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Floor Debate  
April 20, 2009

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[LB27A LB60 LB122 LB158 LB209 LB238 LB278 LB288 LB294 LB347 LB360 LB372  
LB389 LB422 LB430 LB441 LB445 LB446 LB447 LB463 LB463A LB488 LB497A  
LB498 LB500 LB501 LB524 LB531 LB533 LB537 LB545 LB562 LB571 LB587 LB598  
LB604 LB627 LB631 LR89 LR90 LR91]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good morning, ladies and gentlemen. And welcome to the George W. Norris Legislative Chamber for this the sixty-fourth day of the One Hundred First Legislature. Our chaplain for today is Senator Wallman. Please rise.

SENATOR WALLMAN: (Prayer offered.)

SENATOR LANGEMEIER: Thank you, Senator Wallman. I call to order the sixty-fourth 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 LANGEMEIER: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR LANGEMEIER: Thank you. Are there any messages, reports, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports they have examined and reviewed LB389 and recommend that it be placed on Select File; LB209, LB422, LB488, LB501, LB60, LB278, LB447, LB531, LB445, LB498, LB604, LB446, LB372, LB500, LB627, LB587, LB122, all of those on Select File, some of which have Enrollment and Review amendments attached. New resolutions, Senator McCoy offers LR89, that will be laid over; and LR90 by Senator McCoy, likewise will be laid over. That's all that I have at this time, Mr. President. (Legislative Journal pages 1131-1135.)  
[LB389 LB209 LB488 LB422 LB501 LB60 LB278 LB447 LB531 LB445 LB498 LB604  
LB446 LB372 LB500 LB627 LB587 LB122 LR89 LR90]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. (Doctor of the day introduced.) Mr. Clerk, we'll now proceed to the first item on today's agenda, LB545. [LB545]

CLERK: Mr. President, LB545 is a bill introduced by Senator Adams. (Read title.) The bill was introduced on January 21 of this year, referred to the Education Committee for public hearing. The bill was advanced to General File. There are Education Committee

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amendments pending to the bill, Mr. President. (AM1056, Legislative Journal page 1037.) [LB545]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Adams, you are recognized to open on LB545. [LB545]

SENATOR ADAMS: Thank you, Mr. President, members of the body. As a matter of procedure, if you will be patient with me here for a moment as I prepare for this introduction, there is a substantive committee amendment that will follow which virtually takes a good chunk of the bill and replaces it. And I want you to realize that, so that as my two introductions flow together I'm really talking about the bill as a whole, the context in which we developed the bill, but also the committee amendment that will be coming forward. I rise today introducing this bill and prioritizing it, not with any great enthusiasm because the essence of this bill, despite all that it contains, is to find a way to adjust the needs formula in state aid to accommodate a declining revenue picture and to be able to accept stabilization money from the federal government. And I will tell you, the last thing I want to have to do is to reduce money for schools or for that matter to anybody else in the budget. But we face this reality today. When LB545 was originally introduced the February forecast wasn't in. There was no work of federal stimulus dollars, and so LB545 in its original form cuts deeper into aid than what the committee amendment will do. Things have changed. Let me, at the risk of sounding like an old teacher, let me remind you of something. With the passage of LB1059 years ago, what this state did was to embark upon a path of funding schools through an equalization formula rather than foundation aid. Now for those of you who don't understand the difference, and that's not meant to be an insult, it's a matter of your desire to know, foundation aid would simply mean that we take the bucket of money, whatever the state has, and we divide it up equally per student. It's simple, oh is it simple. It may be less painful that dealing with TEEOSA, but it's not fair. It's not fair because we have 254 different school districts. We have school districts with different needs and school districts with different ability to access resources to fund those needs. Hence, we have gone to an equalization formula. And at the heart of that equalization formula is trying to look at school districts and say what are the needs of school districts. And we have great disparity in this state from one end to the other. And in the Education Committee, not just this year but in the past, we've desperately tried to look and say, are we truly accommodating what the needs are, and then responding to that. It, I believe, is paramount to all of us in here throughout the course of this debate to remember that we have a philosophy of equalization--needs drive the allocation or the appropriation. And the needs are determined by us right here on this floor today or in LB988 last year or in LB1059. We determine those needs. And there are going to be times we listen. We listen every day in the Education Committee. I get phone calls daily from superintendents in my office saying, hey, could we account for this need or this one has changed, can we account for this. We're constantly vigilant to what those needs are. And the state has been funding those needs. On the other side of it, when the state

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doesn't have the funds then, it is the obligation of the Education Committee and this body, as unpleasant as it may be at times, as complex, I'm not going to use the word complicated, as complex as it may be at times to look at the needs side of the formula and say, how do we adjust it? How do we adjust it so that we can accommodate the revenue picture that we're looking at and still try to best we can to fund the needs of school districts. That's how the formula in its simplest form works--needs compared to resources. And this body determines what those needs are going to be, in good times and in bad we make those determinations. And the bill that's before you with the committee amendments attached if it were to pass we're looking at a 10 percent increase in state aid, a 10 percent increase. Wow. I'm happy about that. I wish it were even more, but I'm a realist. A 10 percent increase, does it make every school happy? No. But in a context of the times that we're dealing with a 10 percent increase works pretty well. Now before I get into the details of the bill, I'm going to ask you to do one other thing over the course of this debate. And it's something that every one of us, including me, knows but it's important for me to remind you. When we hand out the spreadsheets, as we did last week, and you look at how your school district is impacted, there is a tendency on all of our parts, it is our nature and it is somewhat our obligation to look and say, how's my school district impacted. And when we do that, that's all fine and good. But what I'm asking you today, as we work through these issues is to think about the big picture. We are state senators, state policy, not just this district, that district, and that's tough for all of us, all of us. I can see the spreadsheet on what's going to happen to York, Nebraska, but it's time that we have to look at the broad picture. LB545, it's elements. The elements are, first of all, to recreate money that already exists, it's lottery money, recreate funds and push it back over into a reorganization incentive package. It "sunsetted," it's lottery money. I'd like to lift that sunset and provide money again. It would be about \$800,000. Is it enough? No, it's not. There are school districts out there in rural Nebraska every day who are on the edge of needing to close the doors. They understand that, they understand it, they don't like it but they understand it. The "reorg" incentive portion gives them a little front money to help them get merged, consolidated, reorganized, whatever the term might be. Number two, learning community hold harmless. There is already in statute a hold harmless in the learning community, it's a three-year hold harmless. It exists because we have some schools on the peripheral edge of the learning community that have in comparison small student population but a lot of land valuation. When the common levy goes into effect July 1,... [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR ADAMS: ...monies are going to be taken or value is going to be taken from those districts and shifted into the districts that are low on resource. The intent of the hold harmless is to allow two, three districts to make the transition into the learning community. It's already in law. What we are offering here is a reformulation and I might add it is a reformulation that has come about because all 11 superintendents got

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together this fall and said, this is a better way to do it. That's what it comes down to. Early retirement budget exception, in LB988 we said the schools that entered into voluntary termination agreements with employees and pay them a severance, we said to them, you know, you can't be doing that anymore. I believe... [LB545]

SENATOR LANGEMEIER: Time. [LB545]

SENATOR ADAMS: ...it was Senator Pankonin that brought the bill that said, hey that... [LB545]

SENATOR LANGEMEIER: Time. [LB545]

SENATOR ADAMS: ...put some school districts in a bind that had agreements... [LB545]

SENATOR LANGEMEIER: Time. [LB545]

SENATOR ADAMS: ...let them finish them out. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Adams. As the Clerk has stated, there are committee amendments offered by the Education Committee, AM1056, offered to LB545. Senator Adams, as Chair of the Education Committee, you're recognized to open on the committee amendments. [LB545]

SENATOR ADAMS: Thank you, Mr. President. The early retirement budget exception does this, it in effect says to those school districts who had entered into, who had entered into early termination agreements with their teachers prior to July 1, 2009, what we're saying to them is, go ahead, go ahead, but we're going to give you a couple of breaks. (A) Whatever you owe those teachers will be exempt from the spending lid, from the spending lid. So you got the money, go ahead and spend it. And secondly, and you're going to hear me say this over and over again today, the money that they spend on those early termination agreements will not be counted in their General Fund Operating Expenditures, because whatever they spend gets dumped into a bucket called General Fund Operating Expenditures and it grows and it grows and it grows. And then, in effect, that bucket gets handed to the state and becomes the benchmark for the creation of state aid in the next year. So by leaving this early termination money out of GFOE, we slow down the growth of that General Fund bucket just a little bit that becomes the benchmark. Employer contribution to retirement, Senator Pankonin can probably speak to this better than I. I don't know where the Retirement Committee is at right now in making preparations to fund the deficiencies in school retirement. What this portion of LB545 would do is simply say to school districts, all right, look, the payments that you're going to need to make, whatever that percentage ends up being, the payment that you're going to need to make we will exempt that from your spending lid.

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So if school district A has to come up with \$100,000 for their increase in their contribution to the retirement plan as developed by the Retirement Committee and this body, that expenditures will be exempt from the expenditure lid. And it won't be counted in GFOE because we're trying to slow the growth of that GFOE down just a little bit. Budget limitations, what we do in state aid, and again I don't mean to oversimplify this, what we do in state aid, we take a school's General Fund Operating Expenditures and that's the benchmark to build aid from. When you look at the second page of handout that I gave you it tries to illustrate that very thing. As we are trying to anticipate our revenue shortfall and try as best we can to look at years three and four, we are asking schools to slow down their spending. And the effective way to do that, the ecumenical way to do that is to say to all schools, what we're going to ask you to do is rather than use that 2.5 percent spending lid, we're going to ask you to use a 1.5 percent spending lid, 1.5 percent of your General Fund Operating Expenditures. Now 1.5 percent grows on top of GFOE for the next year. And then we take 1.5 percent of that, and 1.5 percent of that, and that GFOE will continue to grow. There will be growth. We are slowing down that growth in anticipation. It will be for four years at 1.5. And remember, the early retirement termination agreements and the increase in retirement contribution will be exempt from that 1.5 percent lid. Those will be expenditures over and above. The averaging adjustment, I think there will be a better time coming when I can talk more specifically to the averaging adjustment. But let me say this about it right now, what the averaging adjustment, the reason the committee arrived at the averaging adjustment, and I'm going to even digress a moment from that. The Education Committee to a person, though we were not unanimous in kicking this bill out, worked hard at looking at all the allowances and all the adjustments we have in TEEOSA to try to determine which ones, which one or which ones. If we're going to need to manipulate, where should it be. We went to the averaging adjustment, and I'll just give you the rationale behind it right now. And we can talk in more detail about it. We went to the averaging adjustment primarily for this reason of all the allowance and adjustments that we have in a formula the averaging adjustment is the one that makes the least educational sense in comparison with LEP allowances, Limited English Proficiency, with the exception of poverty allowances, with the exception of teacher education adjustments. Those things all have an educational justification. So does the averaging adjustment. But it is a more difficult argument to make for the averaging adjustment. So we're not eliminating it, we're compressing it in order to slow spending down of school districts. Instructional time, it's one of the adjustments or it's an allowance, excuse me, one of the allowances in the aid formula. What does it do? It says to schools, hey look, if you've made a commitment to extend your school year or extend your school day over and above then let's help you out a little bit with some state aid. We think that makes good educational sense to do that. What we're doing here is not cutting, we're making some adjustments based on what superintendents were telling us. This was the first year of its implementation and there were some problems with it, some technical problems. And so we're making some adjustments in it to make it work better. On the second page, the stabilization funds. There is language in LB545 which incorporates \$234 million in

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stabilization funds, which comes very close to fully funding TEEOSA which would have been at 295 I believe the number is, comes very close. Number nine has to do with bonding authority. There are federal stimulus dollars in four different bonding programs for school districts. What we're doing in LB545 is merely correcting statutory language so school districts will have access to these bonds, they'll have access to them. They work in a lot of different ways. Two of them are programs that already exist, that the federal government is simply putting more money in; two of those bonding programs are brand new programs. And there will still be a 5.2 cent limit on schools as they access these bonds. So it's not like suddenly we lift the lid off property tax and how much they can have in bond. There will still be a 5.2 cent limit on that. But it simply creates the language so the school districts can access those kinds of things. LB545 is very comprehensive. And if all of you are like me you may glaze over before this day is over as we talk about the aid formula. And yes, you want to worry about your individual school districts, you ought to, that's part of what you're here for. But I ask you to also look at the broad picture. The Education Committee struggled for three months, continuing to try to look at the broad picture. And this is what we have come up with in LB545. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Adams. You have heard the opening on LB545 and the opening to the committee amendments. Those wishing to speak, Senator Friend, you're recognized. [LB545]

SENATOR FRIEND: Thank you, Mr. President. Under Rule 7, Section 3(e), I call for a division of the question. [LB545]

SENATOR LANGEMEIER: Thank you. There's been a request for a division of the committee amendments. Speaker Flood, you're recognized for an announcement. [LB545]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. There's no question this is a top state priority and one of the issues that we have to deal with this session. Based upon Senator Friend's motion and the complexity of the bill, I would ask that we place the Legislature in a position of standing at ease until further notice, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Speaker Flood. The Legislature will stand at ease as we review the division question. Members, at this time we would expect to reconvene debate at 10:45. [LB545]

EASE

SENATOR LANGEMEIER: Members, at this time we will resume discussion and floor debate with items on the agenda. (Visitors introduced.) Members, it is the ruling of the

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Chair the committee amendment is divisible. And based upon the agreement by the two parties it is my ruling that the Chair deems it is divided into two amendments. AM1056 will be divided into the first amendment, which is AM1118, which includes everything in the committee amendment except for the averaging adjustment found in Section 9. This second division will be AM1119, and it is simply Section 9 of the committee amendment which is averaging adjustment. Senator Adams, you are recognized to give us your description of the first division, which is now AM1118. (Legislative Journal page 1135.) [LB545]

SENATOR ADAMS: Thank you, Mr. President, members of the body. The President himself has probably given you the best description that could be given, as well as I've circulated and tried to talk to each one of you. I've agreed to this division. And what we're going to be looking at first are all of the components in LB545 and the committee amendment, with the exception of the averaging adjustment. I've agreed to that because I'm prepared to talk about the averaging adjustment, help you all understand the averaging adjustment, let those who want to debate the committee's decision on the averaging adjustment let their arguments be known, and let this body make a decision on that. These other components I'm hoping are less contentious and that we can move through them. And let me repeat again what they will be as outlined in front of you. We recreate the reorganization incentives to the tune of \$800,000 for those school districts that wish to make application with the state Department of Education to help them pay the up-front costs of consolidation, the learning community hold harmless, those peripheral school districts who under the common levy will be giving up some of their resource base, this holds them harmless. It's already in law. This is a reformulation and it is a reformulation that was worked on by my staff and the 11 superintendents together. And quite frankly, I will tell you it was one of those first times as the 11 superintendents have reminded me, that since the creation of the learning community they all got together, put this thing together. So it's very workable. And I hope you will see it in a favorable light. The early retirement budget exception, what we're very simply saying is that in those early termination agreements that schools entered into with employees prior to July 1, 2009, we're going to let them go ahead with that. And the school districts expenditures for those will be outside of the levy limit. They already had contracts when we passed legislation a year ago which stopped those kinds of things. They already had agreements with teachers. That puts them in quite a bind. This will allow them to continue to make the payments outside of the lid. Employer contribution to retirement, again I would repeat, we don't know yet, I don't, what that number is going to be. Senator Pankonin's Retirement Committee has got to work that through. I think, though, there is a general understanding that in order to up-front load the teacher...school retirement system so that we can garner some of the benefit of the market when it turns, we need to get some money in there. And the place we ought to turn in part is to the employer and to the employee. In this case, we're saying to the employer whatever that ends up being we're going to let you make that expenditure again outside of the spending lid and we're not going to calculate it into GFOE. And it

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helps slow our growth. The budget limitation, every political subdivision in the state has a levy lid and an expenditure lid. We're not talking here about the levy lid, we're talking about the expenditure lid. We're lowering it over a four-year period of time for school districts from 2.5 to 1.5. Our logic is not to be punitive by any means. Our logic is to try to slow the growth of General Fund Operating Expenditures because that becomes the benchmark upon which other aid, because of adjustments and allowances, get added on. It's a way of slowing the growth in anticipation of year two, three, and potentially year four of having financial difficulty. So we're going to slow that growth down. We'll skip over the averaging adjustment. The instructional time allowance, again it is an assistance to schools, it is part of our aid formula. Remember, our aid formula reflects needs. We have heard from school districts that they have a need. And the need is that if they spend more time during the school year or more time during the school day than average schools are spending, they need additional financial assistance. We put that in, it makes good sense. Problem is with this first year implementation this year we've had a lot of phone calls from superintendents about the data, what is instructional time, how is that all going to work. It didn't work the way we thought it to, so we are amending it in an attempt to make it better so that it continues to work. Finally, the last two, we put language in here in state law which allows for the acceptance of the \$234 million in federal stimulus that goes into the aid package and the bonding authority. Four different bonding programs, two already in existence, two new as a result of the stimulus. The two that already exist the federal government is putting more money in, the other two are brand new. We need to have statutory language to allow schools to access those bonds. There will still be a 5.2 cent lid on the bond fund, how far schools can go, but at least the monies will be available to them. They will be the ones making the application. Each bond program looks a little bit different, but the language is created here to allow for that. That's the summation of part one of this division. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Adams. Mr. Clerk, for an amendment. [LB545]

CLERK: Mr. President, I now have an amendment to the committee amendments by Senator Adams. Senator, this is AM1057. (Legislative Journal page 1034.) [LB545]

SENATOR LANGEMEIER: Senator Adams, you are recognized to open on AM1057, an amendment to the first division. [LB545]

SENATOR ADAMS: Thank you, Mr. President. Ladies and gentlemen, you all know what we have in part already endured this year, and that is two changes in the date for certification of state aid. We moved from February 1 to April 1, then we moved from April 1 to June 1. Now let me remind you why we did that. Originally we were anticipating that we would be ready on or before April 1 to certify to all of our school districts what their aid would look like. Two things occurred: (a) the February forecast;

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and (b) federal stimulus. And that caused the Education Committee to have to go back to the drawing board and start relooking at things. In light of that, what we said was we need to give...we need to have more time, you all need to have more time, and very simply the state Department of Education needs to have more time because those are the folks that have to accept whatever calculation changes we make, reprogram the computers, run all of that, and they needed more time. So we moved it to on or before June 1. What I would like to do with this amendment is to say for next school year, next school year only is all we're talking about here, is a March 1 certification date. I would not do this if it wasn't for the fact that as we head into the second year of that biennium we're going to have to be taking careful looks at everything we're doing, you all know that. And quite frankly, and I'm sorry, we may be looking again at TEEOSA. And March 1 will give us a little extra shoulder room. It tells school districts right up front that, look, March 1 next year because we're probably going to need that time to make adjustments again next year. That's the purpose of this amendment. Thank you, Mr. President.  
[LB545]

SENATOR LANGEMEIER: Thank you, Senator Adams. You have heard the opening on AM1057 offered to the first division of the committee amendments offered to LB545. The floor is now open for discussion. Those wishing to speak, we have Senators Avery, Sullivan, Janssen, Harms, Price, Hadley, White, Friend, Fischer, Nordquist, and others. Senator Avery, you are recognized. [LB545]

SENATOR AVERY: Thank you, Mr. President, colleagues. Senator Adams has done a good job of explaining what the Education Committee has been doing over the past several weeks. One thing that I think we need to keep in mind is the need to focus on the needs of schools. That is what the equalization formula was developed to do and that's what it does. The committee decided very early in our deliberations that we should not and would not abandon the need-driven aid formula. That is something that we stayed with throughout all of our discussions. I can tell you that the committee is not unanimous in support of LB545, but we did a lot of work to get there. I can tell you also that the committee followed perhaps the most open process in developing this legislation that we have seen in at least a decade. We had meetings with superintendents, business managers of districts, and other interested parties. Senator Adams met weekly with the education lobby. Documents were prepared and distributed. Questions were answered. We did not try to do anything in secret or behind closed doors. We were free and willing to discuss all of our deliberations with anyone who wanted to know. The bill that we have advanced to the floor is, in my opinion, the key to the overall budget. That is important to keep in mind. This bill does not produce any losers, it only creates winners. Now clearly some districts do better than others. But nobody is getting cut. The temptation is to look only at what happens to your own school district. And I would ask you to resist that temptation. Look at the overall impact of this bill. If we do not pass this bill, it is going to be extremely difficult, if not impossible for the Appropriations Committee to bring us a budget that is not going to break the bank. I

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mean it is just that simple. We have...if you look carefully you will see that there is an increase of 10 percent next year in aid to schools, 10 percent. No other agency of government is getting that, not even close. And the next year it's 8 percent. Let me take you back a couple of years, '07-08 the increase for schools was 7 percent; in '08-09 the increase was 9.2 percent. We have been generous in our funding for schools in economic hard times. I think that's appropriate. But it is not appropriate for us to only look at what happens to one school district or a handful of school districts who have to look at what we are trying to do in the overall management of our money and the overall budget. And this is an important contribution to that. If you go back to the beginning of TEEOSA, in 1990-91, and you look at what has happened to school over those 19 years, up through '08-09 there has been an average of 5.1 percent increases for school funding... [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR AVERY: ...throughout that time. And that calculates three years when we had to cut funding because of economic crisis. There is something else I think that you need to understand and that is that the stimulus money that is going into funding schools is going to alleviate what would have been a lot of pain, \$234 million will be going into school funding. An additional \$74.7 million will go into special ed. This is all federal stimulus money. That includes \$2.3 million for preschool special ed. An additional \$47.5 million will go into Title I for poverty students. That is a total of \$356.2 million in federal stimulus money. What we're trying to do in LB545 is to make sure that we have adjusted our state formula so that in the out-years, in years three and four,... [LB545]

SENATOR LANGEMEIER: Time. [LB545]

SENATOR AVERY: ...we don't have a disaster, called a cliff effect, where we can't...we don't have enough money to... [LB545]

SENATOR LANGEMEIER: Time. [LB545]

SENATOR AVERY: ...do anything. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Avery. Senator Sullivan, you're recognized. [LB545]

SENATOR SULLIVAN: Thank you, Mr. President and members of the body. I stand in support of the amendments as presented by Senator Adams and the underlying bill, LB545. I am a member of the Education Committee. And this whole process has reminded me of the process of being a parent. And when my two daughters used to come to me and say, Mom, it's not fair. And I would look at them and say, you know

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what, honey? Life is not fair. But we, as parents, try to do the best that we can with what we've got. And I think that that's what the Education Committee has attempted to do and has done in the bills, in the legislation they are presenting to you. We are trying to do the best we can with what we have. And what we have is, number one, a struggling economy with a lot of unknowns out there. Sure, at this point we are buffered somewhat here in Nebraska, and we could say maybe perhaps the worst is yet to come and we have to prepare for that. We have to be thankful of the fact that we have a stimulus package. That, as Senator Avery has said, is giving us more, all the school districts more than what they would have had in spite of the fact that early on we had projections even from our Governor that said we were going to have \$100 million devoted to education. But in light of the economic forecast, that's kind of gone out the window. We have a formula, as Senator Adams has said, that is built on the philosophy of equalization, that parenting aspect of the Education Committee, trying to do what is fair to all the school districts, realizing that it may not be interpreted as being fair for all of them. And lastly, to try to avoid what again Senator Avery was saying as the cliff effect because we don't know what's out there. We want to try to slow the growth so that school districts and the whole state can adequately prepare for what might be some worse times ahead in our economy. As a new senator, this learning curve has been quite steep. But I have to say in my experience on the Education Committee I have appreciated all the hard work that has been devoted to by not only Senator Adams but all the members of the committee. I think we've worked hard to craft some legislation that is very workable and appropriate. As a 12-year member of a school board for a rural district, I was always sensitive to the timing of when the numbers would come out of what we were going to get for state aid. But I've also in this current process heard from superintendents in my district, some of whom are going to take some hard hits with this proposed legislation. But they're willing to do that for the good of the state because they know that it needs to be done in light of our current economic situation. So I encourage all of you to take to heart this and pass this legislation. With that, I yield the rest of my time to Senator Adams. [LB545]

SENATOR LANGEMEIER: Senator Adams, 2 minutes. [LB545]

SENATOR ADAMS: Thank you, Mr. President. And thank you, Senator Sullivan. And, Senator Sullivan, Senator Avery, both members of the Education Committee. And I think they have every right to stand up and say, we worked hard on this and we didn't take anything for granted and we were concerned about broad state policy and making things fit. And that's what the intention here is, and staying true, conceptually, to the idea of equalization. And we were open, everything that we did in committee, we sent it out e-mail when we were done with it. So the lobby had it, any of you had access that wanted it, the spreadsheets that we were looking at, they went to the lobby, they went to you folks every inch of the way. Superintendents called my office almost daily. At one point about a month ago I invited two superintendents and two business officials from the east, two superintends from the west into my office. And we spent two and a half

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hours, and I said to them,... [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR ADAMS: ...find me a different way to do what we need to do. And here we are, here we are. It's not easy. Senator Sullivan used the example of parenting. You have to defend your children but you also have to look at the broad picture, which is exactly what the committee is trying to do here. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Adams and Senator Sullivan. Senator Janssen, you're recognized. [LB545]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. I recall back in November when Senator Adams called me at home one night to lobby my support for him to be the Education Chairman. And I asked him who he was running against. He said, I don't think anybody else is crazy enough to do it. Now that seems to be more appropriate as I've watched these last few months transpire. If I could get Senator Adams to yield just to a couple of quick questions for me. [LB545]

SENATOR LANGEMEIER: Senator Adams, would you yield to a questions from Senator Janssen? [LB545]

SENATOR ADAMS: Yes, I will. [LB545]

SENATOR JANSSEN: Senator Adams, thank you. You talked about early on the foundation type of formula. And there's a...am I correct in assuming that there is a set amount of money that we're dealing with here and any tweaks to LB545 or your amendments would basically take from one, give to another, and shift it around? [LB545]

SENATOR ADAMS: You know, typically what we do, and that's what we're doing right here is K-12, and everybody on the Appropriations Committee can vouch for this. K-12 doesn't go to the Appropriations Committee on bended knee and say, can we have this? Instead by law whatever the needs generate in TEEOSA, so goes the appropriation. And that is what we're trying to remain true here. [LB545]

SENATOR JANSSEN: Thank you, Senator Adams. I also looked through the first bullet point in your handout, you had reorganization incentives and I appreciate that. That's something that's very important to my district. I do agree with you. The first thing I did is I looked at my district and how it was impacted. I also looked at my alma mater to see how it was impacted, which is within my district, it's negative on my alma mater, which are my constituents. That's fine. I've had bills that have come before this Legislature this session that have directly impacted my district in a negative way. It was Senator

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Wightman's bill that we just passed just recently. But that was a bill that I looked beyond my district and it was fair to the entire state. And I feel good about the fact that I didn't get in the way of that. I didn't vote for it, but I didn't stand in the way of that too vehemently. And so I understand where you're at on this issue. I will say, Senator Adams, you're a very fair person. I trust you as a person. I trust you as a colleague. I trust you as an educator. But all that aside, I trust your experience to lead on this issue and I appreciate you taking the lead in this issue and the committee. And I'll yield the balance of my time to Senator Avery. [LB545]

SENATOR LANGEMEIER: Senator Avery, 2:25. [LB545]

SENATOR AVERY: Thank you, Mr. President and thank you, Senator Janssen. That was a statesmanlike statement. His own district is going to be impacted in what he sees as a negative way. But he is stating his support for this. What I appreciated most about what he said is that he respects the committee and respects committee work. If we do not...if we didn't have committees in this Legislature there would be no way to divide the labor in this body, there would be no way to develop expertise on very complicated issues such as education funding. So I think the point he made about respect for the committee and the committee chair is an important one. I'm not going to say that you need to respect me. Greg Adams knows a lot more about this than I do. He spent a lot more years in the classroom at K-12 level than I did. But I do think that it's important for us to keep in mind that we have 254 districts in this state and we need to spread the pain around. And again, as I said when I was on the mike before, we are not cutting aid. And some school districts will not get what they expected under LB988 we passed last year or even what they were expecting under some early projects for the stimulus money. [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR AVERY: But the important point is that they will get an increase and the increase may not be as great as they wanted, but there is an increase there. It's important for us to keep our eye on the bigger issue, all the members in this body who are on the Appropriations Committee know how difficult it is to put together a budget. If we don't all pitch in and help and make it possible for us to have a rational, workable budget, we're going to find ourselves in really deep trouble in years three and four. I urge you to support this legislation. I'll be speaking on it more later. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Avery and Senator Janssen. Continuing discussion on AM1057, those wishing to speak, we have Senator Harms, Price, White, Friend, Fischer, and others. Senator Harms, you're recognized. [LB545]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Adams, thank

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you very much for what you've done so far with this change, changes in our funding formula. I remember two years ago we kept getting this information late at nights, we were debating state aid late at nights, and it was very difficult because there was a constant change. And I appreciate the fresh approach by getting this early, by giving it to our superintendents so they can review it early. And I think that's so important because it gives us a clear understanding of where we are headed, where we are going, and what's happening even to our own school districts. It's truly transparent. And historically, I would have to say, at least from my experience here, that has not always been true. And so I appreciate that at this point. Thank you very much. I do rise in support of the amendments and the underlying bill, LB545. I understand how difficult this has been, the Appropriations Committee, we've been waiting to see and get a better understanding about what you're recommending to us because this is a fairly healthy number...large number of dollars and it makes...has an impact on what we do and how we built our budget. And I appreciate that because we've had a better understanding about this and where we were headed. I also want to make sure that give some thoughts to realizing that if we change this formula very much on this floor, we move things around, what I would like for you to do and probably...I'm sure that Lavon Heidemann, the Chair of the Appropriations Committee, will eventually come forward, you need to look at the out-years of this. It's extremely important that we just don't look at these two years. We need to look at the out years and making sure that we're not setting ourselves up for a large tax increase. And I think we owe that to ourselves, we owe that to the public, we owe that to the citizens, and we want to make sure that we're transparent on this. I do have concerns about many changes that might occur that would push this forward into the next two years. I have concerns about that. And I've argued that on other issues in the Appropriations Committee about the out-years and making sure that we don't come back here and say to our public, whoops, we made a mistake, citizens, we made a mistake and now we're going to have to raise your taxes way above where we want to be. So I hope you'll keep that in mind. I think as we see the bill as it is today I'm very supportive. I'll wait to see what happens when we deal with the averaging adjustment, to see what kind of changes that makes. But I think we're moving in the right direction. Senator Adams, for a moment, would you yield just for... [LB545]

SENATOR LANGEMEIER: Senator Adams, would you yield to a question? [LB545]

SENATOR ADAMS: Yes, I will. [LB545]

SENATOR AVERY: Again, Senator Adams, thank you very much for this and bringing this out and making it more transparent for all of us. When we look at the funding formula, the base limitations, would you help me better understand the base limitations? [LB545]

SENATOR ADAMS: The base limitation, it's very simply this, each political subdivision

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in the state is under a levy lid and a spending lid. Another word for spending lid for us in TEEOSA is base limitation rate and the word "base" comes into it because it's from that base that school districts hand us that we start making adjustments and adding or subtracting aid. [LB545]

SENATOR AVERY: Thank you very much. Mr. President, I yield the rest of my time to Senator Adams. [LB545]

SENATOR LANGEMEIER: Senator Adams, 1 minute. [LB545]

SENATOR ADAMS: Thank you. Thank you, Senator Harms. Senator Harms has raised a good point that I want to come back to for a moment. When we start calculating state aid each year we start by looking at the General Fund Operating Expenditures of each individual school district. That becomes the base. We multiply it by an inflation factor and in this case right now it's 2.5 percent. What LB545 would do is to reduce that to 1.5 percent. And then we look at each individual school district and their data and the adjustments that we have in the formula, and we start adding money to districts. Some don't get any, they don't meet the criteria for some of the adjustments. Some get a lot, some get less. Designed to meet their needs as previously determined by this body. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Adams and Senator Harms. Senator Price, you're recognized. [LB545]

SENATOR PRICE: Thank you, Mr. President, members of the body. I rise in support of Senator Adams' bill and his amendments. I would like to take a moment, illuminate. I represent a district that has a large stake in this both ways, Sarpy County enjoys a rapid growth, I believe it's probably the fastest growing county in the state. Along with that fast growth, we have fast growing school districts. Along with that, we've been enjoined with the learning community. And I struggle to keep it at that. And that...because this body voted that, that will be the way and the law of the land, those fast growing districts within the learning community need the support that this legislation brings about. Senator Adams said that all 11 superintendents got together, that should speak volumes. The people who we entrust to administer our school districts were in agreement and have worked with Senator Adams and the committee, and that should not be thrown away or tossed away idly. And members of the body, we need to be sure that when we're dealing with subject matter that perhaps for some of us may exceed our understanding, I challenge, outside of a few people here in Education, who can explain, and who can diagram, and who can flow chart a dollar into education and a dollar out? Can anybody tell us what TEEOSA really does on an average basis? Does anybody understand the complexity of that formula? I don't believe so. So again, we entrust that to the committee members who do and to our superintendents. And I believe it's very important for the body to give that due consideration when we deliberate today. And thank you, Mr.

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President. I would yield the balance of my time to Senator Adams. [LB545]

SENATOR LANGEMEIER: Senator Adams, 2 minutes 30 seconds. [LB545]

SENATOR ADAMS: Thank you, Senator Price. At the conclusion of your statement you triggered a thought in my mind, and it's somewhat repetitive from what I've already said; 254 different school districts in this state. Great disparity demographically, geographically across the state. And to just take a bucket and have the state pour money into it and divide the total number of students into it and say, there it is, that's called foundation aid. We went away from that in the early nineties. And instead what we have done is to say we need to equalize aid. We need to make sure that those places who most need it get the help. And admittedly we have 40-some school districts out there, folks, who are nonequalized school districts that given their student base relative to their land value base get virtually no equalization aid, maybe none at all. And, of course, their cry every year is, we pay income and sales taxes, too, why shouldn't we get something? And I have to tell them I have three in my district. They don't because we have an equalization formula that is based on need up against resource, and that leaves you where you're at. Senator Price used the best word ever--complexity. He didn't say complicated, he said complex. Our aid formula is not complicated but it is complex and it is complex because we are trying to look at all... [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR ADAMS: ...of those different school districts and accommodate their different needs in an equalization format. Thank you, Senator Price. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Adams and Senator Price. Those still wishing to speak, we have Senator White, Friend, Fischer, Nordquist, Gloor, and others. Senator White, you're recognized. [LB545]

SENATOR WHITE: Thank you, Mr. President, members of the body. I hope at the end of this debate my bench mate, Senator Adams and myself will be sharing more than a microphone. But in order for that to come about, we all need to listen as well as speak. And Senator Price is right, it is quite complex. But I would urge you that if you are to fulfill the duties that you took an oath to do so, you must understand what's going on in this debate and make your judgment at the end. I deeply appreciate Senator Avery's observations of our obligation to a statewide view of things. But I would tell you as we move through what is going to be a complex debate, like a hiker in the wilderness, there's a compass that you must consult if you expect to get to your destination. And for us that compass has to be, always is the state constitution. The state constitution tells us our instructions. Now for the most part it's dead silent on what our duties are here. But it is expressly...and specifically directs us in this matter. And as we move through

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this it seems to me that the first thing we need to do is consult that compass. And what it says, and it's Article IV, Section 1, Legislature, free instruction in common schools provide. The Legislature shall provide, and note the word "shall" becomes quite important, shall provide for the free instruction in the common schools of this state of all persons between the ages of 5 and 21 years. The Legislature may provide for the education of other persons in educational institutions owned and controlled by the state or a political subdivision thereof. Now what this means is a number of different things. First of all, if we do not have enough money to provide for the free education of all persons between the age of 5 and 21 in the common schools, we probably cannot provide for anything else. Because it says, the constitution says we shall provide free education in the common schools. We may provide after that. And that means, if you take your oath seriously, that we must discharge the duty that we are commanded to do before we can contemplate assuming additional duties. That's one. The second thing I'd like the body to focus on very carefully as we move through this debate, the constitution does not talk about school districts, it talks about common schools. But the instruction is clearly to provide for an education for every child between the ages of 5 and 21. So what we really must do if we're going to consult the constitutional compass is recognize that we must look at children, not school districts. And we must not look at the overall state budget to the exclusion of what it does to individual children. We cannot do that consistent with our constitutional obligations. We cannot, for example, refuse or fail to provide an education for some children and yet still provide, who are between the ages of 5 and 21, an still provide any education in the university or college level. Now obviously, we're going to continue, we are going to continue to provide for our universities and our colleges, and we need to, it's essential. [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR WHITE: But you must understand the constitution already told us where the priorities are. The priorities are and must be between 5 and 21. And please understand something as we move through this, this state last I saw was 48th in the nation in state General Funds to individual children's education. It's one of the reasons our property taxes are at a backbreaking level. Do not kid yourself that by adjusting numbers here we are quote, saving taxpayers. We are not. We are shifting taxes to an overburdened property tax system. And so as we move through this, I ask all of us to listen, to listen to what's said, but recognize (1) we are talking about individual children. And they are the highest priority set by the constitution. [LB545]

SENATOR LANGEMEIER: Time. [LB545]

SENATOR WHITE: Thank you. [LB545]

SENATOR LANGEMEIER: Thank you, Senator White. Senator Friend, you're recognized. [LB545]

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SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. AM1057 to the first division of the committee amendments, I've gotten a chance to read through this bill and Senator Price was pointing this out earlier, I'll get to that in a second, I don't have a whole lot of fundamental problem with what we're trying to accomplish with this particular amendment and this division of the committee amendments. March 1 gives time, that's what Senator Adams is seeking. And I agree that the analysis time is going to be necessary. I would agree with that thought process. Senator Avery pointed out since 1991 TEEOSA every year is being...every biennium, I should say, especially is being thoroughly analyzed. It's not just the Education Committee, it's like a pie. A pie that all 49 legislators are very, very interested in because it's personal, it affects all of our kids. Right? That's what the thought process is. You're buying a house or you're selling a house, that house is important to you. To the real estate agents it's a transaction, that's it, it's money. This is not just a transaction, but there are a lot of moving parts. Sometimes the pie is very small, sometimes it's big, sometimes it's too big for a fiscal conservative. Sometimes we're getting too much money. By the way, I don't think that that's necessarily the case this time around. The goal of the Education Committee is always to try to be as equitable as possible. I've never seen an Education Committee that hasn't tried to do that. But keep in mind what we're doing here right now. And I would disagree with, respectfully disagree with Senator Price. I understand what this formula is doing. I understand what it ends up coming to. It's those moving parts, it's the numbers, that's what is important to all of our districts is the amount of money that they're getting. And that's what our formula indicates. The first division is vast and formidable. The first division deals with formula needs. It includes poverty allowance, it includes Limited English Proficiency allowance. I...I...never mind. Limited...all kinds of allowances that we're not dealing with in the second division. We'll get to that. That's why this has been divided up. Analyzing the resources that we have as a state, that our schools have as a state, property tax, the option funding, income tax implications, other receipts, retirement aid, we'll talk about that. What I would disagree with Senator Price on is that I understand all of that. Let's analyze the formula, let's break it down, let's figure out where those numbers are. This is just like the budget, it always is every year. Senator Adams knows that because Senator Raikes, his predecessor, could have told him that. Every year we're going to have this discussion. There's going to be 49 people involved. I would submit to you that nothing here today is an indictment of the Education Committee and what they've done. Nothing here today is an indictment of Senator Adams,...on the contrary. What it is, is a bunch of people saying this is personal to us, we're not the real estate agent, we're the people that knows...we know exactly what we're going to be getting back in our districts. And you're not being provincial if you stand up for your district and say, here is where the equity issue is. We'll get to that later. This is what annually happens with TEEOSA. If Senator Adams didn't know that, he just fell off the turnip truck, and guess what, he has not, he has not just fallen off the turnip truck. [LB545]

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SENATOR LANGEMEIER: One minute [LB545]

SENATOR FRIEND: Wait until the budget. I told you guys this over and over again. You do not take a big...you don't take a pie like this and analyze it at as high level. You go in, you hit it and you break it down. Where do these numbers indicate that there may be, may be the slightest inequity? Well, frankly, with the first division I'm not sure I see that inequity. Analysis, there's nothing wrong with 49 people doing that. I would disagree with Senator Avery from the standpoint of I have nothing against what the Education Committee has done. Every year that I've been here and every year that you'll be here you'll deal with this subject matter, out here on the floor ad nauseam probably. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Friend. Senator Fischer, you're recognized. [LB545]

SENATOR FISCHER: Thank you, Mr. President and members. I believe it was in late January or early February late one night, Senator Adams had finished with his committee hearing and I had finished with mine and I passed him in the hall there--our offices are across the hall from each other--and I said, Senator Adams, you look like an Education Chair--haggard. That's one of the perks, I guess, that come with the job of being Education Chair. You have a lot put on you. And I, as you know, I don't always agree with the Education Chairs but I do agree with Senator Adams on this bill. And I thank Senator Adams and I thank all of the members of the Education Committee for their hard work. I've been involved in school finance issues on a local level and a state level for over 20 years, going through the changes with LB1059, going through LB806, working with Senator Raikes since I've been in the body now on different things. I worked with the Education Committee on a task force when we came up with LB806. School finance is constantly changing. I happen to believe that it's to recognize the needs of our students, and those needs change, but it's also political. I thank Senator Adams and the committee and staff for putting out the computer printouts that we all received. We received one, I believe it was, April 7 and the other one a week later. We haven't always had that available that early in the past. It gave us a chance to ask questions of our districts. I happen to represent 21 school districts. It gave us a chance to get in touch with them. It gave us a chance to badger Senator Adams with a whole bunch of questions on what this all means and what happened here and why we're looking at losses, because many of my districts are seeing losses from 6 percent, 10 percent, to 12 percent, to 15 percent, to 17 percent. But I support this bill. Overall, for the state of Nebraska's children who are in these school districts, we're going to see a 10 percent increase. That's a big increase for the economic situation we're in right now. If Senator Adams would yield for some questions, I would appreciate it. [LB545]

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

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SENATOR ADAMS: Yes, I will. [LB545]

SENATOR FISCHER: Senator Adams, on one of the printouts that you gave us, this would be the April 7, a number of the factors that are in the formula are listed and, as I said earlier, those have changed over the years. For example, under LB988, the sparsity factor was removed, I believe. Is that correct? [LB545]

SENATOR ADAMS: Which one? I'm sorry. [LB545]

SENATOR FISCHER: Under LB988 did we eliminate the sparsity factor? [LB545]

SENATOR ADAMS: Sparse and very sparse. [LB545]

SENATOR FISCHER: And very sparse. [LB545]

SENATOR ADAMS: Yes. (Laugh) [LB545]

SENATOR FISCHER: Correct. So changes are made every year, every year, and it's up to this body. Senator Adams said that in his opening. We determine what the needs are. That's where the politics come into this. Inside here, inside this Chamber, we decide what the needs are. And I know there's a few of us that have education in our background but many people don't. That doesn't matter because we're all working for our districts. We all look and see where they are. But when we look at these factors, Senator Adams, could you... [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR FISCHER: I guess I'll hit my light again, but when we go across, we have the transportation allowance. Could you give us the background on that? [LB545]

SENATOR ADAMS: The essence of it is that we know that school districts, 254 different ones, different geography, different demographics, have different transportation issues but yet the state has an obligation to assist schools in that. And so what we try to do in that allowance is look at each individual school district, their particular transportation issues, and assist them with it. [LB545]

SENATOR FISCHER: And you...I'm just springing this on you. Do you happen to know how many districts receive that transportation allowance? [LB545]

SENATOR ADAMS: The vast majority. I don't have that immediate number, no. [LB545]

SENATOR FISCHER: Okay. The next one across the top there is the poverty allowance. Could you tell us a little bit about that, please? [LB545]

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SENATOR ADAMS: The poverty allowance, again, Senator, is a reflection of... [LB545]

SENATOR LANGEMEIER: Time. [LB545]

SENATOR FISCHER: Thank you. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Adams and Senator Fischer. Senator Nordquist, you're recognized. [LB545]

SENATOR NORDQUIST: Thank you, Mr. President, friends all. I rise today with a few issues on LB545. Certainly the averaging adjustment is one but there are a few other components. But first like to begin, you know, on the discussion of the committee and its importance. I can't say, I can't say how important committees are here. They're vital to our process. But as my good friend, thoughtful friend, Senator Harms said last week, you know, this is democracy, this is part of the process. Committees don't dictate. We're going to have a thoughtful discussion on the floor about this bill. We're going to ask questions. And even though, you know, there was an editorial this weekend saying we shouldn't, we are because that's our role as senators here. And I don't think anyone should take offense. No one is questioning the integrity or the dedication of the Education Committee. This is an issue that is important to all of us. There isn't anyone in this body who doesn't think the TEEOSA formula is an important issue, so we're all going to have a thoughtful discussion, however long it takes, and we'll address the issues. And I agree we shouldn't be looking just at our own districts and being parochial, but we do need to ask the questions why, why these changes, why these changes in particular. But outside of the averaging adjustment, which we'll get to later, there are two issues that do concern me. First, we need...we need...everyone needs to be aware of the situation with retirement. Our plans have significant challenges because of negative...I think it was -22 percent market return over the last year. We've talked, with Senator Pankonin leading the way, we've talked to school districts, we've talked to teachers. We're coming to an agreement. Hopefully soon we'll have the official numbers, but somewhere, you know, we're probably in the neighborhood of raising contribution rates for teachers and school districts somewhere between probably 1 percent and 2 percent. Well, for the school districts, that means anywhere from an additional \$31 million to \$62 million or \$63 million that essentially is going to be kind of taken off the top of the \$234 million in federal funds that we're giving to them. We're going to be taking somewhere between \$30 million and \$60 million for that increased employer contribution, so that's something we all need to be aware of. Second thing is the cliff effect. There really are two cliff effects, if you think about it. The first is our General Fund cliff. And our Chairman of the Appropriations Committee, Senator Heidemann, always reminds us out-years, out-years, out-years, we need to look at the out-years when budgeting. That's something we need to look at here. We're looking at, in the third year, because the federal funds will be gone and because of increases built

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in, we're looking at \$190 million of General Funds that we're going to have to put in, 23.4 percent. That's a significant cliff. Now if we don't meet that need, there's going to be a cliff effect for the school districts. So certainly we need to look at both those. We need to have a thoughtful discussion today, a civil discussion about the challenges that are going to come about with LB545. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Nordquist. Those still wishing to speak, we have Senator Gloor, Price (sic), Dierks, Wightman, Sullivan, and others. Senator Gloor, you're recognized. [LB545]

SENATOR GLOOR: Thank you, Mr. President, members of the body. It was a spectacular spring morning, worth, almost, going through a long, cold winter, and I had an early morning meeting downtown and as I strolled down 13th Street where the sun is shining and the wind not blowing, falcons flying around the Capitol Building, I thought this is a morning every Nebraskan ought to be out, ought to be able to just relax and think about the day ahead in very comfortable terms. And I looked up and headed up towards the Capitol Building. In my direction came Senator Adams and I thought he may be the exception to the rule today knowing what he's headed for in a debate. Contrary to that, he saw me, smiled and stopped me and engaged in the conversation about our topic today. I say that by way of compliment to Senator Adams and his commitment to education, his commitment to the state. As I looked at him across the street as we waited on stop lights I thought, you know, he looks a little bit like the Roman General Maximus from the film Gladiator. He's ready to go to battle. He's got a job to do. He's just buckled down and ready to go. And I apologize, given his gentle nature and focus towards education, that the best I can do is come up with a metaphor of a gladiator, but he certainly looked to be in control. He has the right attitude, both to chair this committee as well as wrestle with this program. And I am also complimentary and appreciative of the effort of the Educational Committee. They have something, though, that I always longed to have, running a healthcare institution, and that is a formula, someplace to start, something that has been worked through and vetted, used, analyzed, a variety of years of experience of people who are brought to the discussion on this to come up with a formula to use. It is complex and I would say it's probably complex to the point of great difficulty. But something that I've learned in life is that things that are important, the things that are the most important in life are also the most difficult. And as been said a number of times already this morning, education of our children is important. That formula ought to be difficult. I wonder, Mr. President, if Senator Adams would yield to some questions. [LB545]

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

SENATOR ADAMS: Yes, I would. [LB545]

SENATOR GLOOR: Senator Adams, how many years have we had a chance to use

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this formula in its entirety? [LB545]

SENATOR ADAMS: As it is right now, LB988 was implemented last year. [LB545]

SENATOR GLOOR: Okay. How many members of the current committee, Education Committee, were involved in the development of that formula? Do you happen to know right offhand? [LB545]

SENATOR ADAMS: I'm going to say four. [LB545]

SENATOR GLOOR: Okay. And that would be as of the previous, that wouldn't be going back to the '06-07 Education Committee. [LB545]

SENATOR ADAMS: No, that was as of last year and one of those persons was not on the Education Committee but here in the body. [LB545]

SENATOR GLOOR: Are there other senators who are in the body currently who might have served the past two years or is that...the count four is still fairly accurate in terms of (inaudible)? [LB545]

SENATOR ADAMS: That's pretty accurate. [LB545]

SENATOR GLOOR: Thank you, Senator Adams. Again, not to minimize my appreciation for the hard work that's gone into this, the challenges that are brought to us by term limits is that people who work hard to come up with formula, who have the institutional history of formulas like this, many of them are not around to provide us those learnings and the things that they brought to that debate and to the Legislature for our education in this process. And my worries, and I'm sure we'll have a chance to talk about it more in the future, is that we have a formula that has been in place only one year, a formula that we should give a chance, based upon the input of so many people in the past who were far better, if I can use the term, schooled... [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR GLOOR: ...in its use than I am. Thank you, Mr. President. That formula already is undergoing some degree of an analysis and perhaps revision, and therein, I believe, lies part of our challenge. Formulas always need to be tweaked and looked at, revetted if possible. But formulas also need to be given a chance to work. My concern, as this discussion and debate goes further, is have we given this a chance to work? Should we be giving this formula a chance to work? Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Gloor. Senator Pirsch, you're recognized. [LB545]

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SENATOR PIRSCH: Thank you, Mr. President, members of the body. I...just a quick statement regarding Senator Adams or "General Maximus," as Senator Gloor called him. And, by the way, you should relish that title. Most committee chairman heads don't end up so...as lucky in terms of monikers. And I tell you, just kind of an up-front statement, I do appreciate the work that Senator Adams has done on the Education Committee not just this year but throughout his terms of service here. And as Chairman, he's always...I've always found his approach to be up front, transparent, giving us as much notice as possible, and so I really do appreciate that. Just to help frame the issue in how we're looking at this, and I wonder if Senator Adams might yield to a question to help me frame my...the issue. [LB545]

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

SENATOR ADAMS: Yes. [LB545]

SENATOR PIRSCH: With respect to, and tell me if I'm wrong, the size...what this amendment seeks to do is the size of the pie in terms of state aid through TEEOSA is going to remain the same. It's not going to be a bigger or a smaller pie. What we're dealing with now is, in distributing the same size pies to the various school districts, we are...there's a question of what's fair in terms of...as the size is scaled back throughout the entire state. Is that correct? [LB545]

SENATOR ADAMS: If I understand you correctly, the pie is always a limited one, although again I want to say that what we are looking at in LB545 right now is a 10 percent increase in aid. Is it as high as we would have liked to have seen it had we not been facing the revenue picture that we are? No. So we are scaling back and we're trying to be as fair in our distribution as possible. [LB545]

SENATOR PIRSCH: But what's at issue here is just the manner or the mode in which we distribute or make adjustments to that. [LB545]

SENATOR ADAMS: That's correct. [LB545]

SENATOR PIRSCH: The overall size is set. [LB545]

SENATOR ADAMS: That's correct. [LB545]

SENATOR PIRSCH: Okay. With respect to that then, the TEEOSA formula or state aid to K through 12 education, as you mentioned, had...was a formula, kind of generally put, you take a look at your needs and you look at your resources and then the state fills in the...any of the blank, your needs that are not met by your resources. To that end, I represent a general...in looking at what composes needs, there's a number of different

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components, correct, in that? [LB545]

SENATOR ADAMS: That's correct. [LB545]

SENATOR PIRSCH: And among which is included, one component, averaging adjustment, which is...attempts to assist schools with below state average per student spending by giving them additional state aid in order to bring the school districts' per student spending closer to the statewide average. Is that correct? [LB545]

SENATOR ADAMS: That is one of the adjustments, yes. [LB545]

SENATOR PIRSCH: Okay. And with respect to under...so we had the current formula or TEEOSA formula and under that, you know, I represent a district that is half...approximately 50 percent Omaha Public Schools and 50 percent Millard Public Schools, and so I think they're affected in slightly different ways here. But under, for instance, the Omaha Public Schools' portion, under the current TEEOSA formula there would be an \$11 million...under the current formula there would be approximately a increase of \$11 million if we're... [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR PIRSCH: ...under the current formula and under this amendment somewhat less, \$4.9 million. Is that a correct understand... [LB545]

SENATOR ADAMS: Increase. [LB545]

SENATOR PIRSCH: Increase. [LB545]

SENATOR ADAMS: Not decrease. [LB545]

SENATOR PIRSCH: Yes, not decrease. [LB545]

SENATOR ADAMS: Increase. [LB545]

SENATOR PIRSCH: Yes, increase. [LB545]

SENATOR ADAMS: That's correct. [LB545]

SENATOR PIRSCH: So it just scales back the size of the increase. Is that... [LB545]

SENATOR ADAMS: Correct. That's absolutely right. [LB545]

SENATOR PIRSCH: Okay. And is it the average adjustment, and I'm probably going

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over my time but if somebody can address it, is the average adjustment the only component then that is being affected by this amendment or is that where the...really the component, the needs component, that is being more affected? [LB545]

SENATOR ADAMS: That is the needs component. In the second division that we get to, Senator Pirsch, that is the needs component that will have the most significant effect this time. However, I would also say that as any one of us looks at our particular school districts and sees a decrease or an increase in aid, it may not be because of averaging adjustment. [LB545]

SENATOR LANGEMEIER: Time. [LB545]

SENATOR ADAMS: You may have a school district that is not a school district that gets any averaging adjustment. Property valuation change,... [LB545]

SENATOR LANGEMEIER: Time. [LB545]

SENATOR ADAMS: ...poverty situation change... [LB545]

SENATOR LANGEMEIER: Thank you, Senator Adams, Senator Price. Excuse me, Senator Pirsch. Done that twice. Senator Dierks, you're recognized. [LB545]

SENATOR DIERKS: Thank you, Mr. President, members of the Legislature. I was here for a lot of the things that you've been talking about. I was the Vice Chair of the Education Committee for six years, starting in '87 and through '93, I believe. TEEOSA came into effect about that time. It was a difficult...it was a very difficult issue and it's been a difficult issue ever since I have been involved with it. It's just that's just the way that it is because there's always somebody that thinks they're being cheated and there are other people that think that they...well, mostly you hear about the people that think they're not getting what they should. I wonder if I...I wanted to ask a question of Senator Heidemann, but I don't believe he's here and I think that Senator Harms, Vice Chair of the Appropriations Committee, is gone. Maybe I could visit with Senator Nelson. I believe he's on the Appropriations Committee. [LB545]

SENATOR LANGEMEIER: Senator Nelson, would you yield? [LB545]

SENATOR NELSON: (Laugh) Reluctantly. [LB545]

SENATOR DIERKS: (Laugh) My question, Senator Nelson, is has the Appropriations Committee heard anything about when these funds we're getting to help people get back in their mode of business, at the end of...at the end of two years when those funds are used up is that when we start paying back the dollars we've gotten? [LB545]

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SENATOR NELSON: Are you talking about the stimulus funds, the ARRA, ARRA?  
[LB545]

SENATOR DIERKS: Yes. Yes. [LB545]

SENATOR NELSON: Okay. I don't think for the most part that we're going to have to pay anything back, Senator. It's just that if we use those funds to supplant and they're made available to us, that we have the use of them for two years and then at the end of two years we run into difficulties because of things that the various school districts have done and increased and then don't have the funding for from that point on, and that means that the state of Nebraska is going to have to come up with that additional money. And we call it the cliff effect and I think Senator Adams and his committee are trying to diminish the effect of that down the road. [LB545]

SENATOR DIERKS: But you don't know anything about pay back. You think this is just a gift. [LB545]

SENATOR NELSON: That's my understanding. There's no assurance that we're going to get anything in addition from the federal government after the end of two years. Now maybe Senator Adams might have a little more insight on this, if you'd care to see how they have dealt with it, Senator. [LB545]

SENATOR DIERKS: Okay. I would ask if I could have a word with Senator Adams, please. [LB545]

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

SENATOR ADAMS: Yes, I will. [LB545]

SENATOR DIERKS: Senator Adams, you heard my question. I find it difficult to believe that we're going to get 200 (sic), or whatever it is, dollars and not have to pay that back. I mean, somebody is going to have to pay for that. How does the government get paid back for the money they're borrowing to pay us? [LB545]

SENATOR ADAMS: Senator Dierks, in terms of education, the Governor has made application for a fund of money for aid stabilization and it's \$234 million and it must be used within our formula. Those \$234 million do not need to be paid back, they don't. Now there is also in a separate pot of money... [LB545]

SENATOR DIERKS: That's just a gift? [LB545]

SENATOR ADAMS: It is a gift. [LB545]

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SENATOR DIERKS: My! [LB545]

SENATOR ADAMS: It is a gift. [LB545]

SENATOR DIERKS: That's wonderful. [LB545]

SENATOR LANGEMEIER: One minute. [LB545]

SENATOR ADAMS: Oh, there will be a payback day, you understand. [LB545]

SENATOR DIERKS: Well, that's what I'm trying to get at. Where is the payback?  
(Laugh) [LB545]

SENATOR ADAMS: Well, your income tax. [LB545]

SENATOR DIERKS: Oh, I see. I can remember when we came here, when I came back and you were in the first class with me, Senator Adams, that we got a presentation from Senator Landis and he suggested that by the year 2015, I think, that all of our funding in our budget would go either to Medicaid or education. Do you recall hearing that?  
[LB545]

SENATOR ADAMS: And I've heard that from other sources as well. [LB545]

SENATOR DIERKS: We're getting there, aren't we? [LB545]

SENATOR ADAMS: We're getting there. [LB545]

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

SENATOR LANGEMEIER: Thank you, Senator Dierks and Senator Adams and Senator Nelson. Senator Wightman, you're recognized. [LB545]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I also rise to applaud Senator Adams and the Education Committee for the hours and hours of hard work that they've put in, in trying to bring to us a bill that fits within what is sustainable growth, and I think they've taken great steps in that direction. I think the hours that Senator Adams says that he has spent, and I'm sure he has spent, with superintendents across the state, I know that even superintendents from my district have had a fair hearing before him, not just before the committee but visiting with him on a one-on-one basis, visiting with members of the Appropriations Committee. So I really do applaud not only Senator Adams but the members of the committee that have put in a lot of difficult hours in trying to arrive at a consensus and I think it's the type of thing that you probably can never arrive at a consensus of. I agree with what Senator Dierks said a few minutes

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ago in that maybe there's not a payback. We're not going to have to pay them back out of appropriations. But our children and grandchildren are going to be paying, I think, for many, many years to support some of the payments that will be made under this stimulus, so I think that is a consideration. But that having been said, I think we have to look at the percentage growth that we've had in the TEEOSA funding over the past several years. I think Senator Avery mentioned that we'd had consecutive years of 9 and 10 percent or 10 and 9 percent, and I think his figure was that it averaged about 5.5 percent over the last 19 years, even taking into account two or three different times when we had one or two years of actual negative growth. So with that said, I do rise in support of AM1057, which I think is not very controversial, having a lot to do with the certification date and the second...or the first part of the division. I think there's, as Senator Friend suggested, there's not a lot of...not a lot of controversy I think with regard to those areas other than the second division, which is the averaging. I do support the overall bill. We are going to have to be extremely careful. I serve on the Appropriations Committee, as you know. We're going to have to be extremely careful in holding the growth in K-12 education funding, the TEEOSA funding formula. I know we've changed that from time to time, even during the now three years that I've served in this body, but we've had to because the formula that was in place was going to result in growth, and that was true a year ago as well, to where we would be looking at spending all of our available growth in state government, probably more than that, just on TEEOSA funding. So I think it's important that we keep that in mind as we continue the discussion here today. Again, thank you, Senator Adams, for the many hours that you have spent for the many superintendents and many groups of superintendents that you've met with in trying to come up with a consensus and listening to their input. So I certainly do intend to support Senator Adams' amendment, AM1057, and support the committee amendment and the underlying bill. Thank you, Mr. President. [LB545]

SENATOR LANGEMEIER: Thank you, Senator Wightman. There are a number of lights still on. We will get to them after lunch. Mr. Clerk, items for the record. [LB545]

CLERK: Just one, Mr. President. The Judiciary Committee will hold an Executive Session today at 2:30 in Room 2022.

And I have a priority motion. Senator Wightman would move to recess the body until 1:30 p.m.

SENATOR LANGEMEIER: You have heard the motion to recess until 1:30. All those in favor say aye. All those opposed, same sign. We stand at recess.

RECESS

SENATOR CARLSON PRESIDING

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

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

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

CLERK: Two, Mr. President: Amendments to LB288 by Senator Campbell, and Senator Dierks to LB463. That's all that I have. (Legislative Journal pages 1139-1140.) [LB288 LB463]

SENATOR CARLSON: Thank you, Mr. Clerk. We will proceed to the first item on this afternoon's agenda. We are debating LB545 from the Education Committee and AM1118, an Education Committee amendment. And then the amendment to that, AM1057 from Senator Adams. There are several senators wishing to speak. Senator Sullivan, you are recognized. [LB545]

SENATOR SULLIVAN: Thank you, Mr. President, members of the body. Appreciate the conversation we've had thus far, and I guess what I'd like to add so far, I appreciate also Senator White's reminder of the one constitutional responsibility that we have in this body, if we did nothing else, but we need to fund education in the common schools. That's also why it's a perplexing and "complexing" issue because we also have a responsibility to be managers of the resources that we have and prudent managers at that, not that that diminishes my concern for education. That was the cornerstone of what I ran on in my campaign. I believe in education. I think it's the answer to the challenges and the ills that we have in this society and, most importantly, in this state. And so we can't shortchange our children in the process. I'm also, though, reminded of the fact that it takes a village to raise a child. And so while we have that main focus as a body to fund education, I think we look at all the other kinds of legislation that we're dealing with today that has some educational impact. And those will also figure into how we as a state encourage and take a responsibility for educating and promoting our youth. So I just basically want to have those...that philosophy in the backs of our minds as we continue our discussion on this. And if Senator Adams would like, I would yield any additional time to him. [LB545]

SENATOR CARLSON: Thank you, Senator Sullivan. Senator Adams, you have 3 minutes and 15 seconds. [LB545]

SENATOR ADAMS: Thank you, Senator Sullivan. You've caught me a bit off guard here. I don't know that I'm ready to go on anything. So I think for the purposes of time and I know there's a lot of other lights on, I will yield, Mr. President. [LB545]

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SENATOR CARLSON: Thank you, Senator Adams. Senators wishing to speak: Senators Campbell, Fulton, White, Fischer, Hadley, and others. Senator Campbell, you are recognized. [LB545]

SENATOR CAMPBELL: Thank you, Mr. President. I rise in support of LB545 and its underlying amendments. And I particularly want and appreciate retaining the array of educational needs. This morning Senator White talked about the requirement that is in the constitution. And I believe that the array of educational needs represents and sets forth the principles of this constitutional requirement. The ever changing landscape has meant a constant adaptation to our economic picture. When we started the term, I had an occasion to talk to Senator Adams and he said, don't think we're going to have to talk about the formula this year. And, of course, the changing economic times changed that need. I believe the Education Committee has done what has been required of them in terms of adapting to that economic picture. I have been most concerned about what will happen in year three and have had several long discussions with Senator Adams about my concerns, not wanting to just say, well, it's good enough to look at what the next two years, but not we don't really have to worry about year three and beyond. And I believe the committee has taken some of my concerns into account, and I appreciate that. When I worked on public budgets for the county, the hard issues were those in allocating cuts. But often the harder job was in allocating increases. It is then that you need to stay true to the principles you've set for public policy. The Education Committee chose to emphasize those needs closest to the educational criteria affecting students and then to prioritize them. How often are we, as public servants and certainly as candidates, have said what we need to do is we need to prioritize? And I think that is what citizens expect of us and then to make choices. I may not like all the choices that the Education Committee has put forward, but I respect the committee's work and support it. Thank you, Mr. President. [LB545]

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

SENATOR FULTON: Thank you, Mr. President. I had to sprint to get up here. I'm glad that I was able to talk. A couple of points and then I wonder if Senator Adams will yield to a quick question, but I'll make my points first, Mr. President. We talked a little bit earlier, I think it was Senator Dierks that talked about the federal dollars that are coming in. And I want to make a distinction because I think it's important for the public to hear this. We are in here trying to determine, you know, which pot of money--state dollars, federal dollars, what have you. The fact of the matter is it's all our money. These are going to come by way...the federal money is coming from us and the state money is coming from us. I think it's important that we remember that. I'm not saying that we don't. I understand that we have to draw a distinction for the purposes of accounting. But it's important for the people to hear that we do understand that this comes from somewhere. The money does not just get printed, although that might be the

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mechanism by which it comes to us. It comes from somebody's livelihood. That's important. Then would Senator Adams yield to a question? [LB545]

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

SENATOR ADAMS: Yes, I will. [LB545]

SENATOR FULTON: Senator, on...I'm actually going to broach protocol here a little bit. On AM1078, I think that's the averaging adjustment amendment, could you explain just for my purposes, and probably for the purposes of others here, that averaging adjustment. There's a number that's utilized in the formula and could you enlighten us a little bit how was that number first arrived at? [LB545]

SENATOR ADAMS: Senator, I guess I can talk about the averaging adjustment itself, but specifically the number, I'm not sure which number you're referring to. [LB545]

SENATOR FULTON: Well, we had a...see, maybe I'm in the wrong place here. There's a multiplier that represents the averaging adjustment within TEEOSA. And I guess I should start there. Is that correct or am I incorrect? [LB545]

SENATOR ADAMS: I don't know that there is. [LB545]

SENATOR FULTON: Okay. I...maybe I need to go... [LB545]

SENATOR ADAMS: You've stumped me here. [LB545]

SENATOR FULTON: I'll go back and clarify that if indeed I need to be more specific. [LB545]

SENATOR ADAMS: Okay. [LB545]

SENATOR FULTON: I guess then on AM1078...AM1057 I looked through and I'm with you on AM1057. I'm hopeful everyone is with you on AM1057. It's going to be a mechanism by which we can move forward I think prudently and still be able to statutorily express when deadlines are. But when we get to AM1078, just a general question about the averaging adjustment. Could you enlighten me a little bit on that because I know it's going to be coming here eventually. [LB545]

SENATOR ADAMS: Yes, yes. Now when we get to that amendment, I'm looking forward to the opportunity to explain it. But are you asking me to give you some background right now on it? [LB545]

SENATOR FULTON: Yeah. Why don't I just wait then, Senator. [LB545]

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SENATOR ADAMS: That would be fine. [LB545]

SENATOR FULTON: I do...there's some specificity that I was trying to get at, and I need to identify that a little bit better. So I will just count myself lucky that I was able to get a little something in on the nature of our tax dollars. And I'll wait until you open on AM1078. [LB545]

SENATOR ADAMS: Fine. [LB545]

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

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

SENATOR WHITE: Thank you, Mr. President. Members of the body, I would like to take us back again to the first principles. I don't want to get on the averaging amendment yet specifically. But I think it is essential that if we're going to have a constructive, meaningful debate that we understand the framework that we must have it in. And as an attorney, I have to tell you it starts with the constitution. If we're going to fulfill our obligations, the first obligation is to look and see what the people of the state of Nebraska told us our duties were to be. We are going to be struggling with what I think everyone from Senator Adams on down would describe as not enough money to do all we would like to do in terms of public education. When you face that situation, it seems to me the first line of choice has already been made by the constitution. I would submit that you need to...we're each our own judge. There's a fallacy that the Supreme Court is the sole judge of the constitution. In fact, the constitution has to be interpreted by each of us in our own conscience and through discussion and debate in the bills we pass. And so if, in fact, this body is convinced there's not sufficient money to fulfill our first obligation, which is not optional, we shall provide for the common schools, then it follows inevitably we can do nothing else in education until we first do that. I mean that's a draconian response, and I would tell you I don't think we should go there, but I would tell you that's how serious this is. So please hold that thought of what the constitution has told you you must do. And then as we debate it, I want you to recognize again the obligation is of the state to provide for an education for every child of the age 5 to 21. We can't just provide it to some and not to others. We cannot do that, not if we honor our oath. Mr. President, I'd yield the rest of my time to Senator Ashford. [LB545]

SENATOR CARLSON: Senator Ashford, 2 minutes and 40 seconds. [LB545]

SENATOR ASHFORD: Thank you. I just want to make a few comments about the debate today and I want to give special credit to my good friend Cap Dierks. Whenever I'm thinking about things and then have a chance to talk to Cap Dierks, Cap, as he has

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done for my many years of being a friend of his since 1986, kind of comes up with the answer. And when he got up today, he gave us the answer. And the answer is, we're just tweaking around the sides of this issue. Senator White is absolutely correct. The Education Committee had no other...nothing else to do. We had \$234 million to work with. We put out a bill for \$234 million. That's what we did. Senator Avery said something this morning that was on another point, but he was right, and that is we are a Legislature of committees. And as such, we rely on each other to come up with solutions. The Education Committee came up with solutions regarding education policy. We made a change in the averaging adjustment because that was the only educational policy move we thought we could make and get under the \$234 million. Let me make this one point. I think Senator Pahls was so right the other day, and I know some of us it was late in the day and we may or may not have listened to all he said, but he was absolutely right. We are back to where we were in 1990, 1991 when this Legislature decided to fully fund education. We set the goal that the state of Nebraska would pay 50 percent of the cost of education... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR ASHFORD: ...and 50 percent would be borne by the property taxpayers. We are way below that. We are way below that. We're below...we're 12 percent below where the goal was in 1991 when we passed LB1059. Members, I think we need to find the money to fully fund LB988. We voted for LB988. It was a good bill when we voted for it. We need to fully fund it. Senator Dierks is absolutely correct--\$234 million is not our money. It's stimulus money that has come here to help us through a bad patch. But two years from now that \$234 million isn't going to be there. We need to fully fund education. We need to fully fund LB988. We need to find the money, whether it's in sales tax exemptions and many of which Senator Pahls talked about today. I have learned my lesson from 1991 when I voted not to fully fund LB1059. [LB545]

SENATOR CARLSON: Time. [LB545]

SENATOR ASHFORD: It was a bad vote. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator White and Senator Ashford. Senator Fischer, you are recognized. [LB545]

SENATOR FISCHER: Thank you, Mr. President and members. On our discussion last year on LB988, I was opposed to the bill and I voted against the bill. And one of the reasons was the averaging adjustment that was included. We tweak state aid all the time. As Senator Ashford said, you know, over the last 20, 25 years there are changes all the time with state aid. We put factors in, we tweak them, we eliminate some factors. And every district and every child in this state is affected by our actions. I was opposed to the averaging adjustment last year because I was concerned about the increased

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cost it would be to the state. Now it's not the main cost that we're seeing in increases in state aid, but it is a part of it. So that addition and that tweak to the state aid formula increased the state's responsibility in providing state aid to education to the various school districts across the state if they are equalized districts. That being said, the averaging adjustment is part of the policy now for the time being. The averaging adjustment is part of the state aid formula for the time being. As I said, factors are put in, factors are tweaked, factors are eliminated. That happens all the time. If I could, I would ask if Senator Adams would yield. [LB545]

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

SENATOR ADAMS: Yes, I will. [LB545]

SENATOR FISCHER: Thank you, Senator Adams. We were beginning a discussion of earlier this morning on the different factors that are currently in our state aid formula and determine which districts receive how much money for each of those factors and how they're weighted. We talked about the transportation allowance. There's also a poverty allowance in the formula that the majority of districts receive, not all but the majority. Could you explain that for us, please? [LB545]

SENATOR ADAMS: Senator Fischer, thank you. I don't have in front of me all the details of the thresholds, but free and reduced lunch. And what we are trying to do with this allowance, as well as all the others, is respond to an increasing cost that districts all across the state are seeing. And it truly is an urban issue, but I think that if we look also we find it in rural communities where there is poverty, and it makes an impact on education--mobility and all that's tied with poverty. [LB545]

SENATOR FISCHER: I happen to represent three of the poorest counties in the United States, and there is rural poverty. In fact, Senator Ashford and I were discussing this morning about in the formula there's...we don't always see a recognition of rural poverty in the state aid to school formula. And it's...it could be because of an attitude in rural areas or just a different system that sometimes we work on in rural areas. But...and I agree with you in keeping that poverty allowance in the formula and not diminishing it because that is a...it should be a grave concern to everyone in this state. And we all know in urban areas there are pockets of great poverty and that needs to be addressed. Next on...one factor that we don't see I guess too many districts... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR FISCHER: ...included in, as I'm just glancing down the sheets, the printouts that you provided us, is instructional time allowance. Could you explain that? [LB545]

SENATOR ADAMS: The instructional time allowance, basically what we have said to

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school districts...they have come to us and said, can you assist us if we are adding days to the year or hours to the day because we think it's beneficial to education? And the Education Committee and this body agreed, that makes good educational sense. So let us assist you with that. And part of the reason, I think, that you don't see a lot of money spent there yet is because it's new; and secondly, as I'm pointing out in the first division of this bill, we ran into some snags, some data snags that have made it difficult for schools to access this. And that's part of what we need to fix. [LB545]

SENATOR FISCHER: I appreciate that and I appreciate you continuing to reinforce the educational aspects of the formula. Thank you. [LB545]

SENATOR CARLSON: Thank you Senators Fischer and Adams. (Visitors introduced.) Senators wishing to speak: Senators Hadley, Howard, Wallman, Ashford, Avery, and others. Senator Hadley, you're recognized. [LB545]

SENATOR HADLEY: Mr. President and members of the body, I remember coming to orientation, and I...one of the things that really stuck with me in orientation was Senator Raikes telling us exactly the same thing Senator White said about the constitution and basically the primary duty as laid out in the constitution regarding education. So I take this as a very solemn task we're doing today. I think, though, that each of us have to decide...interpret what that constitutional part means when kind of the rubber meets the road, when we actually start talking about what it costs us to fund education. And I think that's what we're talking about today. We have a number of \$295 million that the current formula generates. From what I have seen, that current formula is nonsustainable in the future because of increases that will be required. What makes it nonsustainable? We could sustain it if we're willing to tax ourselves to sustain it. We could do that. We could increase sales tax. We could increase income tax. We could require school districts to increase property taxes. But, boy, I've heard nothing about increasing taxes whatsoever. So we have a formula that is not sustainable in my mind at this present time. So we're sitting with \$233 million, primarily stimulus. What worries me about that is the fact that this is one-time money. And two years down the line we can have a big problem figuring out what we're going to do if we don't have the \$233 million. But I think we ought to take a chance and see what we can do in two years to do that. Another thing that concerns me, we've heard a lot about loss today, loss of funds. I actually went through and, you know, clicked off, and if my numbers are correct, there are 79 school districts that actually lose funds on the formula, all the rest get increases in state aid. All the rest get increases in their state aid. So a lot of what we're hearing about today is not that we're getting a reduction, but the increase isn't what we expected. And I think that's a big difference, not a loss but the increase isn't what we expected. I did some other examination. Twenty-seven states in the last data that I looked at have either enacted or proposed decreases in state aid to education K-12. Twenty seven. Over half. From my numbers here that Senator Adams gave us, I believe we're looking at, if this goes through, approximately an \$89 million increase this coming year, \$233 million over the

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next two years. So we're not talking about a decrease in state aid. We're talking about a decrease in the amount of increase. And I think that makes a big difference. Lastly, would Senator Adams yield to a question? [LB545]

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

SENATOR ADAMS: Yes, I will. [LB545]

SENATOR HADLEY: Senator Adams, if we keep the amount that we have for state aid at \$233 million over the next two years, if we change the formula, there will be winners and losers under the change. Is that correct? [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR ADAMS: Depending on how you change the formula, there will be those who gain and those who don't. And some of the changes in winners and losers may come about not because of changes in formula, but because of demographics within any individual school district. [LB545]

SENATOR HADLEY: That's right. Well, I think it's really important that we understand that if we're not willing to go to the \$295 million, if we stay at the \$233 million and we go in and change the formula, there are going to be different winners and losers. So all we do is change the people that might be standing up and saying, my ox is gored if we do this. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Hadley and Senator Adams. Senator Howard, you are recognized. [LB545]

SENATOR HOWARD: Thank you, Mr. President and members of the body. First, thank you for your tolerance in my lack of voice on Friday. You'll be glad to hear I'm in better form today. I spent five years working on the Education Committee, and four of those learning under the hard tutelage of Senator Ron Raikes. One lesson I clearly heard and learned was that local effort is first. Communities must be expected to contribute up to their maximum ability. Needs would be factored into this and state funds would make up the difference. Omaha is at the lid levy. The only way additional funding could be produced is to put a levy override to a vote of the people, which would mean a property tax increase. As Vice Chair of Education, I would prefer to stand with my Education Chairman. But frankly, our paths divide when it comes to underfunding the education of the most needy students in our state. Last week we voted to increase the number of judges and to improve their retirement plans. By undercutting education funding, we will need more judges because without the opportunity of a quality education, we will lose students who see no educational or employment opportunities in our society. The question is too large and too obvious to ignore. Why is the largest school district in the

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state, the school district with the greatest need, and the school district that is at the levy cap taking the biggest hit? The Education Committee has certainly put their time and effort into this issue. Chairman Adams is a man of integrity, and I am proud to serve as his Vice Chair. Yes, we've been given a tough job. But each and every one of us ran on a platform of supporting quality education, of supporting educational opportunities as a way of combatting the violence and the crime in our communities. If you vote to support the averaging adjustment in LB545 in its current form, you will be voting in direct opposition of what you assured your constituents that you would do. I've saved a press release from October of '08 because I thought the Governor expressed this far better than I could, and I'd like to just share this with you. Governor Dave Heineman today pledged a new level of cooperation and collaboration among Nebraska's educational leaders. The Governor was joined by State Senator Ron Raikes, Chairman of the Legislature's Education Committee; Fred Meyer, president of the Nebraska Board of Education; and Roger Breed, Nebraska's incoming Commissioner of Education in describing a new partnership focused on resolving educational issues. This new spirit of cooperation and collaboration is important as we address the education challenges of the twenty-first century, Governor Heineman said. We are preparing students for jobs that don't yet exist. In order to be fully prepared for tomorrow's work force, our students need at least two years of college, whether it's a community college or a state college or a public or a private college or university. More than ever, our students need the education that empowers them with new information and the knowledge to access new information. I think the Governor summed up my concerns and hopefully your concerns. We need to fund education, and we need to fund education before we fund anything else. With that, I offer the remainder of my time to Senator Friend. [LB545]

SENATOR CARLSON: Senator Friend, 1:15. [LB545]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. Obviously, not a whole lot of time for a blowhard like me. However, I wanted to point out and... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR FRIEND: ...the underlying amendment to AM1057 division, if you go through your gadget, as some have liked to call it, but the Chamber Viewer, you'll realize that there are some key, and some of these things were pointed out earlier, all of these things were pointed out earlier by Senator Adams, the recreation of...or recreates reorganization of incentives, learning community hold harmless thought process, early retirement budget exception, employer contribution of retirement budget limitation, instructional time allowance, America Recovery and Reinvestment Act, and bonding authority, a good portion of that language is all covered in here. And in 56 pages, I believe, I take that back, 57 pages they're very narrow. [LB545]

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SENATOR CARLSON: Time. [LB545]

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

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

SENATOR WALLMAN: Thank you, Mr. President and members of the body. I wasn't going to talk on this issue, but I will. And trust me, if we don't fund monies out of here, it will come on your property tax, and lots of districts are against the lid. I argued with the last Senator Warner on this. You put a lid on things, you put pressure on assessors--reevaluate, reassess your property and raise it to fit the budget of the schools or the local government entities. And that's what we always seem to be doing. So do we need a broader sales tax base, income tax base? Eventually we'll probably have to look at some of these issues because schools take money--inflation factors; higher school teacher salaries; administrative salaries; transportation, which is picked up by us mostly, but not all; special education. Lots of school districts have to pick up at least 25 to 35 percent of that budget. And now we have the assessments. It goes on and on and on what we demand of our local school districts. And are we getting better students out of this? Lots of parents are deciding to homeschool their kids or send them to private schools. Is that on account of assessments? And we have high dropout rates, we have high absenteeism on the date of the assessment dates, and we have lots of problems that we probably don't have the answer to here. Is it money? Not necessarily. But it's a big issue and the most important issue we have in this state is educate your children. And I donate the rest of my time to Senator Friend if he'd like it. [LB545]

SENATOR CARLSON: Senator Friend, 3 minutes. Senator Friend is not available. Thank you, Senator Wallman. Senator Ashford, you're recognized. [LB545]

SENATOR ASHFORD: Yeah. Thank you, Mr. President. And I just want to...and I'm going to give some of my time possibly to Senator White if he wants it or Senator Adams. But I think...and Senator Howard is absolutely right when she talks about the averaging adjustment. When we passed LB988 last year, it was after many, many weeks of work on the issue. We passed it. It passed the Legislature. It was signed by the Governor. It's good policy. When we came into the Education Committee this year, we had \$234 million to work with. We have put a bill before you which spends \$234 million of stimulus money, not a dime of General Fund dollars. Senator Cap is right. Cap is absolutely right when he talks about what are we going to do in two years? It's nice now. Here's the dilemma we're in. Many of the special interests that's talked to us about funding education also represent interests that don't want us to deal with sales tax, same people, same groups in the lobby that represent several different clients. Some want the sales tax exemptions to stay. Some don't want sales tax on services, but they want more money for education. That's why it's our decision to make in here because

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those of us...those who are in the lobby, those interests that lobby us all are well-intentioned and have good causes. But it is us that have to break through these issues. The simple fact is we need to expand the tax base to meet the needs of education. We need to fully fund LB988, not because it's a spendthrift initiative, but because in two years we're not going to have the money to properly fund education, whether it's the cliff effect, and I'm not quite sure what that means. I guess it means that there's a cliff and you fall off it. But what it really means is if you look at the numbers, we're going to have to come up with money two years from now. We're going to have to expand the tax base two years from now to meet the needs of education. And Senator White is absolutely right. It is our primary obligation in this state. In 1991, Cap and I were here. We talked about the need to expand state involvement in education to 50 percent of the cost. That was the goal. We're not close to that. And what's the result of that? Well, the result of that, and Senator Howard is absolutely right, the result of that is pressure on the property tax. It's not just OPS; it's every district. Every district in the state is scrambling. Every district has rural poor if you're a rural district. It's not just OPS. Every district...districts are made up of people who care about primarily one thing and that's their children, their schools. That's their number one priority of every district and every citizen of our state. If you ask them what's your number one concern, it's their children, their grandchildren. We need to break through the impasse here. We need to take the leadership that it's going to take to expand the tax base to meet the needs of education. We have to do it. We have to do it. It doesn't matter if we're reelected. It doesn't matter what special interest likes it or doesn't like it. This is a golden opportunity for this Legislature to break through an impasse that has been dogging us since the mid nineties. We need to fully fund community colleges. We don't do that. So what happens? What happens? Community colleges fight amongst themselves. Senator Harms has been a great leader in community college education. It's incredible what he's done at Western. But we're fighting amongst ourselves because we're not fully funding it. We can fully fund it. We can fully fund it, but we don't fully fund it because the special interests tell us, you can't do that. Or we take home a sales tax exemption and say, look what I did. You don't have to pay tax. [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR ASHFORD: But what you're going to be paying, what you're going to be paying is more property tax, and you're not going to get quality education. Senator Adams is right. Senator Adams has come up with a series of initiatives that are right on spot on educational policy. He's absolutely right. If he had a hundred million more dollars, he would spend a hundred million more dollars to fully fund education, but we didn't have it because the Education Committee doesn't talk about raising taxes and it doesn't appropriate money. We make education policy. We made education policy the best way we knew how. We had \$234 million and we came up with educational policy. Members, this is a fabulous opportunity to listen to Senator Pahls and do what's right for our state. Get education funded, get it fully funded. We can do it if we want. We can do

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it if we want to. This is a tremendous opportunity for our state. [LB545]

SENATOR CARLSON: Time. [LB545]

SENATOR ASHFORD: Thank you. [LB545]

SENATOR CARLSON: Thank you, Senator Ashford. Those senators still wishing to speak: Senators Avery, Loudon, Haar, Council, White, and Pahls. Senator Avery, you are recognized. [LB545]

SENATOR AVERY: Thank you, Mr. President. We've heard discussion today that this is a complex bill. It is. It's complex and it's large. And I'm sure that each one of us can find parts of this bill that we don't like. In fact, there is a provision in this division that we're looking at right now that we're discussing that I don't like. I argued against this in committee. It's the hold harmless provision. This is the second time we have put this provision in a bill to give one school district more time to adjust to the requirement that they have to continue to participate in the common levy, that is, to contribute their share. They haven't yet done so, and they've asked for another extension. We gave them one extension, now we're going to give them another. It brings to mind to me something like a poker game where you have a person at the table that wants to continue to play in the game, but they don't want to ante up. And I'm convinced that we're going to hear from that school district again. They're going to say, we need another year. We need to be held harmless again. But I still want to be at the poker table, I still want to be a part of the game, but I don't want to ante up. At some point, you have to stop doing that. Well, that's something I don't like. But I'm going to vote for this bill because I think there are enough provisions in it that it ought to be supported. We have heard some discussion, too, about the obligation to fully fund. Well, when I hear that, it says to me that we're talking about fully funding LB988 that we passed last year. If we do that, we will break the bank. And we have to be very aware of what that means to fully fund based on LB988. LB545 is a modest and reasonable amendment to LB988. I think that is what we ought to be doing. Let me share with you some numbers that will put funding for schools in a broader perspective. We have--let me get my notes--we are...over the two-year biennium, we're going to see more than \$241 million put into the school aid formula. Now if you look at what we're spending in other parts of the appropriations for General Fund operations now, that's 3.5 times what we spend on the Supreme Court. That's a whole branch of government, 3.5 times what we spend. And that's just the increase in what we're going to be spending on schools over the next biennium under this bill. It would be \$100 million more than we spend on the entire correctional system. It is \$17 million more than we spend on the operation budget for HHS. It is six times more than what we spend on state colleges. And the four campus university system it is at least half of what we spend on that. So I think we need to understand that we are not talking about underfunding. We're talking about a generous amount of money for schools, and that is important. And I fully support funding schools, but we cannot afford at this point

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with the current crisis we have to fund schools under the existing law, LB988, certainly not fully fund at that level. We would have to come up with \$295 million just under TEEOSA for that. Another comparison, the school aid today under TEEOSA, 23.7 percent of the '08-09 state General Fund budget. [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR AVERY: That compares to 17 percent of the General Fund budget for Medicaid. That compares to 15.4 percent of the general budget for the University of Nebraska and the state colleges. So I am suggesting to you that we need to look at these numbers in the larger perspective, look at what we're doing in the overall budget and ask ourselves, are we doing what we ought to be doing for schools? And the answer to that is, yes. Are we doing what everybody would like to do for schools? No. But we're doing what we ought to be doing given the constraints of the current budget situation. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Avery. (Visitors introduced.) Continuing with our debate, Senator Louden, you're recognized. [LB545]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I look at this legislation before us, for the most part I can support most of it. I think Senator Adams and Education Committee has probably done quite well. It's probably some of the better legislation that's come out of that committee over the last seven or eight years since I've been down here because a lot of it was quite detrimental to our rural areas, especially wester Nebraska. As you talk about the TEEOSA and whether or not it's fair and equalization between districts, some of it probably isn't fair. We have...there's school districts in the legislative district that I represent that don't receive any state aid. Sioux County up there never has received any state aid. So when you talk about what's fair across the state, why, they've always financed their own school system and have done so for years. I was on the you might say front steps when state aid to education was first introduced some 20-some years ago, whenever it was, back there in the nineties I think. And the way it was set up, there wasn't any conservation at all built into the formula. If you would spend a little bit more money, you'd get you on another level, and you could increase your state aid. And from then on, the whole thing has snowballed to where we are today. When you talk about the fairness of it, how many swimming pools do the high schools have out there in northwestern Nebraska? They have them in eastern Nebraska, but yet most all of that is all funded somehow or another through your state aid formula. So we have problems with what you would call education I think. And as you've mentioned, to start tinkering with some of your tax revenue basis and your sales tax to increase the revenue to fund education, I think the first thing you'd have to do is describe what the state of Nebraska is going to do to furnish education in Nebraska. Education would have to be defined before you start figuring out ways that you're going to increase revenue to fund it because wherever you

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increase the revenue, and all of you certainly can understand that and have seen that, whenever the revenue increases, why, so does the cost of education increase because there's never been a time that we've ever caught up with it. I think when I first came down here the total cost was just about \$700 million and now we're up to \$900 million or so and then going up continually all the time. So somewhere along the line there will have to be a definition on what you do for education. As we've went over the years on some of these things, I think when we first started out we had our sales tax on food and everything. I remember when I first came down here, introduced legislation to put a sales tax on food to fund education, and, I mean, there was the loudest fussing you ever heard in your life because we certainly couldn't do that. But yet we had consolidation of all the rural land in Nebraska, and that is what brought about the funding of schools is when the consolidation and brought in your rural land into the city schools and then that gave them a larger tax base. So we had a difference there and that's what's increased it so that some of the rural high schools out in some of these rural areas don't have any state aid, mostly because now their valuations are so high and they've lost student population that when they got up there somewhere over a million dollars valuation per student, they weren't eligible for state aid. But that land has not produced any more... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR LOUDEN: ...off of income than it did when it was valued probably at \$50 an acre. So we have problems like that. When you talk about funding education, there's so many problems involved there that it's going to have to take a whole roundhouse study in order to get anything solved on the problem. As they say, this here is what we're doing is mostly a band-aid effect and this is actually what it does. It helps at the time being, gets us by for another year or so, and there will be another problem later on. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Louden. Senator Haar, you are recognized. [LB545]

SENATOR HAAR: Mr. President, members of the body, if I'm correct, we're on AM1057 right now which is splitting the original amendment, and I support that. I support the various premises of AM1057. I also...I was one of the two people that didn't vote LB545 out of committee. But I must say I appreciate the work of Senator Adams certainly and of the whole committee. And I'm not so sure that we always have to be unanimous about what we do in committees. I think one of the strengths is we're supposed to come and be who we are and bring our ideas and opinions to the committee. I believe in equalization. And we're going to come up against, even if we solve it this year with TEEOSA, we're going to come up against it next year with community colleges. But I believe in equalization. Nebraskans are all in this together, and communities need to work together to make this a great state. When I look at TEEOSA, I see a model and it's

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a mathematical formula. And as we all know, formulas are not reality. For example, we predict the weather with models which involve mathematical formulas and thousands of data points, but the mathematics isn't the weather. And the problem we keep running into with the formula with TEEOSA is that we try to define need and resource with a formula. So it is something we're going to have to change as we go because a model is never perfect. The model does not...the model is not really what need is. So the thing that's bothered me I guess somewhat, and I hope we'll talk about this more in terms of the averaging adjustment, is that I feel that sometimes this year we've talked about need, and then we've scaled back depending on the money available. And really what that's turned out to be is the \$234 million of federal stimulus money. And really what we should be talking more about is policy. I agree with Senator Ashford. We need to be fully funding education. We also keep to...be looking at what need is and how that fits into the formula. I think one thing we need in TEEOSA very badly, and maybe we can look at this over the years, is to build an economic factor into it because obviously when times turn down, everybody has to take sacrifices, including the schools. And yet what we've tried to do in this case is we've tried to zero in on some factors that we could reduce the amount of money that we can put into it. Somehow we need to build in an inflation factor so that not only do schools get less money when times aren't good, but also I think schools ought to get more money when times, I'm sorry, right now we need to have something built in to reflect when economic times are bad. It will naturally lower the amount we can put into education, but we also need to have factors in there so that when times are good schools get more money. That's part of the whole thing. So I guess in conclusion I would say I support the bill. I support AM1057. I think there's some problems yet with how we've chosen to tweak the formula this time in terms of average adjustment. And I hope we'll talk about that more as we talk about the next amendment. And in all of these discussions... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR HAAR: ...we have to realize that we have an excellent chairman who's worked very hard and an excellent committee who's worked very hard. And disagreement often makes things stronger. Thank you very much. [LB545]

SENATOR CARLSON: Thank you, Senator Haar. Those still wishing to speak: Senators Council, White, Loudon, and Friend. Senator Council, you are recognized. [LB545]

SENATOR COUNCIL: Yes, thank you, Mr. President. I have sat here and objectively listened to my colleagues who have spoken thus far on LB545 and its amendments. And throughout the discussions today, I think there's one area that I've heard of consensus and that is the formula is the Legislature's means of establishing the needs of the school districts in the state of Nebraska. And someone correct me if I'm wrong, but I haven't heard one person stand up and say that the formula does not establish the needs. And if we've identified what the needs of these school districts are and that need

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is reflected in \$295 million additional funding for state aid, then our challenge as members of this body is to, in the most fair and equitable way, to come up with the \$295 million to address the needs of these young people in the state of Nebraska. We are the ones that say that this is the need because we're the ones--I wasn't here, many of my colleagues weren't here--but when LB988 was passed by this Legislature, this Legislature said this is the way that we determine need. And I appreciate Senator Fischer's remarks with regard to periodically tweaking the formula. But the fact remains that the children of the state of Nebraska need the funding that has been identified by the formula. So the question is, is what's the most fair and equitable way of arriving at the dollars that we need to provide to meet our constitutional duty to provide a quality K-12 education for the youngsters in the state of Nebraska? And I rise to tell you that the portion of the bill, LB545, that attempts to arrive at that, with the exception of the averaging adjustment, is a fair and equitable way a step in achieving that. And when we get to that portion that I hope will be divided out, the averaging adjustment, I will state in great length why I believe that that's not fair, that that's not equitable in the way that we go about trying to spread the pain associated with reducing the overall cost of providing state aid to education. You know, I served on the Omaha Board of Education for 11 years. And I know that fact alone will be considered by some to color anything that I say on this subject. Well, you can label me biased in favor of OPS. You can label me biased in favor of urban education, but the one thing you cannot label me as, as someone who does not care passionately about the education of all of the children in the state of Nebraska. And we would look at that. You know, the children that live in my district, District 11, are your children also. And those children that live in District 11...I heard Senator Fischer state that she has three of the poorest counties in the state in her district. Well, I have the distinction which means we all have the distinction of representing a district where African-American children live in poverty at the highest rate in the nation,... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR COUNCIL: ...the highest rate in the nation. Now I don't think any of the educators in this body, and there are many educators in this body, my undergraduate training is in education, served 11 years on a school board, headed a national association of school board members, served on a board of directors of urban board of education board members, so we all know what the issues are. And in fact, many of you sitting here today had the pleasure of sitting in on a presentation with Dr. Shonkoff a couple of weeks ago where Dr. Shonkoff discussed the impact of poverty on the development of young people. And all of the educators here know that there's a direct correlation between development and educational achievement, and there's a direct correlation between educational achievement and income potential. And if we don't do anything as a body to... [LB545]

SENATOR CARLSON: Time. [LB545]

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SENATOR COUNCIL: ...address the needs of all of the children, then we are not serving our purpose. [LB545]

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

SENATOR WHITE: Thank you, Mr. President. Members of the body, if I could have your attention for a moment, the first few times I rose, I spoke to you of a constitutional obligation. And that's important because it's like building a house--you need the foundation understood. You had the opportunity to read that. Now we need to move or at least I'd like to move, intellectually from that basis to what we must do. And one of the things I would urge you to look at immediately upon reading the constitutional provision is it does not allow, it does not allow the state to push the obligation to provide the education to local bodies. It does not allow that. We have done that. We've done it through history, but the constitution doesn't allow that nor does it say the state shall supplement local efforts. It doesn't say that. It says the state shall provide. Now why is that important? Because one of the ugly realities of life is you get what you pay for. You get what you pay for. And unless somehow in this body we can repeal the laws of the marketplace, as my good friend Senator Lautenbaugh has said, that's the way it goes. And we have a fundamental problem in this state. There are districts in this state where the average amount spent per student per year is \$21,000. We have districts in the state with higher concentrations of minority, higher concentrations of poverty, and not Omaha, mind you, that they spend approximately \$5,600 a year to educate those students. And the latter district is at their levy cap. They cannot do anything more; \$5,600 a year versus \$21,000 a year, you get what you pay for. And we are fundamentally throwing aside our constitutional obligation to treat every child of this state, to provide every child of this state with an appropriate education. You cannot in good conscience square \$21,000 a year per child with \$5,600 per year. And what Senator Council said is where you have poverty, where you have English as a second language, where you have social disruption it is more expensive and more difficult to educate. That's the realities that we face. Now, it would be okay if one district spent \$21,000 a year and another only spent \$5,600 a year if it wasn't a statewide obligation. If the constitution said the local governments shall provide under the supervision of the state an appropriate level of education for each child, why, that would be okay. Some areas are rich; their kids do better. Some areas are poor; they don't get so much. That's the way it goes, but that's not, that is not what the constitution has ordered us to do. The constitution has ordered us that every child shall have an appropriate level of education. You cannot square \$21,000 a year with \$5,600 a year and claim we've met our obligation. It cannot be done. So now where do we stand? Well, the problem, and I don't want to go too far down this because we have divided the question and that is a matter of honor that we follow it. But what you will hear is that if we follow the path laid out by my friend Senator Adams and the majority of the Education Committee, the gap

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between the richest kids who get the most money and those who get the least will grow, not shrink. And that is not only unconstitutional, it's immoral. Thank you. [LB545]

SENATOR CARLSON: Thank you, Senator White, and that was your third time. Senator Louden, you are recognized. [LB545]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. Would Senator Adams yield for a question if he would, please? [LB545]

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

SENATOR ADAMS: Yes, I will. [LB545]

SENATOR LOUDEN: Senator Adams, as I look this, it's really the amendment AM1056 over, and I'm wondering in the Section 10 where you talk about instruction hours and stuff, what is that going to do? Is that going to change anything from what we do nowadays with your, what, your 1,080 hours for elementary or your 1,100... [LB545]

SENATOR ADAMS: No. It doesn't change the State Department of Ed regulations. But what it does do is say for those schools who decide to go over and above that, we're going to give them some financial assistance and we are reformulating it here. It already exists. We're changing the way that we formulate it so it makes better sense. [LB545]

SENATOR LOUDEN: Okay. Then they will get...they will receive more state aid money if they have more hours of teaching then. Is that what you're telling me? [LB545]

SENATOR ADAMS: If they exceed the state average, that's right. [LB545]

SENATOR LOUDEN: Yeah. Okay. Now then when we get into that, we're talking about the cost of education going higher all the time. Then does this increase our cost of education, the state over then if we... [LB545]

SENATOR ADAMS: If school districts take advantage of it, yes. [LB545]

SENATOR LOUDEN: And then as Senator White talked about, you know, there could be a problem come up on what the state of Nebraska has to fund. Where should that fit into it? Because this is exactly what we got into when state aid to education first came about some 25, well, nearly 40 years ago, whenever it was, I think in the last sixties when it first started. How...what effect will this have by doing something like this? Are you sure we want to go down this route? [LB545]

SENATOR ADAMS: I think it's a good decision. It's a decision that the body made last year in LB988. And the reason I say it's a good decision is because I think it makes

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good educational sense to keep the kids in school longer. [LB545]

SENATOR LOUDEN: Okay. Now let me ask you one more question. This has to do with all-day kindergarten or early childhood development. Does that have anything to do with that? [LB545]

SENATOR ADAMS: It...I don't know that it really does. All-day kindergarten, it may impact that. I'd have to take a look again. [LB545]

SENATOR LOUDEN: Okay, yeah, and the next question, I guess what my concern is, are we getting into a situation where we'll be using the school districts to more of a social issue to take care of children that have time on their hands like through the summer schools, after school development, different things like that, and classes after school when where we're talking about is some type of baby-sitting operation? That's what I'm wondering if this is going to lead into that. [LB545]

SENATOR ADAMS: You know, Senator Louden, you raise a good philosophical point. I don't think that there's any question but what if you travel to every school district in the state that is taking advantage of early childhood education grants, that may be taking advantage of the instructional time, one might say, well, what's really going on here? Is it good beneficial educational time? And parents probably could say, well, I don't like the way things are going with early childhood education because schools are getting more aggressive in trying to get the child in earlier. All of those make good educational sense, though. They really do. [LB545]

SENATOR LOUDEN: Well, I agree. But now I guess what my concern is, is that a social...is that getting to a social issue or is that an educational issue? [LB545]

SENATOR ADAMS: I like to think it's still an educational issue in the vast majority of schools. [LB545]

SENATOR LOUDEN: Okay, that's my concern. Thank you, Senator Adams. I guess my concern I have with something like this is how far we go with what we call education. And that's fine. I have no problem with it. And there's issues where it should be done... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR LOUDEN: ...and it will probably help out. But I sometimes question when you talk about the cost of education how far do you want to go down these social issues and use your education and your schools to take care of social issues? And that's something that has to be considered. The way the bill is, I suppose that will probably go on through like it is. But somewhere along the line I think the question needs to be

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answered. I asked it, but I haven't heard the answer yet. Thank you, Mr. President.  
[LB545]

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

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I certainly don't think anybody out here on this floor needs this, but after three or four hours of debate we tend to lose it and we tend to get ahead of ourselves. AM1057 again is changing a recertification date. But I wanted to throw something else your way because I didn't know when my light would be...after we move away from AM1057, I didn't know when I'd be next. And frankly, you're lucky if you, you know, get a chance in a two-hour span. So quickly addressing AM1118, something I have not heard anything about except for Senator Adams addressing from the outset, and I'm carrying on from where I had the minute and 15 seconds that Senator Howard graciously offered earlier. On page 5 of that amendment, there is language that indicates to us that there are a bunch of the reorganization incentives that Senator Adams was talking about earlier--"the Education Innovation Fund shall be allocated as follows: Any amounts transferred to the Education Innovation Fund from the School District Reorganization Fund shall be returned to the School District Reorganization Fund first, the next \$1 million shall be transferred to the Attracting Excellence to Teaching Program Cash Fund to fund the Attracting Excellence to Teaching Program Act, and the amount remaining in the Education Innovation Fund shall be allocated, after administrative expenses, for distance education equipment and incentives pursuant to Sections 79-1336 and 79-1337." Really quickly, bear with me, there's a point to this. Page 15 of the amendment, there's an early retirement budget exception Senator Adams alluded to earlier: "Expenditures to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination occurring prior to July 1, 2009, and expenditures in school fiscal years 2010, 2013-14 to pay for employer contributions pursuant to subsection (2) of Section 79-958 to the School Retirement System of the state of Nebraska," etcetera, etcetera. Members of the Legislature, there are three more items in here, and this goes to my point earlier, am I to understand that AM1118 does not have a fiscal...I mean I haven't heard discussion of that fiscal impact. I just gave you two items right there, and there's a fiscal impact of millions. Forget about the averaging adjustment for a second. The work that the Education Committee did, the work that Senator Adams has given to us, there are two divisions to this question, and quite honestly, maybe I should raise them now. I had some significant questions about the early retirement budget exception language. Now, in the spirit of collegiality, (laugh) I don't know that they would be formidable enough or formative enough that we should go down that road at this point. But the interesting part about it is, we haven't been down that road at all. We've had a couple of hours to talk about AM1118, and I don't know... [LB545]

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SENATOR CARLSON: One minute. [LB545]

SENATOR FRIEND: Thank you, Mr. President. I don't know that there's anything, I'm not sure that...you can go through this whole bill that the Education Committee has given us and see significant impact, not just to the bottom line and not just eventually to our budget, but to the education of our children in this state, and not just the children in the Omaha Public Schools System, which is, you know, I have a feeling where we're going to go here in a little while, but to children statewide. The first one that I gave you, a million dollars for attracting teachers and also for administrative expenses to deal with distance education equipment. You think that's not significant? I beg to differ. I think it is. I would just say that we could probably move from this particular amendment that we described earlier. And quite frankly, I don't know that AM1118 has received probably the justice that it deserves. [LB545]

SENATOR CARLSON: Time. [LB545]

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

SENATOR CARLSON: Thank you, Senator Friend. There are no other lights. Senator Adams, you're recognized to close on your amendment, AM1057 to the committee amendment. [LB545]

SENATOR ADAMS: Thank you, Mr. President, members of the body. I don't want to belabor this because I know that we still have a lot of debate yet to go. Let me say very simply that what AM1057 does is to move the certification date for next year to March 1 so that we have the time to make things work again in the second year of the biennium for the Department of Education and the Education Committee and ultimately all of you folks. So it's a move to March 1 for next year. Thank you. [LB545]

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

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Adams' amendment to the first component of the committee amendments. [LB545]

SENATOR CARLSON: The amendment is adopted. We return to debate on AM1118. Are there senators wishing to speak? Seeing none, Senator Adams, as Chair of the Education Committee, you may close on AM1118. [LB545]

SENATOR ADAMS: Thank you, Mr. President. You know, I may sound like a broken record to many of you because I've heard it said by so many of you at this point in time,

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and that is there have been a lot of good questions and a lot of good discussion on this portion of a big bill. Senator Friend was raising questions about the fiscal impact on AM1118. Well, those portions of AM1118 really when you...if I could quick run through them, when we're talking about the early retirement or the "reorg," the "reorg" money is lottery money shifting from monies that was put...that was in "reorg" and then put back into Educational Innovation Fund. Now we pull it back out of there again. The hold harmless is a reformulation of an existing hold harmless. The state does make a contribution there. The issues of the budget exceptions, those things...the increase in the retirement that the districts have to make as well as the allowing districts to continue to maintain those early termination agreements are exempt from the lid. But also key to the state, they're exempt from inclusion in GFOE so they don't roll over into the General Fund operating expenditure of a school district, which then becomes the base for calculating aid the next year. So we minimize the fiscal impact of AM1118. The components are there. I've described them two or three times to you. I'm confident that you all have looked through them. This is a key part of the bill. It does roll some other bills that we heard in the Education Committee into this portion. And what I would say at the outset or in conclusion here before we take a vote--I spoke on Saturday to the state convention of the League of Women Voters. And they were asking me about this body, and they had a lot of good questions. And one of the things that I told them is that one of the values of what we do is that we can do it with civility and respect for one another, and that's what we have done. And I know we have a ways to go yet, but we've done that. And I appreciate that and I appreciate the questions and I would ask your support of AM1118, this first division of the bill. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Adams. You've heard the closing on the committee amendment, AM1118. The question is, shall the committee amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB545]

CLERK: 39 ayes, 0 nays, Mr. President, on adoption of the first component of the committee amendments. [LB545]

SENATOR CARLSON: The amendment is adopted. Speaker Flood, for an announcement. [LB545]

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. I guess I'd echo what Senator Adams said: I'm proud to be a member of this Legislature and the way we're handling this debate. Recognizing that the most contentious of issues are ahead, quite possibly for the entire session, as we look to the second division. It is my intention today to adjourn at 4:00 p.m. And recognizing that I think we'll be far from done on the next division, I do intend to return to it at 9:00 a.m. tomorrow morning and work on this bill until the Legislature resolves a direction. Thank you, Mr. President.

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SENATOR CARLSON: Thank you, Mr. Speaker. Mr. Clerk, for an announcement.

CLERK: Thank you, Mr. President. Enrollment and Review reports LB158 and LB463A as correctly engrossed. Enrollment and Review also reports LB533, LB524, LB562, LB360, LB441, LB537, LB631, LB598, LB238, LB294, LB347, LB571, LB27A, and LB497A to Select File, some of which have Enrollment and Review amendments attached. That's all that I have, Mr. President. (Legislative Journal pages 1140-1142.) [LB158 LB463A LB533 LB524 LB562 LB360 LB441 LB537 LB631 LB598 LB238 LB294 LB347 LB571 LB27A LB497A]

SENATOR CARLSON: Thank you, Mr. Clerk. Mr. Clerk, for an amendment.

CLERK: Mr. President, the second component of the committee amendments, Senator Adams, I have before me AM1119. (Legislative Journal pages 1136-1138.) [LB545]

SENATOR CARLSON: Senator Adams, you are recognized to open on AM1119. [LB545]

SENATOR ADAMS: Thank you, Mr. President. Body, now we get to the point where I expect we will find the most debate and the most contentious portion of our debate. Let me give you some background. And there is an amendment that I have up that follows this and, again, I'm going to kind of let my introduction blend with both of those. The aid formula is driven by what this body determines the needs to be. I've said it over and over again and I'll continue to say it. And last year in LB988, we identified several needs and we built them into the formula in the form of allowances and adjustments. One of those was the averaging adjustment. And let me at the outset say that I'm not for a moment accusing any school district of gaining it. It's there. The rules are there. Any school district is going to try to maximize its resources under the rules of the game. We would expect them to nor am I accusing any school district with the averaging adjustment of having wasted money. Ever school district has needs. They can find good ways to spend the money. What I am saying is this: We were faced with trying to find two basic things--and when I say "we," I'm talking about the Education Committee--two basic things; (A) a way of slowing down the growth in state aid so this cliff effect that has been brought up is minimized in years three and four. And secondly, we needed to find \$60 million in savings, the difference between \$295 million and \$234 million. Now as we did that as a committee, we sat down and said, within the framework of LB988, and let me say something about--Senator Gloor brought that up and I'm glad that he did this morning. LB988 is a relatively new formulation. And I've tried hard in the preparation of LB545 to maintain the integrity of LB988. I spent the interim traveling from one end of this state to the other talking to superintendents of all kinds of school districts and asking a question, what should we do with LB988? And resoundingly, here's what I heard--leave it alone, let it work. Whether we liked it when you debated it or not, leave it alone and let it work. And that has fully been our intention. And then came the revenue

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forecast and then came stimulus and all of the things that I've already spoken to. So what we have tried to do in the Education Committee by focusing on the averaging adjustment is say, we need to slow growth. We need to save some bucks. And we need to retain LB988, its integrity as much as possible. We've not pulled anything out of LB988. It's all there. But what we are doing is saying, (A) as already passed by you, we're going to slow the growth, rather than 2.5 we go to 1.5 percent spending authority; and (B) we're going to look at this averaging adjustment as a way of slowing and saving. And we're not getting rid of it, but we are changing, if you agree, we are changing its formulation. Now let me talk about the history of the averaging adjustment and probably flow right over into my next introduction. School districts, predominantly of mid-size, came to the Education Committee a couple of years ago and said, hey, here's what we're faced with. We are very low spenders relative to the state average spending per student, but we're up against the \$1.05 and we are beginning to experience the same kind of demographic issues that are felt in urban Nebraska. We need help. It was the intention then of the Education Committee and last year a majority of this body in LB988 to say, let's help them out with system averaging adjustment. Let's give those underspending schools that are up against the levy cap that are faced with issues some additional dollars to get them closer to the state average, which is exactly what we've done. It's exactly what we've done. Why are we looking at it now? We needed to find savings. And the reality is, in my opinion, a well-intended formulation may cost us far more educational dollars in TEEOSA than what we ever imagined because of its compounding effect. Now I'm going to slide into my teacher role here for a second, so don't be insulted if I use some analogies which are elementary in nature to explain the averaging adjustment to you. Here's how it works. If my daughter came up to me--and she has--and said to me, hey, Dad, I'm off to college or wherever I'm at, I need some subsidy. And I say to her, all right, Sarah, what's it going to take? Awe, Dad, I need \$1,000 a month, I just know I do. Well, come on. Let me see your checkbook; let me see how you're really spending your money. Well, I see rent. All right, that's one Dad will help with. I see food. I'm going to help with that. I could name a couple of other things and then I see a whole bunch of things that your dad is not helping you with, kid. You're on your own there. In fact, I don't even want to know about those things. Wish you wouldn't have opened up the checkbook. So her and I agree that 500 bucks covers the basics and I agree to subsidize her to the tune of \$500 a month, and I do that. I write her a check every month, 500 bucks, 500 bucks, 500 bucks. You get it. A year later she comes back to me, sits down at the kitchen table: Dad, I need more money. Has your rent gone up? Yeah, a little. Has your food gone up? A little. What about your partying? Well, that's really going up. But I'm not funding that, kid, I'm going to tell you that right now. So what's your justification for more money, daughter? And she says to me, Dad, I ask around, all the other people my age and they're all getting way more than me from their dad. You all, well, not all but bunches of you, I can tell by the looks on your faces, you've been down this road. So I say to my daughter, all right, maybe you do need some additional money to help you live so, on average, what are your friends making, 500 bucks? No, Dad, on average, I checked it out, they're getting \$800 a month. All

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right, \$800. Now what do I do with my daughter? I split the difference. I split the difference. I say to her, I'm not going to give you \$800 because you're not every kid. Ever heard that before? But what I am going to do is try to recognize the fact that maybe I am in some way undersubsidizing you and I'm going to split the difference and I'm going to give you \$650 every month. And she goes away saying, I won a victory. And I go away saying, well, I kind of won, I didn't give her everything she wanted but I'm at least recognizing the fact that her rent has probably gone up, her food bill has probably gone up, she's got issues. And now I ask you, is she going to go spend \$650 a month? Darn right. You would. I would. And a year later when she comes back, what's the argument going to be? We need more. Now I'm not saying that my daughter isn't spending that additional 150 bucks a month appropriately, I'm not, but it doesn't go away. It doesn't go away. It becomes part of her general fund operating expenditure, doesn't it, \$650 a month? And then the next year she tells me that the average has gone up and I split the difference. And then the next year the average has gone up, split the difference. That, in essence, in its elementary form is what we do with the averaging allowance. Now what I'm suggesting at this point is that we not get rid of it. Earlier on I was thinking we just can't afford this, maybe we do need to get rid of it. [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR ADAMS: Now I'm not suggesting that we get rid of it but, instead, we modify it. We modify it so that (A) we recognize the fact that underspending school districts may have some need that we're not getting to and, on the other side of it, in its full force, I'm not sure the state can continue to fund that averaging adjustment the way that we thought we could, and that becomes the problem here. When the Education Committee sat down and we started to look at all the things in TEEOSA that we could adjust, all the things, should we adjust the transportation allowance? The schools wouldn't want us to do that and there's good justification for not. Should we adjust the poverty allowance, the LEP allowance? Those all make good educational sense. Class size allowance, saying to schools it makes good educational sense in grades kindergarten through three to keep those class averages down, that size down. [LB545]

SENATOR CARLSON: Time. [LB545]

SENATOR ADAMS: We're going to reward you for doing that. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Adams. Mr. Clerk for an amendment. [LB545]

CLERK: Mr. President, Senator Adams would move to amend this component of the committee amendments with AM1078. (Legislative Journal page 1032.) [LB545]

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SENATOR CARLSON: Senator Adams, you're recognized to open on AM1078. [LB545]

SENATOR ADAMS: Thank you, Mr. President. I'll pick up where I left off. You can look at the spreadsheets that we've given you and you can run through all the adjustments and all the allowances. We did in the Education Committee and begrudgingly we arrived at the averaging adjustment. It had made the least amount of educational sense. It was the most difficult for us to justify. We're not taking it away. Let me explain to you in a more technical way the way the averaging adjustment works right now. We look at the statewide average per student spending and then we say to school districts, all right, let's look at your per student spending; let's see what the difference is. But I must tell you, at the risk of confusing you, we don't look at each individual school district and say, hey, where does Valentine fall compared to the state average, let's make up the difference; or, York, where do you fall, let's make up the difference; or, Millard, where do you fall, let's make up the difference. Instead, we look at the average student spending per student within the array that the school district is in. So if we take my home school district, York, it's in an array with I believe it's Crete and Seward and others. We take that array and say what's the average per student spending within that array, and then within that array we say, all right, if the average of the array is below the statewide average then let's help every school in the array come up, realizing that some of the schools maybe were not below the statewide average but the array was, the average of the array was and we bring them back up. Currently, school districts in the averaging adjustment, what we have said to them and the check that went out that they're operating on now, what we have said is all the way from 96 cents up to \$1.05, we've said we're going to compensate you for a portion of the difference between your array average and the state average. And we've, in essence, said the more property tax skin you have in the game then the more we're going to help you make up that difference between the statewide average and your array average. That's what we did this last year. Now the amendment, the committee amendment, compresses that. It compresses it and says let's start at \$1 and if a district is levying at \$1 we'll start there and we'll make up 50 percent of the difference between \$1 and \$1.01, 60 percent of the difference between \$1.01 and \$1.02. It's all there on the sheet that I handed out to you. And in the amendment we also suggested that we then virtually phase it out by essentially saying a couple three years down the road from now, why don't we just say that any school district in the state that does not fall within 10 percent of the state average we're going to help them, but if they're within 10 percent we're not? I want you to think about something. Originally, in LB545 we ended, we ended the averaging adjustment. The committee amendment doesn't end it but it shrinks it. I've tried to listen to superintendents and schools and find a common ground; hence, AM1078. What I'm suggesting that we do is starting this year we say, all right, we're going to compensate at 50 percent of the difference at \$1, 60 percent of the difference at \$1.01 to \$1.02 times 75 percent of your students. That would be for next year. After that we keep the averaging adjustment but we just simply say you got to be at \$1 or up and, if you are, we will compensate you 50 percent of the difference times 75 percent of your students.

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There it is. It hasn't gone away. We've compressed it. We've shrunk it down. Has that caused some schools to have a decrease in their increase? Yes, it has. Yes, it has. Which schools? Twenty-six of them, the larger schools. Why is that? Here's why. When you're looking at a statewide average, which school districts are going to tend to pull the average up? The smaller ones, because they're losing student enrollment constantly, yet they have fixed costs. They pull the average up. Which school districts are going to tend to be below the average? The larger ones, because they have economy of scale. Now I'm not punishing either one. I'm not saying either one are doing a wrong thing. I'm just saying that's the nature of things. And I'm also saying that as that average continues to go up, if we don't modify the averaging adjustment we're going to break the bank. I don't know that we could afford it. Hence, it brings us to this point right here. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Adams. The floor is now open for debate. Senators wishing to speak: Friend, Gloor, White, Karpisek, and Dierks. Senator Friend, you're recognized. [LB545]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. You know, when you know or at least you feel deep down...and I'll get...I loved Senator Adams' analogy, by the way, members of the Legislature, because...I'm going to expand on that in a second. But when you know deep down or your feel deep down that because...that a particular district that you represent whose basic funding, general basic funding is actually, if not below the statewide average, pretty consistently close to the statewide average, right now I think it's below the statewide average, then according...then it's my understanding that the reason that the averaging adjustment was created was to help that problem, to deal with that issue. If you're spending \$6,800 per pupil and you need an averaging adjustment to get you to the statewide average of \$7,400 or \$7,500, you know, \$100 or a \$200 increase per pupil ain't going to get you there. So I don't think Senator Adams is at all surprised by this discussion. Like I said, he didn't fall off the turnip truck. But we kind of knew that this was coming because it's, like I said, it's sort of like the budget. Let's talk about the analogy because I did like it. Consider the state of Nebraska a big family right now. None of those family members, except for you, has a job, okay? They're all jobless and they're all young. You've set the expectation that they're going to receive an allowance. Let's say you got \$1,000 to hand it out among four people, four kids. Like I said, none of them have jobs. This analogy plays out too. If I take that \$1,000 and divide it and, you know, you don't have to be a mathematician, \$250 each, right? What if I walked up to the oldest kid who's not old enough to work yet the needs are different, you know, than the five-year-old or the six-year-old and I say, I'm going to give you less? I'm going to give you less because your needs are different and, by the way, kid, I think you can probably absorb this. You're old enough, you're smart enough and your little sister Elizabeth, she doesn't understand. She can't absorb it. That's why we're here. It's why we're here and we're talking about it in this particular context. Now Senator Adams makes a really good

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argument but I guess if I had a concern or I had a worry it's that once you set yourself down this path or you head down this, head in this direction, you take those particular 26 districts and you say get used to it because this, you know, is the way we're going to reevaluate, this is the way we're going to analyze this, what about next year or, excuse me, two years from now? What about four years from now and what about six years from now? Once we've set the precedent and once we've said the averaging adjustment is the place that we go to go find the money under these circumstances, then everybody is up for cherry-picking. It just so happens those 26 particular districts are the ones that got hit this year. We're never going to have budget surpluses that fully fund education. It's never going to happen. [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR FRIEND: People's ideas of a fully funded education are different. And around our state we can argue, debate, fight, I don't think we're going to have to come to that today or tomorrow, but we can argue about all of those little intangibles that are going to make it more important to get X dollar over another district getting Y dollar. This isn't an us against them. I think it's an equity issue and I think over time we're going to have a very good, hopefully not too drawn out discussion over maybe what some of the detractors feel like would be better numbers in the long run. We might be wrong but I do think that there's an argument here and I think we'll take a few hours,... [LB545]

SENATOR CARLSON: Time. [LB545]

SENATOR FRIEND: ...maybe more, to discuss it. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Friend. Members, please keep your side conversations in a low tone so that the speaker can be heard. Senator Gloor, you're recognized. [LB545]

SENATOR GLOOR: Thank you, Mr. President. With due respect to Senators Fischer and Council and the challenges faced by some of the districts, school districts within their districts, I would tell you that the numbers that Senator White were throwing around earlier probably come from the Grand Island School District. We are at around \$6,000 right now with adjustments. I'm fairly comfortable that we may be the lowest per student in the state. I have a tremendous amount of respect for Senator "Maximus" Adams and the challenge he and the committee faces, but I do have a problem with his analogy, and the problem I have with his analogy is he relates it to a discussion with a child about spending that could or could not be discretionary. And the problem we have here is we're dealing with, at least in the case of my district and some of the other challenged districts, as Senator Council and Fischer have brought forward, of children who go home to families where English isn't the first language spoken. In my district, it could be almost a third of the students. We have families with great, great, great

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degrees of poverty that fit into that same general category. We have a school district that has to provide for their healthcare needs because they have no other way to get it in the community. We have a district that has to provide for nutritional needs because they have no way to deal with it within their district. And I get some of this from firsthand knowledge because I have a wife who used to teach and still works within that district, I have a sister-in-law who's a principal within that district, and they do things that we would expect mothers, parents to do within that district. This is not discretionary. This is not balancing somebody's checkbook or going through how they wrote checks. This is serious, serious, life-challenging issues. And the recognition of that is the reason that we had average adjustments. And as been pointed out, to not address that now means those districts will stay behind. It is important to education. The argument has been made earlier that this is something that doesn't relate directly to education and I would tell you that's where I disagree. I think, again, based upon the stories that I hear firsthand from family, does relate to the quality of education that we give our children. Leave it alone, let it work, all aspects of the formula, and address a degree of proportionality. Leave it alone, let it work. Thank you, Mr. President. [LB545]

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

SENATOR WHITE: Thank you, Mr. President. In deep appreciation to Senator Adams, a couple of fundamental problems that we face. We can argue about whether a father, and I am one, who chooses one child and says, you get this amount of money and because I'm giving you this amount of money your future is bright, statistically much brighter, and you will prosper and your children and their children and your children's children's children will prosper because I gave you enough money to be educated. You, however, my less favored child, you don't get that. What you get is a much lower degree of resources so you can't educate, and you and your children and likely their children and their children's children will toil in poverty. That's the really brutal choice of disproportionate education. What happens is we choose when they are in kindergarten life's winners and losers, and we choose statistically just as certainly as there can be anything. Now will there be exceptions? Sure, both ways. Some of the favored will fall to hard times, some of the oppressed will rise to great heights, but we will have chosen. And that's what the state constitution does not permit. The state constitution does not say thou shalt have favored children and thou shalt have those who are despised and are fit only to labor in the fields. It does not say that. It says we must provide an education for all K through 12. And it doesn't say those in the rich neighborhoods get a great one and they get to go to the Harvards and the Yales and the Rices and the University of Chicagos, and those in the poor neighborhoods, they don't get to go to school or college at all because they don't graduate. Now a father may choose that course, but the state cannot. One, our constitution says that we shall provide it to children and, second, the fundamental policy of our state in this country--equality before the law. We do not and cannot morally tolerate disparity in opportunity at the age of five

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that condemns whole generations and rises others up. And, Senator Gloor, you were very, very compelling, but it wasn't your jurisdiction. It's Lexington, Lexington at \$5,600 a year versus \$21,000 a year in another one, and that arises because of the fallacy we can just say we're aiding school districts or we're talking to superintendents. You can talk to school superintendents, you can give aid to school districts, but we're about children. The constitution doesn't say a word about school districts, okay? The constitution says we the state shall provide for the common school funds and you cannot tolerate a disparity of that profound proportion and keep faith with your mission or your oath. And Senator Adams points out the budget crisis. I get it. I do understand it. But what we cannot do is say we're going to balance the budget by them that's never had--you're not going to get it because you won't miss it. The hungry, you're getting 10 percent more of not enough food. The wealthy, you're getting 10 percent more food... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR WHITE: ...than you need. And that's what this does. And I would tell you, I do understand economies of scale but they don't obtain here. Omaha, 60 percent of their students are in profound poverty. One of the real reasons we see so much violence, so many learning disorders is for decades we tolerated a lead smelter in downtown Omaha and the lead levels throughout the eastern half of the city are far beyond safe. They have poisoned generations. We face behavioral problems. We face psychological problems. We face language and immigration problems. We face social problems. The economies of scale don't save money in the cities. They crush hope and education. We need to commit to fulfill our constitutional obligation. Thank you. [LB545]

SENATOR CARLSON: Thank you, Senator White. Those still wishing to speak: Senators Karpisek, Dierks, Nantkes, Nordquist, Sullivan, Price, Harms, and others. Senator Karpisek, you are recognized. [LB545]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I really just turned my light on to give someone time and I was earlier in the queue than I thought. So since I have time, I thought I'd put in my 2 cents. Why not, right? I don't like how this is going, working out, that it's going to be a Omaha or Omaha and Lincoln versus the rest of the state. I don't like that. I don't like it at all, but it does seem like that's the way we're going to go. I would like to say Senator Avery brought up this morning, don't just look at your schools, look at it across the board. I agree with that 100 percent and I think in LB988 myself and Senator Heidemann were the ones standing up and saying that--please look at our schools. We didn't win, folks. It went. I also remember this same argument on Class I schools. We lost that one too. So I do not want to make this a Omaha, Lincoln, whoever against the rest of us, but we've been getting beat up pretty hard out there too. We've got some of the same issues in some of our smaller towns that are in Lincoln and Omaha, granted, not as bad, but we have some of it coming and

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it's a tough, tough issue. I wish we had all the money and we wouldn't have to come to this. And I know Senator Adams and the Education Committee has sat down and tried and I know he's had a lot of sleepless nights, I think we all have, worrying about it--what I do, which way do I go, what's the best for everybody, because it is the state? But I did just want to say that those of us out in the rural have felt like we've been getting beat over the head pretty hard and I don't want to make this a payback vote, but I think maybe now some of the people in the body feel what we've been feeling and it's not good. We care about our kids. We care about your kids. And I wish I had the answer other than it being more money. And is that the answer? I don't know that that's the answer. And so as I listen to this debate, I'd like to hear some ideas of, okay, if we vote against this, what's another option? Is it just fully funding, which I don't know if that's appropriate or if it can even be done, but just some other ideas because I am sitting here wondering what is right. I feel neither way is right. We all have to worry about our districts first and then everyone else. So I would like to hear some other suggestions on what people think we could do or should do and, again, I think that we've had a very good discussion today. I've learned a lot. I've tried to not listen to a lot of it up until today because things change every hour. Almost by the minute things are changing. So as we get e-mails, some of it is a week old and I think the Education Committee is miles away from where they were at that time because they're trying, trying to spend, trying nail something down. So I do want to thank them and the body for having a good open debate and I'm afraid that it could get away from us here because there are a lot of strong feelings that just want to bring that up again. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Karpisek. Senator Dierks, you're recognized. [LB545]

SENATOR DIERKS: Thank you, Mr. President, members of the Legislature. I was just sitting here recollecting. I remember back when the school boards were not elected at the ballot box but they were elected by caucus, and in 1969 I went to the school caucus in Ewing and I got...there was an opening for a three-year term and a two-year term, and someone nominated me for the three-year term and all of a sudden I was on the school board. I spent 15 years there and my daughter graduated in 1984. I figured that was long enough; someone else could do that. So I got off the board. I came down here after the '86 election and got on the Education Committee and I spent six years there and I've talked about that to people before and said I've spent most of my life either getting an education or giving one or helping to give one. So I've been involved with it for a long time and I've seen so many changes take place, changes that they creep up on you and before you know, why, you've got a tremendous burden out there. And I've seen this with the burden on property taxes. I've seen what it's done to the farm and ranch community, the property tax issue. And we try to come up with an answer for that, like Senator Pahls did with his bill to eliminate the sales tax exemptions, and like the bill that I had which put a sales tax on every service, which is about the same thing. These methods have little attraction to people, but we still deal with the problem of property

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taxes and how we make it possible for the farm community and the ranch community to survive. When a man tells me that it costs him \$90 a year for every cow he owns just in property taxes, it scares me, because we haven't talked about the interest that he pays on the money he borrows. We haven't talked about the other expenses he has, the veterinary expenses, the expenses to keep the wells up, the expenses to keep the tractors running. Used to be when a guy had 100 head of cows he could just educate a family in school and college. Today you can't do it with 500 cows. So you see how the creep has come up, where it's come from and what it's doing to us? I'm going to give most of my time to Senator Adams, but I want to ask him a question to ponder before. Is Senator Adams still here? [LB545]

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

SENATOR DIERKS: Senator Adams, I asked this question of you the other day at your presentation and I've been talking about the creep, the creep of expenses, the creep of the cost of our...how our property taxes are elevated. And so my question is with your adjustments. We know that salaries are the most expensive item on our school budget, we know that transportation is the second most expensive item, and we know that there are built-in increases that cause these to go up every year. How do we fit this all into what you're talking about today? And you can have the rest of my time, Senator Adams. [LB545]

SENATOR ADAMS: Thank you, Senator Dierks, and I'll do my best to try to answer your question. Things like salary are in the general fund operating expenditures of school districts and we're going to recognize that... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR ADAMS: ...every year, whatever the magic number is. If it's 75, 85 percent of school's budgets, typically are personnel matters, whatever that cost is to the school district, we're going to reflect that the next year in GFOE of that school district. The other kinds of needs that a school district has, like poverty and others, we try to recognize that also in the formula, and it grows. It grows for every school district in some form or fashion. Now I don't know that I've answered your question for you, but I apologize if I haven't. [LB545]

SENATOR CARLSON: Thank you, Senator Dierks and Senator Adams. Senator Nantkes, you are recognized. [LB545]

SENATOR NANTKES: Thank you, Mr. President. I'd yield my time to Senator White, if he so desires. [LB545]

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

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SENATOR WHITE: Thank you. And thank you, Senator Nantkes. I want to really express appreciation to what Russ Karpisek just said, and one of the things I'd like the members to understand, the biggest losers on this thing aren't from Omaha. They're not. They're not. They cross rural areas. And we have a real fundamental problem in the way we've approached a constitutional obligation. We treat it like it's a local obligation and great disparities between locales are acceptable or we did until the underlying bill that we're arguing about was passed. Legislatures past sat back and looked at that and said, these are all our children. The constitution makes no distinction between a child in Lexington, who is a child of Hispanic immigrants who are working hard in the meat packing industry, and a child in the wealthiest suburb of Omaha going to an exclusive school, no distinction when they're the children of the state. And yet, we treat them and we talk about, well, you know, we'll give some to this school district and we talk to this superintendent and the superintendents can live with this and the schools can live with that, whoa, whoa, whoa! That's why when you're lost in the wilderness you pick up a compass, and the compass for us is the constitution. And the constitution says the child is the focus, the child is the focus. Now Senator Karpisek said he wanted to hear about other ideas. We will have them. They are ideas that will live within the money we say we have but will move us to equality, not at equality but toward equality, of all children of the state, of all children of the state, whether they're in Lexington or Scottsbluff or Lincoln or Omaha or Crete or Grand Island or Norfolk. We will move there in a way we can afford to do. That we will offer as an alternative and will ask you to carefully consider it. Now I would also like to address something Senator Dierks and Senator Karpisek had raised about the problems the rural areas have had. When Class I school districts were up, Senator Dierks could probably attest, I think Russ Karpisek will remember, I fought with them. And I have long recognized the brutal impact property taxes have. They make people who have owned land and have pursued agriculture and ranching for a century in this state suddenly unable to make even a bare living to pay the taxes. And that problem, too, has arisen because we treat education, which is an obligation placed on the state in general, as a local problem. Now one of the things that we have to recognize, I mean the members of the Education Committee have made a major point that this is still growth but it slows the growth, and I appreciate that. But understand where we're coming from--48th in the nation for state aid to education of K through 12 on a per capita basis. We're among the very worst to begin with. Anything we do would almost be growth relative to all other states. So I do understand that it is growth. [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR WHITE: But the disparity that exists among our state's children, the fact that we're breaking the backs of property owners in some areas, the fact that some children have \$21,000 a year spent on them when other children have \$5,600 a year available to help them ought to tell us all you can't tweak this anymore. It's broken, fundamentally

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broken. It's punishing farmers. It's punishing inner city kids. It is breaking up the basic social compact. This is America. Rise to the level of your merits and we'll give you an even start. But if you don't provide the funding for education, don't even pretend we're providing an even start because we're not. Thank you. [LB545]

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

SENATOR NORDQUIST: All right. Thank you, Mr. President. I rise today with serious concerns over this division. I agree with Senator Karpisek that we need to take a broad look at this and look at not just our own school districts, and that's what I'm trying to do, but looking at a sheet here that lists 26 school districts, you know, 10, what, 10 percent of the school districts in the state that are taking such a dramatic hit. I mean these are Alliance, Beatrice, Bellevue, Blair, Crete, Elkhorn, Fremont, Grand Island, Gretna, Hastings, Lexington, Lincoln, McCook, Millard, Nebraska City, Norfolk, North Platte, Northwest, Omaha, Papillion, Ralston, Scottsbluff, Sidney, Waverly, Westside, and York. These are...these districts are taking more than their fair share. We are in a budget crisis. We would really struggle to fully fund education, to fully fund the current formula, I agree. But the word that I don't think has been brought up that we need to be talking about a little bit more is proportionality--maybe it was, maybe I just didn't catch it--but having districts take their proportional share. We're in tough times, we all know that. Everyone from the state to our local governing bodies are facing tough situations. But these cuts and this hits should be proportional, both for equalized and unequalized districts, and that gives us options. I mean the options are there for a base funding adjustment, the options are there for a temporary aid increase. Senator Raikes talked about it on the floor last year. At the time, obviously, he wanted to go ahead with LB988. Senator Heidemann, the Chairman of the Appropriations Committee at the time, advocated for a temporary aid adjustment in tough times, that that's something we need to look at when we know we can't meet the needs of education. These are some options that should be considered. There are options on the table so that there is proportionality in these reductions. And I just have one quick question for Senator Adams and I'll yield him the rest of my time. [LB545]

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

SENATOR ADAMS: Yes. [LB545]

SENATOR NORDQUIST: Can you explain to me kind of the thought, the reason why we're going from a...on the averaging adjustment, we're going from a tiered system where, depending on your levy, if it was \$1 to \$1.01 you had a 50 percent, and this is in...this is currently I believe, \$1.01-\$1.02 is 60, \$1.02-\$1.03 is 70 percent and so on. Now we're going to \$1 levy and above as a group making a reduction. Why are we going away from a tiered system? Because those districts that are at that top, at that

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\$1.05, they're really between a rock and a hard place here. So I'll yield you...yield the rest of my time to kind of explain the thought process behind that. [LB545]

SENATOR ADAMS: If I understand your question correctly, what you're saying is, in effect, why are we going away from the lengthy tier that we used this last time around and compressing it. What we are, in essence, saying is, first and foremost, we can't afford to continue the averaging adjustment at its present rate--I mean I'm just being very straightforward with you--hence, compressing is. And as I said originally, we had actually had phased the thing out. Now we're leaving it in but trying to make it more sustainable over time, Senator. [LB545]

SENATOR NORDQUIST: I appreciate that. Is there a way to make the distinction between those districts that are at \$1 and those districts that are at \$1.05... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR NORDQUIST: ...and still keep the amount we're spending somehow equivalent but make it tiered? Because there certainly is a distinction between those districts that are at that \$1.05 that are hitting the wall essentially. [LB545]

SENATOR ADAMS: Well, again, to me it seems like at this point it's a matter of savings. You know, how much do you want to spend on the averaging adjustment? I mean that's simply what this comes down to. And you start tiering it out more like that and increasing percentages of difference,... [LB545]

SENATOR NORDQUIST: Sure. [LB545]

SENATOR ADAMS: ...it's going to cost more dollars. [LB545]

SENATOR NORDQUIST: Sure. Okay. [LB545]

SENATOR ADAMS: It's just that simple. We were working within a \$234 million framework... [LB545]

SENATOR NORDQUIST: Um-hum. [LB545]

SENATOR ADAMS: ...and this is what we arrive at. [LB545]

SENATOR NORDQUIST: Sure. I guess my question would be why couldn't we stay in that \$234 million framework, somehow drop the lower ones a tier, you know? I know some school districts wouldn't like this, but if you're at \$1, maybe you don't get the 50 percent, maybe you get a slightly lower amount, and if you're at \$1.05, you know, your last option is to do a levy override, maybe slightly higher. [LB545]

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SENATOR CARLSON: Time. Thank you, Senator Nordquist and Senator Adams. Senator Sullivan, you are recognized. [LB545]

SENATOR SULLIVAN: Thank you, Mr. President and members of the body. I stand in support of the amendments as presented and the underlying bill and just want to reaffirm, rather, the hard work that not only Senator Adams did but the committee in trying to come to grips with how are we going to curb growth in state aid to schools. Were we cherry-picking in deciding on average adjustment? Well, someone could claim that but we were looking for an item that we thought perhaps had the least amount of impact on the educational value of what we were providing for the students. Are we going to, down the line, maybe next year, the year after, revisit the formula? Of course. Are we going to, down the line next year, tweak the formula? Of course. And this is, quite frankly, in my estimation, a work in progress but it never, I don't think, allows us to lose sight of our responsibility to educate our state's youngest citizens. It does not mean that we don't care about kids and the kids in this entire state, but it definitely is a struggle to find that right balance. It's again, I don't perhaps think that the parental analogy is perhaps correct, but it did make me think about my own two daughters--and I certainly hope they aren't listening today--because, for one, we have given an inordinate amount of financial resources versus the other one, and I can't say that we've gotten the biggest bang for our buck with the one that we've given the most financial resources to. So (laugh) she's clear out in L.A. so maybe she's not listening today. (Laugh) But it is a struggle. And I guess what I come back to is that money isn't necessarily the only answers we struggle on these issues. Senator Ashford said earlier we're talking about educational policy. Senator Pahls talked about tax policy. I think the larger discussions in both those areas need to take place over time if we are to really step up to our constitutional responsibility of educating children in this state. And with that, if I've got any time left, if Senator Adams would like it I'd kindly yield to him. [LB545]

SENATOR CARLSON: Senator Adams, 2 minutes and 40 seconds. [LB545]

SENATOR ADAMS: Thank you, Senator Sullivan. I appreciate that and your explaining to the body what did happen in the Educational Committee with this. One of the things...a couple of things that have come up that I just want to touch on for a minute: I'm hoping not to start, because I don't think it does K-12 education in Nebraska one darn bit of good, to start an urban-rural fight here. So as we talk about these numbers and what it costs to educate a kid in one school versus another, recognize there are substantial differences that may cause that discrepancy. Also, when you're looking at the numbers, make sure you're looking at the right numbers. For instance, if you're looking at the GFOE of the school versus the adjusted GFOE of a school, that is adjusted means that we subtract out the allowances and the transportation and all of that to get a look. Boy, there's a great deal of difference between a school's GFOE and their adjusted general fund operating expenditures, but make note of that. Senator

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Nordquist spoke of proportionalizing. I've heard that a lot in the course of the last three months, and though it seems simple and it seems fair, it does not necessarily respond to or fall within the context of the concept of equalization. You may very well be ignoring the resource base of a school district when you just simply go across the board. [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR ADAMS: And I have a feeling we will be coming back to that argument again before this is all over with. So with that, Mr. President, I'll end. [LB545]

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

SENATOR HARMS: Thank you, Mr. President, colleagues. Senator White, would you yield for just a couple questions? [LB545]

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

SENATOR WHITE: Certainly. [LB545]

SENATOR HARMS: Thank you, Senator White. You know, I'm not a scholar in the constitution. I guess I'd have to consider that you are because you do a lot of constitutional law. Is that correct? [LB545]

SENATOR WHITE: Yes, I do. [LB545]

SENATOR HARMS: Okay. [LB545]

SENATOR WHITE: I don't know that I'm a scholar but I'm certainly a laborer in that vineyard. [LB545]

SENATOR HARMS: And it's very clear of that so I'm really up against some things I probably don't understand. In regard to the schools that have \$5,600 versus \$21,000,... [LB545]

SENATOR WHITE: Correct. [LB545]

SENATOR HARMS: ...are you looking at...the \$21,000, I'm assuming, is a small school out in rural America. Is that correct? [LB545]

SENATOR WHITE: Yes. [LB545]

SENATOR HARMS: Okay. Does our...now does our constitution, in any form or way,

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talk about that we must provide equal access to quality education? I mean is it our responsibility as a state to provide equal access to quality education? Because to me that's the argument. To me, that's the battle, that we've got to find a middle road here of providing equal access to quality education. Could you help me think through that, please? [LB545]

SENATOR WHITE: Well, certainly. If you want it from a constitutional basis, you start with this proposition. When the state says that we have an obligation to do something for the benefit of our citizens, in this case a special subsection--children under...between the age of 5 and 21--the fundamental overriding American principle of constitutional jurisprudence is equality before the law, I would tell you, and that means insofar as we are able we must provide an equal opportunity for that education. Now kids have different needs. It's not always neat and simple. Some have to be transported. Some are learning disabled. Some don't speak English. But the overall principle is that, and that comes from just the constitution's basic principle you can't have...pick favorites that you like or don't like, especially based on race, color, national origin, religion, things like that. [LB545]

SENATOR HARMS: Oh, thank you. So really what we're talking about here is that it is our responsibility to provide equal access to quality education. [LB545]

SENATOR WHITE: Unquestionably. [LB545]

SENATOR HARMS: Okay. Thank you very much, Senator. And that's my point. We have a responsibility here to provide equal access to quality education. Whether it's \$21,000 or \$5,600, we have to provide a quality education. I know for a fact there have been litigation and lawsuits all across the nation when we...when the states were not providing equal access to quality education, and I believe that's exactly what will happen here. If we don't find a solution to this problem, this state will be in litigation and the last place you want it is in the courts. And I believe the courts will find that we have a responsibility to provide, to provide equal access to quality education. Now I had the opportunity...well, first of all, let me go back. When you look at where I come from, I mean Scottsbluff Public Schools is getting hit over \$400,000. And you know what? An awful lot of students who are in that school are Latino or some are Native American or Mexican American, whatever term you want to use. They have some of the same issues. They have some of the exactly the same problems in a smaller form than what we might have in urban America. Our fastest growing population base is, in fact, Latino or Mexican American and I think it is our responsibility to make sure that that school is not hit at a \$400,000 level, that they can still provide equal access to quality education. And I will tell you, if you go to the State Department of Education, you pull up their Web page, you take a look... [LB545]

SENATOR CARLSON: One minute. [LB545]

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SENATOR HARMS: Thank you, Mr. President. You take a look at what's happening to them in regard to rural America and their enrollments, it's straight down, folks, for the next ten years. The issue is going to be for us is how do we provide equal access to quality education? How do we make sure that our children, whether they be in rural America or urban America, have that access? To me, that's the issue. I'm going to come back...thank you, Mr. President. Am I done? [LB545]

SENATOR CARLSON: Thirty seconds. [LB545]

SENATOR HARMS: Oh, I'm done. Thank you, Mr. President. (Laughter) [LB545]

SENATOR CARLSON: Thank you, Senator Harms and Senator White. Senator White, you are recognized, and other senators wishing to speak are Mello, Council, Haar, Wallman, and others. Senator White. [LB545]

SENATOR WHITE: Thank you, Mr. President. And thank you, Senator Harms. You brought the point home very sharply. It is education, food, medical care--the heartbeat of what it means to be a civilized human being. You have enough food, you can eat and not live in fear of starving; education so you can develop your mind. What we have are one class of citizens we have to address and that's Nebraska's children. We cannot use the fact that some live in Lexington which has, from the numbers I've been provided, the least amount of money available and they're at their levy lid, folks. They're at their levy lid. They have the least amount of money. They are heavily non-English speaking initially so any educator will tell you that's a more expensive proposition and a more necessary proposition to educate them well so that they can come in and fully join in the American civic life and Nebraska's civic life; that they made the trip here for whatever reason but I would bet it's for the dream and that if they can earn it they'll have that shot at the even race. This is not, in my view, at all an urban-rural fight. The most fiscally impoverished districts, in fact, are in areas most "Omahans" would consider deeply urban...or deeply rural--Lexington, even parts of Grand Island. They would not perceive that as an inner city or an urban area. And yet those children have as much as right to an education as someone in one of the wealthy suburbs with a well-financed school on the edge of Omaha, and that's an urban area. It really doesn't have anything to do with urban/rural. What it has to do is with a maldistribution of resources for a very expensive obligation--the education of our children. Now the good news is, as expensive as that obligation is, there's no investment that will pay greater returns, none. And there's no question we'll never have enough money to do everything for our children we want to do. And if we have shortfall I urge you, again, look to the compass of the constitution. Let us work together to figure out an equitable way that the child in Lexington is afforded the same real chance at a meaningful education as a child in Omaha who is afforded one of the finest educations in the country. They need that. We need that. As a people, we must have that. And litigation, believe me, is no way to go. As a man who's spent far

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too much of his life in courtrooms among disputes, it is not the way to solve this problem. One of the main reasons I ran for Legislature, and the handsome salary we all enjoy, is the chance to get away from the zero-sum game that is litigation. You cannot compromise in a meaningful way. You cannot be creative. You can just batter each other into submission. And I appreciated what Senator Sullivan said, that we're going to continue to work on this. But, Senator, the children can't wait. That year they miss because they don't have the resources for the education, it's gone. And we've been working on this since 1990... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR WHITE: ...and we're not there. You know, time is not on our side. Our children are missing their inheritance--the education we must provide to all of them. So I will work with Senator Karpisek. We've got some ideas. I don't know that they're the best ideas, but they are ones we want to work with you and solve. And you know what? Let's be adults for the sake of our children. I very much have appreciated all your attention and the tone of this whole debate. It's been outstanding. Thank you. [LB545]

SENATOR CARLSON: Thank you, Senator White. Senator Mello, you are recognized. [LB545]

SENATOR MELLO: Thank you, Mr. President, colleagues. We've had a very interesting conversation today, I think, on a very important issue regarding education, regarding appropriating funds for public education, and I'll try to be brief today knowing that we're going to be adjourning soon. I think members of the Appropriations Committee can attest in our months of deliberation that I'm a strong supporter of fully funding our TEEOSA formula and the reason being is that it's my understanding that we never truly have fully funded the formula the way it's traditionally been set out by the Legislature. It appears that every two years we make tweaks, we make cuts to fit what our budget or what our...the Legislature's budget that we present to the Governor to fit within a framework, a financial framework, so to speak. So I guess the take I'm looking at and AM1119, particularly with the averaging adjustment, is that I will vote against it; is that I don't think we should be looking to cut anything in the formula right now. And the reason I say that is not just because I think it's our responsibility, as Senator White so eloquently put it today, that our constitutional responsibility is to fund public education, but I also raise the question of what does cutting TEEOSA do to our acceptance of the American Recovery and Reinvestment Act dollars? We haven't submitted an application right now for those dollars and it's my understanding from reading that if we choose to cut the averaging adjustment we essentially are cutting our state aid to public education for what it's being asked right now, which is \$293 million. Now I understand, I've had this conversation with Senator Adams and Senator Heidemann, which we might have lost that...we might have lost that debate awhile ago, which means we might not be able to fully fund TEEOSA at \$293 million, the increase which meets the needs of our public

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schools. But I will at least raise the question today which, by cutting TEEOSA, what does that jeopardize? And if Senator Adams is here, I would like to ask him just one question before we wrap up today. [LB545]

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

SENATOR ADAMS: Yes. [LB545]

SENATOR MELLO: Senator Adams, knowing that we haven't fully submitted our American Recovery and Reinvestment Act application, have we received as a state any legal documents or legal guidance at all from the Department of Education stating that LB545 and the provisions drafted as the committee amendment is legal and does not jeopardize the \$234 million in state fiscal stabilization aid? [LB545]

SENATOR ADAMS: To answer your question as best I can, do we have specific language from the fed that says LB545, with amendments as listed, complies with everything, no. Do we have legal language from the fed that we have been over and over and over again with more than one legal counsel from more than one department? Yes. [LB545]

SENATOR MELLO: All right. Thank you, Senator Adams. With that, I look forward to the debate tomorrow, look forward to debate from our colleagues I think. And the perspective I take is not an urban-rural fight and I think that's the one thing that all senators, particularly a lot of the new senators, were not looking to engage in that. I don't think anyone wants to try to stick it to one school district over another because that's not in the best interests of the state and that's not in the best interests of public education. But what I will be looking at is new ideas that can...that we can look to build upon the great work that the Education Committee has done already to try to make the process, if we have to cut TEEOSA funding, to make that process more fair across the board for all the school districts in the state so that we're not singling out... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR MELLO: ...one district or another to try to take more of the pain, full well knowing that we have plenty of time to deal with this issue. The budget is not due till late next week, April 29, day seventy, so we have plenty of time to work this out on the floor and off the floor with both members of the Education Committee and members who are not on that committee, and I look forward to that conversation. Thank you. Mr. President. [LB545]

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

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CLERK: Mr. President, an amendment to LB430 to be printed by Senator Christensen. Senator Karpisek offers LR91; it's a resolution that will be laid over. (Legislative Journal pages 1142-1143.) [LB430 LR91]

And I do have a priority motion, Mr. President. Senator McCoy would move to adjourn the body until Tuesday morning, April 21, at 9:00 a.m.

SENATOR CARLSON: You've heard the motion to adjourn. All in favor say aye. Opposed, the same. We are adjourned until Tuesday morning at 9:00, April 21.