

SENATOR ASHFORD: Thank you. Senator Adams...sorry. [LB545]

SENATOR ROBERT: Senator Adams, will you yield to a question? [LB545]

SENATOR ADAMS: Yes. [LB545]

SENATOR ASHFORD: Do you...let me ask you a couple questions, one on the averaging adjustment. The state average goes up all the time... [LB545]

SENATOR ADAMS: Correct. [LB545]

SENATOR ASHFORD: ...spending. So if those 26 districts that receive the averaging adjustment, it may or may not ever catch up to the state average, correct? [LB545]

SENATOR ADAMS: I think that's a good possibility. [LB545]

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SENATOR ASHFORD: All right. So, in effect, it's a...when we talk about sustainability of the formula, we're kind of caught in this whole budget thing: Well, it looks bad if state spending goes up 10 percent so let's make state spending for education go up 5 percent because that's better, right? That's sort of the way we view it. [LB545]

SENATOR ADAMS: Yes. [LB545]

SENATOR ASHFORD: But in reality, the reason that state spending on education goes up more than other things is because of the formula itself, correct? [LB545]

SENATOR ADAMS: That's correct. [LB545]

SENATOR ASHFORD: And the formula itself assumes that spending on education is going to go up every year, right? [LB545]

SENATOR ADAMS: Right. We're reflecting that in the needs. [LB545]

SENATOR ASHFORD: Right. So it's that getting to the spending, the statewide spending, that drives a big part of the formula and the amount of increase in state aid that we have to have. [LB545]

SENATOR ADAMS: That's correct. [LB545]

SENATOR ASHFORD: Okay. So I think that's really where the sustainability issue comes in. So I think what the committee was trying to do, Senator Cook, is the committee was saying, you know, that is the problem. The problem is the averaging adjustment. That's where the sustainability issue is. Senator Council, now, has thrown another idea to us which keeps the averaging adjustment the same; in effect, funds it at 100 percent of what it was in LB988. That's one idea and I think it's a thoughtful one. But Senator Haar also has a thoughtful idea and that is treating the averaging adjustment maybe a little differently and how it relates to sustainability. Senator Haar...may I ask Senator Haar a question? Is that...even though I took somebody else's time, could I still do that? [LB545]

SENATOR ROBERT: Yes, you may. [LB545]

SENATOR ASHFORD: Okay. [LB545]

SENATOR ROBERT: Senator Haar, will you yield to a question? [LB545]

SENATOR HAAR: Sure. [LB545]

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SENATOR ASHFORD: Senator Haar, I think you had an interesting idea and was your idea to basically take the averaging adjustment and put it over on the side a bit? [LB545]

SENATOR HAAR: Actually just for the purpose of the calculation, not to actually set it aside. But I'm honored that my idea morphed into something else. (Laugh) [LB545]

SENATOR ASHFORD: Okay. Well, I mean, I think... [LB545]

SENATOR HAAR: But that's not precisely. But I have an idea that hopefully we're modeling currently. [LB545]

SENATOR ASHFORD: So you're looking at another idea. [LB545]

SENATOR HAAR: Yes. [LB545]

SENATOR ASHFORD: And, Senator Adams, could I ask you another question here? [LB545]

SENATOR ROBERT: Senator Adams, will you yield to a question? [LB545]

SENATOR ADAMS: Yes. [LB545]

SENATOR ASHFORD: I mean...and we just had a conversation off to the side where I asked you whether there were other ways you thought of looking at this averaging adjustment and at the sustainability issue and how we could create a pathway for districts to reasonably get to the statewide average in spending. Was that the discussion we had? [LB545]

SENATOR ADAMS: Yes. [LB545]

SENATOR ASHFORD: And is that a reasonable thing to look at, I mean that we should look at, is to take a look at the averaging adjustment itself and how it reaches that statewide average? [LB545]

SENATOR ADAMS: I think anything like that is always a reasonable thing to look at. [LB545]

SENATOR ASHFORD: And that it might...and the averaging adjustment itself, the idea of doing it, is not...is a sound concept. [LB545]

SENATOR ROBERT: One minute. [LB545]

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SENATOR ADAMS: It is. To some degree it is. [LB545]

SENATOR ASHFORD: And what is the degree that it's not? [LB545]

SENATOR ADAMS: Well, let's stop and ask ourselves, first of all--and everybody has got to do this in their own mind and every school district does--why do we have it? Why do we have that averaging adjustment? Why are we pulling...bringing these schools up? [LB545]

SENATOR ASHFORD: And why are we doing that? [LB545]

SENATOR ADAMS: Well, in its original state, what we were saying was, to a handful of schools that had come to us, we're up against the lid; we've taken on some issues that are tough for us to deal with; we have some urban demographics in rural America or rural Nebraska, and we need some help. And this was a way of doing it. [LB545]

SENATOR ASHFORD: Is that still a sound concept? [LB545]

SENATOR ADAMS: I think to some degree it is. [LB545]

SENATOR ASHFORD: Where does it lose its efficacy, in your... [LB545]

SENATOR ROBERT: Time. Thank you, Senator Ashford and Senator Adams. Senator Council, you're next and this is your third time. [LB545]

SENATOR COUNCIL: Yes, thank you, Mr. President. And I may, if I have some, Senator Ashford, yield some time so that you can complete that discussion. But the discussion that's occurred recently with regard to the averaging adjustment I think may be a little misleading because there's always this reference to statewide average per-pupil costs, as if that all we do is take all of the districts' per-pupil costs and come up with a statewide average and then the averaging adjustment is applied to that. At least based upon my understanding of the presentation during the briefing last week, that is not how we arrive at the statewide average per-pupil cost. And if Senator Adams would yield to a couple of questions, I'd appreciate it. [LB545]

SENATOR ROBERT: Senator Adams, will you yield to a question? [LB545]

SENATOR ADAMS: Yes, I will. [LB545]

SENATOR COUNCIL: One of the districts that has been bantered about today is a district that has an average per-pupil cost of \$21,000. [LB545]

SENATOR ADAMS: That's correct. [LB545]

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SENATOR COUNCIL: Now in determining the per-pupil cost that, for example, Omaha Public Schools would be compared with, would that district that has \$21,000 per pupil be included in that calculation? [LB545]

SENATOR ADAMS: Well, yes. Yes, in that array. Those two schools, Omaha and this school, are not going to be in the same array with one another, but the calculation to determine their per-student cost would be. [LB545]

SENATOR COUNCIL: Okay. So when you talk about the array--and I think that that's needs to be addressed--it was my understanding from the briefing on Friday that you take a particular school district, let's use the school district that spends \$21,000 per student. [LB545]

SENATOR ADAMS: Right. [LB545]

SENATOR COUNCIL: And you would take the five districts above them and the five districts below them that are closest in student enrollment to that district. Was that...? [LB545]

SENATOR ADAMS: That's correct. [LB545]

SENATOR COUNCIL: That's correct. Okay. And then you would throw out the highest and you would throw out the lowest... [LB545]

SENATOR ADAMS: In terms of spending, yes. [LB545]

SENATOR COUNCIL: ...in terms of spending. And then you would use that to determine the average per-pupil cost. [LB545]

SENATOR ADAMS: That's correct. [LB545]

SENATOR COUNCIL: Okay. And then you would use that average for determining what the adjustment would be, utilizing the averaging adjustment. [LB545]

SENATOR ADAMS: Right, for all the schools in that array. [LB545]

SENATOR COUNCIL: For all the schools in that array. Now my understanding, all the schools in that array would be schools that spend at or near that amount per student and have that amount of students or closely comparable student enrollments as that particular school district. [LB545]

SENATOR ADAMS: That's right. [LB545]

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SENATOR COUNCIL: So in terms of what we're adjusting up to, for example, we would not be adjusting the Omaha Public Schools per-student costs up to the Davenport per-student cost. [LB545]

SENATOR ADAMS: Not to their per-student cost, no. They're not in the same array. [LB545]

SENATOR COUNCIL: No, they're not in the same array. So the schools in the array for Omaha Public Schools, for example, the average per-pupil cost in that array would be like \$8,000, perhaps. I mean, I'm just hypothetical. [LB545]

SENATOR ADAMS: Okay. Okay. [LB545]

SENATOR COUNCIL: And then if Omaha Public Schools is at \$7,100, then the difference between that \$8,000 and the \$7,100 is... [LB545]

SENATOR ROBERT: One minute. [LB545]

SENATOR COUNCIL: ...is what you would apply the averaging adjustment to, correct? [LB545]

SENATOR ADAMS: I don't think so. We're going to apply it to the statewide average. The average of the array will be compared to the statewide average. [LB545]

SENATOR COUNCIL: The average of the array will be compared to the statewide average. [LB545]

SENATOR ADAMS: Right. If the array average is \$7,000 and the state average is \$8,000, then the array falls under there, and then we look at that gap and start making up that difference. [LB545]

SENATOR COUNCIL: Okay. So how do we arrive at the statewide average? [LB545]

SENATOR ADAMS: By looking at the...what is the General Fund operating expenditures of...of what? The basic funding number, I'm sorry. The basic funding number that has been inflated by the 2.5 percent, and divide that by the number of students. [LB545]

SENATOR COUNCIL: And you divide that by the number of students in the state. [LB545]

SENATOR ADAMS: Right. [LB545]

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SENATOR COUNCIL: Okay. Now the basic funding, do you make that... [LB545]

SENATOR ROBERT: Time. [LB545]

SENATOR COUNCIL: Ooh! [LB545]

SENATOR ROBERT: Thank you, Senator Council, Senator Adams. Senator Haar, you're next and recognized.. [LB545]

SENATOR HAAR: Mr. President, members of the body, somebody mentioned earlier the object of the...or the...is this filibuster, and certainly not in my definition, but I'm beginning to understand that the meaning of filibuster is a lot like the meaning of when we talk about needs in TEEOSA. It all depends on what we define it as, and it seems to vary from person to person. But I want to go back to what I was talking about, the principles that I've tried to develop for looking at TEEOSA, and the first one is equalization. I believe in equalization, I think we do in this Legislature, and so we developed a formula. But as Senator Carlson said, a formula is not gospel; it's not written in stone. And a formula really doesn't do anything except produce a number. We produce...we use formulas to predict weather. Well, weather is not a bunch of numbers; it's weather. And so any formula, all we try to do is we try to mimic behavior and we try to get it better and better, so we have a formula. One of the things so frustrating for me about the TEEOSA formula, I think we can understand the complexity and I'm working on that. But it's so very difficult to model it. Like I said earlier, it takes days and weeks to run a model. And how are we going to check things out? How are we going to test things if we're not able to model them more quickly? And how are we going to say that we accept the TEEOSA model if we don't understand...if we all don't understand this and how we can...how we can try ideas? That's the purpose of a model, that you can change it to see what will happen. I liked Senator's idea about trying to fit inside your belt. And I've been trying to do this, this legislative session. Because of all the free meals out there, it's really easy to grow outside your belt. And I felt that way about our approach to TEEOSA. I think it has to be tweaked, it has to be worked at, but I don't see any difference between starting with \$243 million that's federal subsidy that's loaned from China, and then we try to tweak TEEOSA to fit that, besides just letting somebody give us a \$234 million number. I mean, we're trying to fit inside our belt, and that bothers me a great deal. Obviously, what we lack again is some kind of economic index factor, because TEEOSA ought to automatically respond to the economy. If we're on hard times, TEEOSA ought to be able to tell us that schools, and schools recognize that, are going to cut back. And then there's got to be some basis, some reasonable basis for that cutback that least touches students and the education of students. And in good times--and somebody mentioned this earlier--I believe nobody has ever gone and said, TEEOSA isn't giving schools enough money. If it's truly a formula that fits the needs of the students and fits the time, then when economic times are better TEEOSA funding ought to increase. And it shouldn't just be at our whim. It shouldn't be whether we say,

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well, how much can we fit into the budget. It ought to be based on a good formula that's connected to economic times. Right now, this year, the only word...the only term I can assign to TEEOSA and trying to make it work is "snafu,"... [LB545]

SENATOR ROBERT: One minute. [LB545]

SENATOR HAAR: ...that great little word that Senator Price says he understands and I'll tell you what it means if you need a definition. But, you know, first of all, there's been the economic downturn; then we get the economic stimulus money. And so one of the reasons I'm supporting AM1141, this is not a usual year. All kinds of things are happening in terms of the economy, in terms of this stimulus money, and so I see no problem with making some adjustments to get through these years. And again I would remind you there will be a cliff. And so equalization is my first organizing principle and I want to talk about this, I guess it will probably be tomorrow afternoon. Thank you. [LB545]

SENATOR ROBERT: Thank you, Senator Haar. Senator Ashford, you are next and this is your third opportunity. [LB545]

SENATOR ASHFORD: Okay. Thank you, And I'm going to continue to talk to...I know we're all tired and I know Senator Adams is very tired and...of having to take all these questions. And I'm just going to...just a brief comment about the cliff effect. Obviously, we're not putting...we're putting zero dollars into state aid out of the General Fund. And...I'm just going to finish, okay. We have zero dollars in state aid out of the General Fund. We have stimulus money. In two years we're going to be at the same place in the General Fund that we were now. So there is a cliff no matter what we do. I don't think that matters. But I just want to get on the record, then we can adjourn and maybe it won't take my whole five minutes. I'm sorry, Mr. Speaker, for that, but. Senator Adams. That's fine. We'll do it tomorrow. [LB545]

SENATOR ROBERT: Thank you, Senator Ashford. Mr. Clerk, items? [LB545]

CLERK: Mr. President, I do. I have an amendment by Senator Coash to LB494; Senator Avery to LB402. An announcement: The Agriculture Committee will have an Executive Session tomorrow at 8:00 in 2102. Senator Lautenbaugh would like to add his name to LB36. (Legislative Journal page 1155.) [LB494 LB402 LB36]

And I do have a priority motion, Mr. President. Senator Friend would move to adjourn the body until Wednesday morning, April 22, at 9:00 a.m. []

SENATOR ROBERT: Members, you have heard the motion. The question is, shall we adjourn until Wednesday, April 22, at 9:00 a.m.? All those in favor signify by saying aye. Opposed, nay. We are adjourned. (Gavel)