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Floor Debate  
February 09, 2012

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[LB35 LB446 LB599 LB790 LB801 LB803 LB841 LB928 LB932 LB986 LB1039 LB1118  
LR365]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-fifth day of the One Hundred Second Legislature, Second Session. Our chaplain for today is Senator Hansen. Please rise.

SENATOR HANSEN: (Prayer offered.)

SENATOR CARLSON: Thank you, Senator Hansen. I call to order the twenty-fifth day of the One Hundred Second Legislature, Second Session. Senators, please record your presence. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

SENATOR CARLSON: (Gavel) Thank you. Are there any messages, reports, or announcements?

CLERK: I have one item, Mr. President, a report received in the Clerk's Office from the Investment Finance Authority. That will be on file and available for member review. That's all that I have, Mr. President. (Legislative Journal page 485.)

SENATOR CARLSON: Thank you, Mr. Clerk. Members, the cookies are in honor of Senator Smith's birthday today. We won't ask him which one, but he's not as old as he looks. (Gavel) Mr. Clerk, let's proceed to the first item on the agenda.

CLERK: Mr. President, General File, Senator Cornett offers LB1118. (Read title.) The bill was introduced on January 19 of this year, referred to the Revenue Committee, advanced to General File, I have no amendments pending to the bill at this time, Mr. President. [LB1118]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Cornett, you're recognized to open on your bill. [LB1118]

SENATOR CORNETT: Good morning, Mr. President. Today I have the pleasure of introducing LB1118, a bill to update Nebraska Advantage legislation to attract large data center projects. Let me give you a little background first, then describe what the bill

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does and tell you the benefits of the bill. In 2010, Nebraska commissioned the Battelle Technology Partnership to look at how to grow the state of Nebraska. We believe that with limited resources the state has an obligation to focus those resources in places that they will have the most benefit. The study conducted on behalf of the Nebraska Department of Economic Development and the Nebraska Department of Labor outlined key strategies for growing industries and jobs, and it identified areas where Nebraska has strengths that we ought to build upon. One of those areas identified as a growth center for Nebraska was the area of technology and computer services and, in particular, data centers. This bill, LB1118, is focused on the area of technology and computer services, as suggested by the Battelle study, and specifically aimed at making the state more attractive to companies looking to locate data centers. Literally as a foundation for this bill, Nebraska has spent the past several years investing in sites to attract data centers and technology centers. The cities of Aurora, Kearney, Fremont, North Platte, and South Sioux City have developed and built industrial power park sites. The idea is that they invest in property that can be marketed as a potential location for data centers and other high-tech businesses. To encourage participation and to help the communities get these locations ready, Nebraska spent several millions of dollars in community development block grant funds to develop these sites. These communities in our state are ready to go. How has it worked? We have been somewhat successful up to this point, but what we have found is that the neighboring states have incentives that are more attractive. While we have plentiful and stable public power, good weather, a strong education system, the states that don't tax personal property are better able to compete for these projects. How do we fix that? LB1118. LB1118 is the next important step to update our Nebraska Advantage incentives in order to attract large data center projects and to build on the infrastructure that cities like Fremont, South Sioux City, and Aurora have already established. LB1118 amends the Nebraska Advantage Act and creates a new subcategory for large data center projects. Specifically, the bill creates a tier 2 subcategory in order to get Nebraska Advantage incentives. The company has to have a minimum investment of \$300 million in a large data center project, as defined in the bill. It has to create at least 30 new jobs associated with that data center. If the company does that, Nebraska will allow real and personal property tax incentives to apply when the property is acquired rather than having to wait until the company has met its requirements and give the same real and personal property tax rebates that are currently available under tier 6. As protections for the state, the bill adjusts the investment requirement for inflation for later projects so that over time the amount needed to be invested will grow with inflation in order to get the tax incentives, and sets statutory rate of interest in the event that the property taxes have to be recaptured if the project doesn't meet the investment requirements. Finally, the bill has an emergency clause to allow Nebraska to move quickly to compete with Iowa and other states to secure data center projects. Let me explain the fiscal note. The fiscal note is positive. The Department of Revenue, when it determines the cost of a tier in the Nebraska Advantage Act, estimates the number of projects that theoretically could be approved in the first year. I believe they analyzed this new subtier in the same way they analyzed

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tier 6 under the original Nebraska Advantage Act. Nebraska's incentive law requires that the project pay sales tax to the state up-front and that those sales tax receipts are reimbursed over time when they have been earned. In addition, real property taxes are reimbursed to the counties over time so you see that there is an influx of sales tax receipts to the General Fund in the first two and three years, and then the incentives are paid back over the life of the project. In the past couple of years, data centers have been looking at Nebraska. You've heard names such as Google and Yahoo, and there are a number of other companies looking at us. Whether there are ten companies or there are no companies looking at Nebraska right now, I believe this bill is absolutely essential to building Nebraska and providing good-paying technology jobs in the state. I urge you to carefully listen to the debate and to support LB1118. Thank you. [LB1118]

SENATOR CARLSON: Thank you, Senator Cornett. Members, you've heard the opening on LB1118. The floor is now open for debate. Senator Hadley, you're recognized. [LB1118]

SENATOR HADLEY: Mr. President and members of the body, I rise in support of LB1118. I want to thank Senator Cornett for allowing me to make this my priority bill for this session. When I first read LB1118, I wondered why data centers. What is...why is there such an interest in data centers? So I did a little research about data centers and the growing demand for them. I learned that nearly every aspect of our lives require data storage. If you have a bank account or an insurance policy or get medical treatment, you realize that each of these industries has to deal with federal laws that require the collection and retention of data, lots of data. Couple that with the cloud and how businesses are storing their information off site, it soon becomes evident how much data is and will be stored in the future. As just an example, we have now switched to Gmail for our legislative e-mail accounts. That is stored off site at a Google data center. It does impact us here. According to the Gartner group, one of the leading technology consulting organizations, worldwide businesses and companies are estimated to spend \$100 billion to equip data centers in 2011. It is estimated that a similar amount will be spent this year. That's \$100 billion on data centers. According to the study of 300 IT decision makers from the North American technology companies, 80 percent of these companies are planning data center projects in the near future. Overall, it is predicted that there will be 1,000 new data centers built in the United States in the next ten years. If Nebraska landed a mere 1 percent of these projects, that would be ten projects resulting in good jobs for our young people. Nebraska has spent the past several years getting ready for this explosion. Currently there are five communities in greater Nebraska that are ready to go with pad sites built specifically for high-tech projects. At times we spend a lot of time bashing cities and counties in here, but here three...these communities--Aurora, Kearney, North Platte, South Sioux City, and Fremont--have all invested substantial local and state community development block grants to create these power park sites. Listen to how much has already been invested. Aurora received \$705,000 in CDBG funds and contributed an additional \$800,000 toward their project.

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Kearney received \$680,000 from the state and contributed an additional \$675,000 from the state. South Sioux City, \$690,000 in state funding and another \$750,000 from local sources. Fremont invested \$3.6 million in state and local funding for its pad site. As a result, we have 861 acres of currently available land specifically designed for data center and other high-tech projects. Professional economic developers tell us that when high-tech companies begin site selection, they look for certain things: low-cost reliable energy; a climate free from widespread disasters; open spaces; access to solid fiber networks; and a friendly tax climate. Nebraska companies competes well on nearly all these levels. To improve our ability to compete with our neighboring states, LB1118 provides a new subtier for large data center projects. The benefit of the new tier is that it helps us reap the investments that Nebraska has made in technology sites across the state and in the metro areas. It puts us in a position to attract and incent hundreds of high-technology and high-paying jobs. What I like best is that if we can attract one large data center project to Nebraska, I believe others will follow. For example, in Iowa, Google came and then Microsoft; North Carolina: Google, then Facebook, Apple, Disney, and American Express; in Washington State: Yahoo, Microsoft, Intuit, Dell; in Utah: eBay, Twitter, and NSA. [LB1118]

SENATOR CARLSON: One minute. [LB1118]

SENATOR HADLEY: If we want to be in the game to attract our shares of these thousand data centers, I believe that LB1118 is a big step. I would encourage you to vote green on this. It is a normal progression in the Advantage Act as we take a look at what technology and what this is going to hold for Nebraska in the future. Thank you, Mr. President. [LB1118]

SENATOR CARLSON: Thank you, Senator Hadley. (Doctor of the day introduced.) Senators wishing to speak include Krist, Fulton, and Ken Haar. Senator Krist, you're recognized. [LB1118]

SENATOR KRIST: Thank you, Mr. President. Good morning, Nebraska and colleagues. I stand here in huge, strong support for LB1118. It is the logical next step for the Advantage. Whether we are facilitating construction in some of our smaller towns, some of our larger towns, or in our metropolitan area, this is the right move, this is the right thing to do. I do want to talk just a minute though about my home district and my home city and potentially some negative words that have come out of the Omaha area. I'd like to share with you a definition. That definition is called shovel-ready. If you want a business to come in and build its building, you need to have a piece of dirt that is shovel-ready. What does that mean? It means that the utilities, the gas supply, the electrical supply, the roads, the infrastructure is in place so that that business can come in and take advantage of the Advantage Act. The communities can use TIF. The developers are ready to go and ready to move. Am I sorry this didn't go to the city of Omaha or the city of Lincoln or anyplace else or the possibility in this particular effort

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would not come back to my district? Absolutely. But the responsibility to be shovel-ready rests with the mayor of the city of Omaha, the mayor of the city of Lincoln, and many other mayors and leaders across the state. So if you want to bad-mouth the fact that you weren't on the list of places to build a new building and bring in businesses, then pay attention to your responsibility to make sure that your community is indeed shovel-ready. Please vote yes on LB1118. [LB1118]

SENATOR CARLSON: Thank you, Senator Krist. Senator Ken Haar, recognized. [LB1118]

SENATOR HAAR: Mr. President, members of the body, I rise in strong support for LB1118, and I want to thank Senator Cornett for the bill and also Senator Hadley for prioritizing this bill. The whole issue of large data centers positions Nebraska in a very favorable light. Not only are we sort of centrally located, we have lots of space for these, we have good costs when it comes to electricity. And one thing that interests me as well, as you know, I've been pushing green energy for a long time, and very often data centers as part of their...as part of their label, as part of their brand, like to say that they are green; they're using green energy. Nebraska, with it's number three wind potential in this country, has enormous potential for attracting companies that want to be green, that want to be seen as green. So again, I strongly support LB1118 and hope you do too. Thank you. [LB1118]

SENATOR CARLSON: Thank you, Senator Haar. Those still wishing to speak include Sullivan, Pirsch, Brasch, Bloomfield, and Harms. Senator Sullivan, you're recognized. [LB1118]

SENATOR SULLIVAN: Excuse me, Mr. President, that I wasn't available right now, but good morning, colleagues. And technology is really considered, I think, or was considered the new frontier in terms of economic development and growth, and it's fair to say that it's here now. It's no longer a new frontier. And these new data centers that we're poised to perhaps have in our state I think will do some good things. But be that as it may, I do have some questions and I wondered if Senator Cornett would yield. [LB1118]

SENATOR CARLSON: Senator Cornett, would you yield? [LB1118]

SENATOR CORNETT: I'd be happy to. [LB1118]

SENATOR SULLIVAN: All right, Senator Cornett. First of all, as far as the employees that will be working in these kinds of centers, what levels of education and the type of employees are we looking at? [LB1118]

SENATOR CORNETT: These data centers are typically higher college graduates and

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the jobs are very well-paying. They usually range between \$60,000 and \$80,000. Nebraska has been so attractive to these companies because we have a very educated work force. [LB1118]

SENATOR SULLIVAN: You know, there's a minimum number of employees to be added with these data centers, and I'm just wondering about our work force capacity. Do we have the individuals out there to fill these positions? [LB1118]

SENATOR CORNETT: I strongly believe we do. We have a great university system in this state and our young people are very capable in these areas. And from what I've heard, from all of the data centers looking at Nebraska, part of the reason they look here is because of our work force and the availability of good employees. [LB1118]

SENATOR SULLIVAN: And also right along with that, these data centers are quite large. In your research, is it feasible and possible to envision that maybe smaller communities might be able to attract smaller data centers, or are they more interested in the larger facilities? [LB1118]

SENATOR CORNETT: Well, this bill specifically addresses \$300 million or more in investment. But there are other areas in the Advantage and Super Advantage Act to attract smaller companies. [LB1118]

SENATOR SULLIVAN: And because these operations are so large, I know one of the things that crossed my mind is what sort of usage do they have, not only in terms of electricity but water? I mean what's...how are they going to tap on the local resources? [LB1118]

SENATOR CORNETT: Well, frankly, one of the reasons the data centers so strongly look at Nebraska is our public power system and the fact that we have cheap electricity. Senator Langemeier could address some of the issues in regards to the electricity use probably better than I can, but the amount of surplus electricity is one of our strong drawing points as a state. In regards to the water usage, data centers typically in the past were known for using a lot of water. The new modern data centers have worked on many ways to reduce the water consumption and have taken steps to address that usage and reduce the impact of the facility on local utilities. Matter of fact, there are data centers currently that run entirely on recycled water. In any event, in regards to the water usage, whatever data center locates here would have to comply with all of our Nebraska laws in regards to water usage. [LB1118]

SENATOR SULLIVAN: Thank you, Senator Cornett, for that insight. That's all I have. [LB1118]

SENATOR CARLSON: Thank you, Senator Sullivan and Senator Cornett. Senator

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Pirsch, you're recognized. [LB1118]

SENATOR PIRSCH: Thank you, Mr. President, members of the body, and I'll be brief. I just wanted to weigh in, in favor of LB1118. I am a member of the Revenue Committee. It was a good hearing in terms of having the issue presented and I am convinced after that hearing that, but for the way things will be structured under this bill, Nebraska would not be competitive in attracting this type of an industry, and this is the type of an industry that Nebraska does want to be attracting. It is a very competitive environment regionally and nationally. Nebraska has a lot of inherent factors going for it, as Senator Cornett spoke of, amongst which energy. It's just these type of large data centers, for instance, consume just an incredible amount of energy per year, and so that makes us, because of our low cost of production of energy, very desirable. And there's four or five other key factors that were brought out in committee that really makes Nebraska potentially a great place for these, for this industry. And the industry does tend to cluster. Once you attract one or two of these projects, new projects tend to beget new projects, and so there is a tremendous potential for spin-off effects here. And so with that, I would just once again ask for your approval, your yes vote for LB1118. Thank you. [LB1118]

SENATOR CARLSON: Thank you, Senator Pirsch. Senator Brasch, you're recognized. [LB1118]

SENATOR BRASCH: Thank you, Mr. President, and good morning, colleagues. I also rise in strong support of LB1118. At the hearing we heard good testimony from many people about the benefits. It is always wonderful news to all of Nebraska when we create greater and additional opportunities for our communities that there is a possibility of expansion. I wanted to mention just one situation recently where a call center was brought to Beemer, Nebraska, in our district, and the great excitement and enthusiasm that the call center brought us. It was an expansion of an Omaha-based company. And with that, I'd like to quote from the West Point News. "It's good news for Beemer and the area," he said. "Anytime you get a business to locate to your community, it brings labor dollars to the area, and multiplying the effect of those dollars also helps." And they believe that, quoting Mr. Steffensmeier, that in addition to the ten jobs this expansion has brought, it is what keeps a family or two in Beemer or what brings a family or two into the community. I rise in support of this and encourage my colleagues to do the same. Thank you. [LB1118]

SENATOR CARLSON: Thank you, Senator Brasch. Senator Bloomfield, you're recognized. [LB1118]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good morning, colleagues. I was appointed, as you recall, in late 2010. Before my first session, even, I was contacted by the city administrator of South Sioux City, Lance Hedquist, and by the mayor about a

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proposed data center they were planning. The floods of 2011 came and went, preparation continued for the data center. With cooperation between South Sioux City, Dakota County, Nebraska Public Power and others, power lines are being installed as we speak. South Sioux City is ready for this. Nebraska needs this and we should move forward. I urge you to vote for and support in any way you can LB1118. Thank you. [LB1118]

SENATOR CARLSON: Thank you, Senator Bloomfield. Senator Harms, you're recognized. [LB1118]

SENATOR HARMS: Thank you, Mr. President, colleagues. Would Senator Hadley yield for a couple questions? Is he here? [LB1118]

SENATOR CARLSON: Senator, who did you request? [LB1118]

SENATOR HARMS: Senator Hadley. [LB1118]

SENATOR CARLSON: Senator Hadley, would you yield? And I don't see Senator Hadley. [LB1118]

SENATOR HARMS: I guess not then. Senator Cornett, would you yield? [LB1118]

SENATOR CARLSON: Senator Cornett, would you yield? [LB1118]

SENATOR CORNETT: I'd be happy to. [LB1118]

SENATOR HARMS: Senator Cornett, first of all, I rise in support of this, but I do have just a couple questions. I want to follow a little bit further on what Senator Sullivan was talking about and that is really in regard to our work force. I think the idea we have here is really great, but we know that educationally we are short in this state, particularly in the area of mathematics and science and some of the areas that, particularly on the math side, I think that this work force is going to need. Have you given any thought to that aspect of whether we really, truly would be prepared to take on a large company like this that would come into our state? [LB1118]

SENATOR CORNETT: Yes, I have. Over the course of the last eight years in Revenue and working on the Advantage and Super Advantage and then working on the language for Yahoo, the Web porthole, that has been what has been a big draw for companies is our work force and the availability of an educated work force, and that is what has made us attractive. I do believe that we have the capabilities of supplying the needed level of technology. [LB1118]

SENATOR HARMS: Do we know, Senator Cornett, when a company comes in like this



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at what level of education they want and what are some of the specific skills? What I'm really thinking about is this probably is going to be a dual approach. You're going to have the university and you're going to have the community colleges, and somehow we have to begin to have that...someone has to have that discussion as we start to look at this about making sure that we are in this process to prepare people to take these kinds of jobs. Can you help me with that or... [LB1118]

SENATOR CORNETT: Well, I agree, particularly as we look at growing. This is just...this bill is not for any particular project but for in general. If we attract a large number of data centers, obviously we are going to have to look at our education system in making sure that we have the programs available at both our university and our state colleges and community colleges for technology. [LB1118]

SENATOR HARMS: Thank you, Senator Cornett. Is Senator Adams here? Would he yield to a question? [LB1118]

SENATOR CARLSON: Senator Adams, would you yield? He's coming. He's coming. [LB1118]

SENATOR HARMS: Well, Mr. President, I'm really not doing well here, but that's okay. [LB1118]

SENATOR CARLSON: Well, Hadley is back, but Adams is coming. [LB1118]

SENATOR HARMS: Yeah, okay. [LB1118]

SENATOR ADAMS: Yes, I will. [LB1118]

SENATOR HARMS: Thank you very much, Senator Adams. I don't know if you heard the conversation that... [LB1118]

SENATOR ADAMS: I didn't. I'm sorry, Senator. [LB1118]

SENATOR HARMS: ...Senator Sullivan had earlier, and what I'm just asking about is where we are educationally in the work force in making sure that we have the right people prepared to maybe take on these kinds of roles for...or jobs. And I talked a little bit about it being a dual approach in higher ed, probably community colleges and our university system. But it goes a little step further than that and that then starts to address the issue in our public school system, and that's the question I wanted to talk to you about, okay? We know that we are short in science and math and in those particular areas. What are we doing now in this whole process to start to prepare us to feed the public school children into our universities and community colleges in these particular areas, because there's no question this is where we want to go in the future.

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Are we going to be really prepared on that aspect and what's the possibilities of us starting to address this? That's a long question. I apologize. [LB1118]

SENATOR ADAMS: Thank you. [LB1118]

SENATOR CARLSON: One minute. [LB1118]

SENATOR ADAMS: That is a long question and obviously I'm not going to have enough time, but off the mike we can talk about more. I would tell you that we have eight P-16 goals, and one of those goals is to increase not only the knowledge base within the science, math, computer technology area, but also to simply increase the number of graduates and the number of teachers that we have to go out into those areas. We know that we have weaknesses. We have a new science assessment being prepared by the Department of Ed that will be used in the K-12 environment in another year. So in terms of really knowing what our kids know, we don't really have good strong data. We have...I'm running through this very quickly. We have programs scattered all over in higher ed, in the ESUs, and we need to coordinate some of that. A lot of things need to happen, Senator, you're right. [LB1118]

SENATOR HARMS: Thank you. That was what I was really after is that whole coordination factor, because there is a major gap between where we're headed in the public schools and what you just discussed. [LB1118]

SENATOR CARLSON: Time. [LB1118]

SENATOR HARMS: Thank you, Mr. President. [LB1118]

SENATOR CARLSON: Thank you, Senators Harms, Cornett, and Adams. Those still wishing to speak include Senators Hansen, Dubas, Price, and others. Senator Hansen, you're recognized. [LB1118]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I, too, want to rise in support of LB1118. It's a bill that...since I'm certainly not an expert on data collection but I do realize what it means and it's the next generation of probably the industry that we're all looking for. And North Platte is one of the shovel-ready projects, too, that we have the power, we have the space, and we have a desire to have those new people come to town. It doesn't do any good to bring a company to town that steals employees away from one job just to come to another, because it doesn't help the population and it doesn't really help the economy of the district. This one, this project, will. This will bring people in. This will bring educated people in, hopefully their families, and they'll find out that, you know, places like North Platte and Sutherland and Hershey are one of the best places there is to live in the nation, let alone in the state. But we pride ourselves from being about halfway between the old Qwest Center and the

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McNichols Arena, and we have good air and good sewers and great hunting and good transportation. So there's a lot of reasons why to build this shovel-ready project out in rural Nebraska. It helps the population and it helps the total economy of the state. And I do appreciate the members of the Revenue Committee all supporting this. Thank you, Mr. President. [LB1118]

SENATOR CARLSON: Thank you, Senator Hansen. Senator Dubas, you're recognized. [LB1118]

SENATOR DUBAS: Thank you, Mr. President. Good morning, colleagues. I, too, rise in support of LB1118. I think some of my other colleagues have already made this point, but this really does afford, especially areas in rural Nebraska, some great opportunities. You know, I've often heard people say, you know, we try to chase smokestacks out in rural Nebraska and we always come up on the short end of the stick. We just don't have the types of resources that will support big manufacturers in a lot of areas of rural Nebraska. So I think these types of businesses, data centers, fit rural Nebraska to a tee. We have the work force. I think there's been some talk about what we need to do to make sure our young adults are coming out educated and ready to move forward, but I think those are challenges we can very, very readily meet. And I also, as I've talked to people, especially our young people, who say I want to come home, I want to come back to my home community, I want to raise my family in places that are safe and that have good schools and all the other things that small communities, more rural communities, have to offer. But we just keep running up against that wall as to, well, what do we have to offer you as far as a job and a way to support your family. And I think this, again, just fits that need to a tee. I think Senator Sullivan called this the new frontier and I couldn't agree with her more. And I remember when I campaigned my first time for running, I very frequently said technology is what is going to help spark that energy, spark what we need to grow rural Nebraska, what we need to get people back into our communities and kids back into our schools. So I just...I'm very excited about what LB1118 has to offer. But I do have a question. Would Senator Cornett yield to a question? [LB1118]

SENATOR CARLSON: Senator Cornett, would you yield? [LB1118]

SENATOR CORNETT: I'd be happy to. [LB1118]

SENATOR DUBAS: Thank you, Senator Cornett. You know, we have Innovation Campus that is pretty much off and running; and, you know, they have some pretty specific goals as to being a research park and what they're looking at. Innovation Campus, is what they're doing, does that any way complement or support what could go on once we put LB1118 into play? [LB1118]

SENATOR CORNETT: Very much so. That's why we did the Innovation Campus is to

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have that educational base to support and attract these types of companies, and then that and the rural communities that have invested in doing pad-ready sites for companies. [LB1118]

SENATOR DUBAS: Thank you so much. I figured that would be your answer and I'm really glad to hear that. And I think this shows what we as the Legislature and what we as a state are doing. We're putting that foundation down. We're putting those building blocks in place that will support and complement each other so that we can take this step into that new frontier and help support and keep our rural communities. And, you know, a rising tide raises all ships, and we know there are good things going on in the urban areas and there's some really good things going on in the rural areas, but I think this bill especially will give that extra little boost to the good things that are going on in the rural areas. And so I'm very pleased to be able to support LB1118. Thank you. [LB1118]

SENATOR CARLSON: Thank you, Senator Dubas and Senator Cornett. Senator Price, you're recognized. [LB1118]

SENATOR PRICE: Thank you, Mr. President. Members, good morning. I rise in strong support, as many of my colleagues have on this bill, and I have to give you....say in full disclosure we're going to see lots of opportunities like this in the coming years. Nebraska and this Legislature has worked very diligently in the preceding years to lay the groundwork. Much like you would say in an agricultural analogy, the ground has been prepared, and we're waiting for something to come for the fruition of all these efforts, and this is one of those projects. We're going to see other ones come. And every time one of these projects comes into our state we see the job creation, we see families and individuals elevated in their station because of the better-paying jobs or even getting a job. And eventually...I liken it to a Slinky. Eventually, as more and more industries begin to see this and they begin to hear about it, they'll start moving to the state. I'm mindful of a contract that was let out at Offutt Air Force Base a few years back. It was a revolutionary contract. This contract was for \$527 million. It was a very good contract. And all of a sudden, throughout the defense contracting world, a ripple went out: Oh my, Offutt Air Force Base, Bellevue, Nebraska, is open for business. And we saw a flood of contractors and people come to this area and hire Nebraskans and bring revenue to the state because of that one single action in one business deal. I would think that this one would send out a very large ripple and people begin to understand how fortunate we are with our public power and how that is a driver. When you look at the issue, you look at your inputs for a business and you're looking at your costs, and energy is a major factor, particularly in a server farm. So this will be helpful. This will help our state and I stand in strong support of this and other legislation that we probably will hear later this session to bring high-tech jobs to Nebraska. Thank you, Mr. President. [LB1118]

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SENATOR CARLSON: Thank you, Senator Price. Those still wishing to speak include Senators Pahls, Ken Haar, Langemeier, and Schumacher. Senator Pahls, you're recognized. [LB1118]

SENATOR PAHLS: Good morning, Mr. President, members of the body. I do not want my following comments to be misinterpreted. I like this idea. In fact, if I didn't, I'd be probably the only one on the floor. I almost feel like I'm at a birthday party. But Senator Cornett has given me the opportunity to talk a little bit about something that is in the same family as incentives. I think if you take a look at the fiscal note,... [LB1118]

SENATOR CARLSON: (Gavel) [LB1118]

SENATOR PAHLS: ...if you take a look at the fiscal note, you follow that down and you can see how this thing flows up and down, but that's not my concern, because again I do support that. But this does give me the opportunity to talk to you about the power of sales tax exemptions. And I handed out a...or the pages handed out a sheet of paper describing those that are in front of the Revenue Committee this year, and I'm just going to go down. If you go down one column, you'll see the bill and the introducer, then you see the status, and then you see the sales tax exemptions, and then you see what effect it has on the General Fund. Just one, just to give you an example, and I'm going to pick the longest year out which they've given us, which...for this year out, I should say, is '14-15. Like in the health clinics, that is in its Final Reading, and if that does pass it will be almost \$3 million. Wind energy, which is still in the committee, if you look down to '14-15, it's \$5.5 million. We have one dealing with sod which is in the committee. Hear me, I said sod. That is, in three years, that will be around half a million dollars. Then we have one that's net metering of electricity. That's a relatively small one; that's \$18,000. Then we have another one dealing with fees and admissions charged by student organizations at higher education institutions. In three years, that's relatively a small one but it still is nibbling away; that's \$26,000. Then we have tanning services, which is in committee. The hearing was February 1, and that is \$875,000 in three years. Biochips, committee hearing on the 25th; that in three years will be \$577,000. Nonprofit corporate purchases transferred to state or local government. This is really the intriguing one. I want you to take a look at that. The first year it's \$5 million; then it backs down to, in year three, \$322,000. I've been told that's because it's retroactive. I don't have all the background for that but that's what I've been told. Then here's the one I think is perhaps the most interesting because this made a lot of news, a lot of news, and I even received calls from this. It's the taxing of youth sport events and sport leagues. And if you notice, general impact, they don't know. Don't you find that interesting? That particular issue made the newspaper and yet the Department of Revenue can't tell you what that's going to cost. I think that's amazing. I feel deep down they probably have some knowledge. Now if you flip over the page, LB986, replacement parts for ag, no fiscal note has been released on that yet. Data centers, that's a February 2 committee hearing; it's over \$4 million in three years. Mental health clinic, February 9; that fiscal

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note is \$754,000. Etcetera, etcetera. Well, if you total up all the ten bills that we do have fiscal notes on, if you look at the year '14-15, that's \$15 million; but if you total all those three years up, let's take three years,... [LB1118 LB986]

SENATOR CARLSON: One minute. [LB1118]

SENATOR PAHLS: Thank you...that will be over \$46 million for those ten bills. That's not all of them--ten bills. Now I want you to go down and you can see one of the bills that Senator Cornett is carrying for individual and corporate income tax. You can see how in year '12-13, it's \$51 million; '13-14 is \$130 million; year '14-15 is \$143 million. Stuff adds up, doesn't it? Then at the very bottom of the page they want you to see what the projections by our budget: '11-13 it says \$62 million to the positive; '13-15 it says \$346 million to the negative. Now that probably will improve because the economy is moving. A lot of big numbers here. Something to think about, not on this particular bill but things in the future. [LB1118]

SENATOR CARLSON: Time. [LB1118]

SENATOR PAHLS: Thank you. [LB1118]

SENATOR CARLSON: Thank you, Senator Pahls. Senator Ken Haar, you're recognized. [LB1118]

SENATOR HAAR: Mr. President, members of the body, a lot of people watch what's going on here and so sometimes I think we need to use the lectern to brag about Nebraska. So I want to brag a little bit about the computer science and engineering department at the University of Nebraska, because it fits right into this concept we're talking about and how well we train our young people, what bright young people we have, and how we can keep them here. On the Web site for the computer science and engineering department, Steve Goddard, who's the head of that, talks about that 100 percent of their graduates actively seeking jobs are hired prior to graduation, and here are the salaries. The average starting salary of recent computer science and computer engineering majors was \$53,700 and \$56,000 respectively, with some receiving over \$80,000. Top students can expect to be recruited by industry leaders such as IBM, Microsoft, Google, so on, and many local companies such as Design Data, GIS Workshop, and Information Analytics. Part of that wonderful program at the university is something called the Jeffrey Raikes School of Computer Science and Engineering (sic), and you might know that Jeffrey Raikes, a Nebraskan, was a colleague of Bill Gates in putting together Microsoft. And one of the other things we're fortunate here in the state of Nebraska is that we have generous people, Nebraskans who want to keep contributing to Nebraska, and so Jeffrey Raikes put a large amount of money into the Raikes School of Computer Science and Engineering (sic). And the point I'm trying to get across here is that we have superb, world-class computer science training facilities

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here in Lincoln and Nebraska, and we need to be able to keep those people in Nebraska. And I'm not saying they'll all be hired because of the bill before us, but LB1118 is part of that picture. And on the Web site, too, there's...one of their faculty is just excellent. Dr. Chuck Riedesel, I believe he's from Beatrice now, a friend of mine, received the 2010 Coach Award at the World Programming Contest finals in China. This is the 8th time in the past 12 years that Dr. Riedesel has coached a team in the world finals, a very tough competition. Our students do very well. And so I think this all fits into the picture of bringing high-tech jobs to Nebraska. We train these people, we train them well, and so we should have a way to keep them in Nebraska. So once again, I want to thank Senator Cornett for the bill and Senator Hadley for prioritizing this bill. Thank you. [LB1118]

SENATOR CARLSON: Thank you, Senator Haar. Senator Langemeier, you're recognized. [LB1118]

SENATOR LANGEMEIER: Mr. President, members of the body, I rise to talk about the water use. It's come up a little bit and that was one of the big concerns I had, as I heard data centers used a lot of water. So as we've researched this, number one, it's a nonconsumptive use; number two, it's used for cooling and the preferred method is to pump it and do a direct injection back into the ground, bring it in to cool. Now we have one advantage to a data center, is Nebraska winters. When they can use cool air to cool, they don't need to use the water, and so it's a limited use mainly for the summer heat months. And so that is the preferred method to cool the system is using water, either through a geothermal loop or a pump and a direct injection back into the ground. So that was a concern that I had to say, you're going out to an area in Nebraska that's fully appropriated for water use, how is that going to fit in? But the way they design their systems is something we can handle in Nebraska and we can deal with the water use and needs. Thank you, Mr. President. [LB1118]

SENATOR CARLSON: Thank you, Senator Langemeier. Senator Schumacher, you're recognized. [LB1118]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. I, too, rise in strong support of this particular measure to begin to attract the kind of technology, the kind of people, the kind of capital organization, and the kind of political consequences that decisions of this kind will eventually bring to the state. We talked about a lot of things today, about laying sewer systems and shovel-ready sites and things like that. One thing we have yet to mention is that all these computers that store all this good information from all over the world, and require so much electricity and such a big facility, need something else to work, and that something else to work is redundant, sonic ring-type fiberoptic capabilities. And to add to our competitiveness in the area of trying to attract the kind of businesses that will put in the data centers, we have a very unique resource on top of the traditional telecommunications resources of

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the legacy phone companies. Our power companies have fiberoptic cable that is all around the state. Most of it is lying idle. It is available to transport your signal, if you're listening this morning, to the Internet backbones in a redundant fashion. So as you think about coming to this state, I wanted to make you aware of this tremendous resource. It will take a little political muscle to access it for you but we're here to work with you. Thank you. [LB1118]

SENATOR CARLSON: Thank you, Senator Schumacher. Those still wishing to speak include Senators Council and Harms. Senator Council, you're recognized. [LB1118]

SENATOR COUNCIL: Yes, thank you, Mr. President. I share the objective of increasing employment opportunities in the state of Nebraska, but I'm also concerned that when we talk about increasing employment opportunities, we're talking about real employment opportunities and lasting employment opportunities, and I have a couple of questions with regard to LB1118 in that regard. And if Senator Cornett would yield... [LB1118]

SENATOR CARLSON: Senator Cornett, would you yield? [LB1118]

SENATOR CORNETT: Yes. [LB1118]

SENATOR COUNCIL: Yes, Senator Cornett, under LB1118, the amendment adds the large data centers to tier 2. And my recollection, and I'll pull it back up, is that tier 2 currently requires a \$3 million investment and 30 jobs, and this would add the large data center but the investment would be a minimum of \$300 million, but still 30 jobs. [LB1118]

SENATOR CORNETT: Correct. [LB1118]

SENATOR COUNCIL: Okay. Now the concern I have is that with regard to when the benefits are available, when the company becomes eligible, it's my understanding, from reading the bill, that the company becomes eligible as soon as they meet the investment minimum. So it's like as soon as the facility is completed or...basically, if it's a several-million-dollar facility, or all the equipment is purchased and once they reach the 30-employee minimum threshold. Is that correct? [LB1118]

SENATOR CORNETT: It is. What we're doing is changing it a little bit so we're giving them that personal property exemption up-front, but they are paying us the estimated sales tax up-front and then we will use that. If you look at the fiscal note, it has a positive fiscal note in the beginning, and then we refund those credits after they have attained, yes. [LB1118]

SENATOR COUNCIL: Okay. So...but based on the fiscal note, the assumption is that they meet that employment limit within the first five years. [LB1118]



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SENATOR CORNETT: Yes. [LB1118]

SENATOR COUNCIL: Okay. And if they don't meet that within the first five years, then it alters all of the remaining fiscal note projections, correct? [LB1118]

SENATOR CORNETT: It does, but we also have what's called a clawback provision in it where, if they do not attain that, we have a means to recapture the money... [LB1118]

SENATOR COUNCIL: Okay. [LB1118]

SENATOR CORNETT: ...and with an interest rate set on that. [LB1118]

SENATOR COUNCIL: Okay. So let's say that they meet the employment minimum in year two. They submit whatever is required to be submitted to establish that they've created 30 new jobs. There are no provisions under tier 2, like one of the other tiers, that requires them to maintain that minimum level of employment. Is that correct? [LB1118]

SENATOR CORNETT: I would have to look into that. I believe that you have to...I don't believe these data centers would function without a minimum number of those employees. [LB1118]

SENATOR COUNCIL: Okay, but my... [LB1118]

SENATOR CORNETT: I see what you're saying. [LB1118]

SENATOR COUNCIL: And I appreciate that, but the way the bill is drafted is once you hit that minimum you're then eligible to receive these benefits throughout the term of the benefit period. But I don't see anything in there that says you're also obligated to maintain at least this minimum level of employment, and that's a concern. So if you could back to me with that. [LB1118]

SENATOR CORNETT: I would be happy to. [LB1118]

SENATOR COUNCIL: The other concern that I want to make the body cognizant of, data centers are highly competitive employment settings, and many of these data centers have employment eligibility... [LB1118]

SENATOR CARLSON: One minute. [LB1118]

SENATOR COUNCIL: ...requirements that could have some negative impact. And I know that Senator Dubas has a bill in and I have a bill in. Many of these data centers,

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as a part of their employment application process, look at the credit history of the applicant, and I'm really concerned that so many of our young people are graduating with extensive student loan debt, credit card debt, that could make them ineligible for the very jobs that we're saying we're creating for their benefit. So it would be helpful, if we do have contact with any of these potential data center operators, to get some feel for what their employment practices are in that regard, because we have research data that shows the amount of debt that our young people are leaving postsecondary institutions carrying and it has an impact on their credit history. And if that would be a disqualifier from employment, I think, you know, if there's an opportunity for us to address it, we should address it. [LB1118]

SENATOR CARLSON: Time. Thank you, Senator Council and Senator Cornett. Senator Harms, you're recognized. [LB1118]

SENATOR HARMS: Thank you, Mr. President. Would Senator Mello yield to a question, please? [LB1118]

SENATOR CARLSON: Senator Mello, would you yield? [LB1118]

SENATOR MELLO: Yes. [LB1118]

SENATOR HARMS: Senator Mello, could you help maybe me better understand the program that Metro Community College has that addresses this issue of certified programs for data centers and how they're beginning to negotiate with other community colleges and starting to spread that across the state of Nebraska so that we're prepared for this very issue? [LB1118]

SENATOR MELLO: I will do my best, Senator Harms. Actually located in Senator Janssen's district in Fremont, Metropolitan Community College developed what right now is the lone data center education training facility at their Fremont area campus in which it's been recognized globally by IBM in regards to being a sustainability driven entity as well as essentially being one of the topnotch data center programs in the Midwest from a community college perspective. They right now have continually tried to work with existing data centers and telecommunications companies in the eastern part of the state right now to provide that necessary training to operate a data center as well as technicians that ultimately have to do any technical changes or updates to a system or center, which has kind of put that program, that specific community college program, at the forefront of any of the higher education systems in the state. It's become a nationwide...data center training has become a priority of community colleges nationwide in the sense that they are able to turn around a one- to two-year program to train individuals in the skills necessary to be able to not only technically advise and construct but ultimately manage these data centers. [LB1118]

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SENATOR HARMS: Thank you very much. And do you feel then through this program that we are actually preparing ourselves for everything that Senator Cornett has been talking about? [LB1118]

SENATOR MELLO: Senator Harms, I think that the program right now in Fremont is a shining gem for our state in the sense of providing highly skilled, technical training for data centers of all sizes, whether a small data center in the city of Fremont or a mega data center that may be located somewhere else in the state. The training doesn't change, so to speak. It's providing that highly skilled, highly technical education that's needed to be able to manage this very information technology-driven industry where we're seeing, you know, seeing increased opportunities with this education program, not just through enrollment but through business partnerships of trying to get existing employees in this program as well as recruiting potentially new students into a program like that. [LB1118]

SENATOR HARMS: Oh, thank you, Senator Mello. Thank you, Mr. President. [LB1118]

SENATOR CARLSON: Thank you, Senator Harms and Senator Mello. There are no other senators wishing to speak. Senator Cornett, you're recognized to close on LB1118. [LB1118]

SENATOR CORNETT: Thank you, Mr. President and members of the body. I can't say how appreciative I am of the level of support that I have received this morning in the body. This is a bill that can take Nebraska forward to the next level in regards to developing development. I urge the body to support the bill and thank everyone for their support. Thank you. [LB1118]

SENATOR CARLSON: Thank you, Senator Cornett. Members, you've heard the closing on LB1118. The question is the advancement of LB1118 to E&R Initial. All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB1118]

CLERK: 41 ayes, 0 nays, Mr. President, on the advancement of LB1118. [LB1118]

SENATOR CARLSON: The bill does advance. Mr. Clerk, are there items for the record? [LB1118]

CLERK: I do, Mr. President, thank you, two: Natural Resources Committee, chaired by Senator Langemeier, reports LB928 to General File; and Urban Affairs, chaired by Senator McGill, reports LB932 as indefinitely postponed. That's all that I have, Mr. President. (Legislative Journal page 486.) [LB928 LB932]

SENATOR CARLSON: Thank you, Mr. Clerk. Next item, please.

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CLERK: Mr. President, LB446, a bill by Senator Adams relates to educational service units. (Read title.) Introduced on January 14 of last year, reported to General File. I believe Senator Adams discussed his bill briefly yesterday, Mr. President. [LB446]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Adams, you're recognized. [LB446]

SENATOR ADAMS: Thank you, Mr. President. Let me just give you a sketch of the bill again from where we left off yesterday. Under current law, in the year 2013 we have two single-district ESUs in the state of Nebraska. One is the Omaha Public Schools, which is under current law allowed to be its own ESU, and the Lincoln Public Schools, allowed to be their own ESU. And they receive core service dollars. In the year 2013, under current law that's to come to an end. This bill will, in essence, maintain the status quo. It will allow them to continue to exist as single-district ESUs. However, however, they will be...it is the intention of the bill that if we allow them to continue to stand alone that they need to be statewide contributors. We do have a statewide ESU Coordinating Council that develops statewide strategies and plans for all the ESUs. We would expect that a commitment, both physically and financially, from both of these ESUs to that purpose, and there will actually be a reduction, a reduction in core service dollars both to OPS and to LPS as a result of this bill. And those monies, by the way, will go back into the total appropriation for core service dollars and be redistributed to the other ESUs through the existing formula. That's the bill, Mr. President. Thank you. [LB446]

SENATOR CARLSON: Thank you, Senator Adams. Senator Pahls, you're recognized. [LB446]

SENATOR PAHLS: Thank you, Mr. President, members of the body. May I ask Senator Adams a question or two, please? [LB446]

SENATOR CARLSON: Senator Adams, would you yield? [LB446]

SENATOR ADAMS: Yes. [LB446]

SENATOR PAHLS: Thank you, Senator Adams. I just want to be straight on this. Omaha and Lincoln have their own ESUs now. [LB446]

SENATOR ADAMS: Yes. [LB446]

SENATOR PAHLS: So if I happen to be on the school board of Omaha, am I also on the school board of the ESU? [LB446]

SENATOR ADAMS: In that situation you are. [LB446]

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SENATOR PAHLS: If I'm on the school board in Lincoln, I'm also on the board of the ESU. [LB446]

SENATOR ADAMS: Correct. [LB446]

SENATOR PAHLS: Well, that has always brought some question in my mind that each has a separate taxing ability. Am I correct there? [LB446]

SENATOR ADAMS: The difference would be this. You have a penny and a half for the ESU, and of course the \$1.05 plus capital for the school district. The elected board of Lincoln Public Schools, their constituency is within those district bounds where they impose that \$1.05. The ESU, the penny and a half is within those same boundaries so you have the same elected officials. Any other ESU, you have all these individual school districts that are within the ESU; hence, they have to have a separate board for the broader tax levy. [LB446]

SENATOR PAHLS: Okay. So if I'm on the board, and I'll say Lincoln, I'm on the school board in Lincoln, I can tax, and I understand that. And I'm also on the board at this ESU and I tax. Actually, I'm taxing the same...I'm getting more money... [LB446]

SENATOR ADAMS: From the same people. [LB446]

SENATOR PAHLS: ...from the same people. [LB446]

SENATOR ADAMS: Yes. [LB446]

SENATOR PAHLS: Now if I'm in another, other than Omaha and Lincoln, if I'm in other ESUs, how does that affect...what...clean that up for me. Let's say I'm in York. I live in your city. [LB446]

SENATOR ADAMS: All right. If you're in York, you're in ESU 6, which headquarters in Milford. [LB446]

SENATOR PAHLS: Okay. [LB446]

SENATOR ADAMS: There are an assortment of schools: York, Seward, Centennial, Fillmore County, Milford, Norris. There's a host of other schools that are there. That ESU has its own elected, separately elected board, and that's because, as you well know if you think about it, the taxing authority for that penny and a half extends as far south as Norris and over to Waverly and as far west as York. So you have this larger taxing entity that involves a lot of school districts. [LB446]

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SENATOR PAHLS: Right. Okay. Then I'm trying to figure out, is it better for me to live in York or to live in Omaha or Lincoln how the ESU affects... [LB446]

SENATOR ADAMS: I don't really think it makes any difference. [LB446]

SENATOR PAHLS: Okay. So in other...it doesn't really make any difference who is on the board... [LB446]

SENATOR ADAMS: No. [LB446]

SENATOR PAHLS: ...because the taxing...okay. Actually my only question is that does it give an unfair or a different advantage to the larger cities than opposed to somebody like...and I'm going to use you, as in York? [LB446]

SENATOR ADAMS: When I get my tax statement, ESU 6 is going to tax me the same as what wherever you live, that ESU statement on yours, whatever that board sets,... [LB446]

SENATOR PAHLS: Okay. [LB446]

SENATOR ADAMS: ...not to exceed a penny and a half. [LB446]

SENATOR PAHLS: Okay. Then what's the advantage? I mean that...for the configuration would make it easier to operate, let's say, in Lincoln and Omaha because it's the one school? [LB446]

SENATOR ADAMS: Yeah, the real advantage, as I pointed out yesterday, to me there were practical implications here. First and foremost, if you look at OPS and Lincoln and their total student enrollment, they're serving as many in that school district as many of our combined ESUs beyond here. [LB446]

SENATOR PAHLS: Okay. Okay. Thank you. Thank you for that information. [LB446]

SENATOR CARLSON: Thank you, Senator Pahls and Senator Adams. Senator Nelson, you're recognized. [LB446]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to address a question or two to Senator Adams, if he will yield. [LB446]

SENATOR CARLSON: Senator Adams, would you yield? [LB446]

SENATOR ADAMS: Yes, I will. [LB446]

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SENATOR NELSON: Senator Adams, I may have missed this yesterday but I have a couple very basic questions. And let me say that my understanding of an ESU is that they were created as a concentrated area to provide services to school districts that they ordinarily could not provide themselves or didn't have the ability, like special ed...or not that necessarily, but some programs that it just wasn't economically feasible for them to do by themselves, so the ESU is there to help them out with that. [LB446]

SENATOR ADAMS: That's right. That's right. And I could add more to that but you're right. [LB446]

SENATOR NELSON: Well, but, all right. Well, then under the bill that's being changed now, the two ESUs for Omaha Public Schools and Lincoln would go away and...but your...I mean now your bill is keeping them intact. Is that right? [LB446]

SENATOR ADAMS: Keeping them intact, that's correct. [LB446]

SENATOR NELSON: What is the rationale for that? I mean originally they were...those ESUs were to exist for...up until 2013 and now we're keeping them alive. Is that necessary? Are these school districts not able to provide these services for themselves? [LB446]

SENATOR ADAMS: You know, if we look at these two school districts...let me go back to the practical implication. You're looking at a school system the size of Omaha and a school system the size of Lincoln. Each one of those has as many, if not more, students than most of the ESUs in the state, and they're providing the same kinds of services. They need to provide the same kinds of services. And what we're, in essence, doing is allowing them to continue to have the bottom line and continuing to have that penny and a half of levy authority to provide those kinds of services. I think also, if you don't mind, Senator, there's other political implications and that is that if in the year 2013 they're no longer allowed to be single district, my sense of it is they're going to go look for another school to partner up with, and I'm not sure that we have gained much by a school district the size of Lincoln or Omaha going out and finding another school district to partner up with in order to maintain an ESU environment. [LB446]

SENATOR NELSON: So the trade-off here, in return for their continued existence, is that they contribute a little more out of the funds that they get to the other ESUs, is it? [LB446]

SENATOR ADAMS: Well, yes. What we have, in essence, said was when those school districts came to me and said, in 2013, you know, Adams, this comes to an end, would you consider us maintaining? And I agreed, but with the understanding is, you can't just hide behind the doors of LPS or OPS; you need to be a statewide contributor. They understand that, and I would also tell you that they are currently. In my discussions with

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the ESU coordinating council and its executive director, they are. Omaha Central provides math courses through distance ed for schools all over the state, just one small example. And financially what we're asking them also is in their core service dollars, you got to take a portion of it and you need to be a statewide player; given your size and capabilities, help some other folks. [LB446]

SENATOR NELSON: All right. I understand and I thank you for that explanation. Thank you, Mr. President. [LB446]

SENATOR CARLSON: Thank you, Senator Nelson and Senator Adams. Senator Hadley, you're recognized. [LB446]

SENATOR HADLEY: Mr. President, members of the body, would Senator Adams yield to a question? [LB446]

SENATOR CARLSON: Senator Adams, would you yield? [LB446]

SENATOR ADAMS: Yes. [LB446]

SENATOR HADLEY: Senator Adams, has there ever been any studies done to see where the overlap and duplication between the Omaha Public Schools and their ESU and the Lincoln Public Schools and their ESU, has anybody ever taken a long look at where any overlaps are? [LB446]

SENATOR ADAMS: I'm not sure what you mean by overlap, Senator. [LB446]

SENATOR HADLEY: The idea that they're both doing the same thing. You know, are they...you know, I'm sure Lincoln Public Schools is interested in technology. I would assume the ESU is interested in technology. I'm just asking, has there been any studies to see, you know, how they can coordinate? [LB446]

SENATOR ADAMS: How...how... [LB446]

SENATOR HADLEY: The ESU and...let me rephrase that. I guess on the surface I think you have an ESU that encompasses one school district, and I guess I'm trying to ask, are there...could there be savings if we didn't have the ESU and sent the money to the school district itself? [LB446]

SENATOR ADAMS: Well, I don't see how that would be a real savings, frankly, and particularly when you start reaching out and get out of the Lincoln and Omaha area. Those ESUs are capable of doing things in terms of economy of scale that I don't think an individual district could do. Now I would tell you, because I've heard the argument, we have ESUs out there that may have a larger school district inside of it that says, hey,



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we'll just go our own way, and yet we'll let all these smaller schools just kind of do their thing cooperatively and we'll go do our thing on our own. And that would concern me. So then you would say, well, then why are we letting Lincoln and Omaha do that? I think in this case we have two unique situations. [LB446]

SENATOR HADLEY: Okay. [LB446]

SENATOR ADAMS: That would be my response. [LB446]

SENATOR HADLEY: You know, I guess, you know, we spend a lot of time...we had a bill looking at city-county governments and merging and such as that. And just on the surface I think when you look at an ESU with one school district, at least on a surface level, I think to myself, gee, are they...you know, do we need it? And I understand outstate Nebraska ESUs are great because they do things for smaller school districts that they cannot do themselves. And I will continue to listen to the dialogue. I'm certainly not opposed to the bill but I just want to listen more to, you know, the rationale for doing these. Thank you, Senator Adams. [LB446]

SENATOR CARLSON: Thank you, Senator Hadley and Senator Adams. There are no other senators wishing to speak. Senator Adams, you're recognized to close. Senator Adams waives closing. The question is the advancement of LB446 to E&R Initial. All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB446]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB446. [LB446]

SENATOR CARLSON: LB446 does advance. Mr. Clerk, next item. [LB446]

CLERK: Mr. President, LB801 by Senator Fischer. (Read title.) The bill was introduced on January 5 of this year, referred to the Transportation Committee, advanced to General File. I have no amendments at this time, Mr. President. [LB801]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Fischer, you're recognized to open on your bill. [LB801]

SENATOR FISCHER: Thank you, Mr. President and members. LB801 was a bill brought to the Transportation and Telecommunications Committee by the Revisor of Statutes Office. The bill eliminates references to designated county official in the statutes. For almost 20 years the Legislature... [LB801]

SENATOR CARLSON: (Gavel)

SENATOR FISCHER: ...has been passing bills that have been moved to consolidate

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the county services with regard to motorboats and motor vehicles. With the passage of LB49 in 2009, the decision was made by this body to require the county treasurer in each county to be the designated county official who would provide the services. These services to the public relate to the issuance of certificates of title, registration certificates, certificates of number, license plates and renewal decals, the notation and cancellation of liens, and the collection of taxes and fees for motor vehicles, ATVs, UTVs, minibikes, snowmobiles, trailers, and motorboats. The director of DMV was given a deadline of January 1, 2011, to accomplish this transition. Since the transition has successively taken place, the references to county clerks and designated county officials throughout the statutes have become obsolete. LB801 strikes the unnecessary language but does not make any substantive changes. Thank you, Mr. President. [LB801]

SENATOR CARLSON: Thank you, Senator Fischer. Members, you've heard the opening on LB801. Are there senators wishing to speak? Seeing none, Senator Fischer, you're recognized to close. She waives closing. Question is the advancement of LB801 to E&R Initial. All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB801]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB801. [LB801]

SENATOR CARLSON: The bill does advance. Mr. Clerk, items? [LB801]

CLERK: I do, Mr. President, thank you. Transportation Committee, chaired by Senator Fischer, reports LB803 to General File with amendments, and LB1039, General File with amendments, those signed by Senator Fischer. The Executive Board, chaired by Senator Wightman, reports LR365 back to the Legislature for further consideration. And Senator Cornett wants an Executive Session of the Revenue Committee at 10:30 in Room 222. That's all that I had, Mr. President. (Legislative Journal pages 486-491.) [LB803 LB1039 LR365]

SENATOR CARLSON: Thank you, Mr. Clerk. (Visitors introduced.) Next item, Mr. Clerk.

CLERK: Mr. President, LB841 is a bill offered by Senator Harms. (Read title.) Introduced on January 6 of this year, referred to the Transportation and Telecommunications Committee, advanced to General File. I have no amendments to the bill at this time, Mr. President. [LB841]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Harms, you're recognized to open on LB841. [LB841]

SENATOR HARMS: Thank you, Mr. President and colleagues. This bill would limit the hauling of seasonal harvested products in longer combination vehicles in Nebraska by

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permitting up to 70 miles, a 10 percent greater than the maximum length specified by law, and using permits for up to 120 days per calendar year. These provisions would bring the state of Nebraska into compliance with the federal laws governing longer combination vehicles. In 1991, the Intermodal Surface Transportation Efficiency Act, federal highway legislation, included a freeze on state provisions regulating long combination vehicles. Every federal highway bill since 1991 has continued the freeze provisions of the 1991 act. Freeze means that each state's long combination vehicle limitation must not be amended to become less restrictive than they were in 1991. Last year, I introduced LB...excuse me, last year, in 2011, I introduced LB35, as requested from the sugar beet industry to allow permits to be valid for 30 increments and renewable up to 210 days to conform to the beet harvest season in western Nebraska. LB35 was passed and was signed by the Governor. It became effective August 27, 2011. Every year the Governor or his designated representative must certify that all state laws and regulations are being enforced on those highways which prior to October 1991 were designated as part of a federal aid primary, a federal aid secondary, or a federal aid urban system; that the state is enforcing the freeze provisions of the Intermodal Surface Transportation Efficiency Act of 1991; and the state laws governing vehicle weights on the interstate highways are consistent with our federal regulations. LB35 that we passed last year is in violation of the Intermodal Surface Transportation Efficiency Act of '91. LB841 simply brings the state into compliance with the federal freeze requirements. In the past, the beet industry would be given permission by the Nebraska Department of Transportation permit office here in Lincoln to receive hauling permits. The trucking industry was notified by the permit office that they would not be receiving permits when they requested their trucks be registered during this last beet harvest. The permit office denoted that the law that we passed was in violation of the federal regulations. And I have to stop here and tell you, colleagues, there was a lot of dialogue that took place at this point because they already were into the harvest, millions of dollars were...the threat of staying in the fields, not being able to get to the processing plant, or to actually be harvested appropriately. And so, fortunately enough, our Governor intervened and allowed us to complete this process. And I'd have to tell you that the sugar industry, as well as the farmers in western Nebraska, were very pleased that he was willing to do that because it pumps about \$50 million annually into our economy there, so it's a big thing for western Nebraska. It's a small niche in Nebraska but it's a huge one for us. Now as I understand it, by visiting with the representatives from the Roads Department, if this legislation doesn't pass, what happens to us, the penalty would be that we would lose simply \$24 million from its basic core funding, and the feds would hold this \$24 million until this is corrected. So I would urge you to support this request and this bill, and I'd be happy to answer any questions you have. Thank you, Mr. President. [LB841 LB35]

SENATOR CARLSON: Thank you, Senator Harms. Members, you've heard the opening on LB841. There are senators wishing to speak. Senator Fischer, you're recognized. [LB841]

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SENATOR FISCHER: Thank you, Mr. President and members. Last year the Transportation and Telecommunications Committee was very pleased to help Senator Harms pass that bill that he has just discussed with you. But as is often the case in the Transportation and Telecommunications Committee, we are faced with a number of federal mandates and with that federal hammer over us threatening to take away highway funds. And that is the purpose of the bill before you today, LB841, as explained by Senator Harms. Of course, the committee is very disappointed that we have to rescind our action from last year that we passed in order to help agriculture producers, specifically the sugar beet industry in Senator Harms's district, but it is also needed action that must be taken by this body. So I would ask you to support, with reluctance, Senator Harms's bill, LB841, as it is needed in order to be in compliance with federal regulations. Thank you very much. [LB841]

SENATOR CARLSON: Thank you, Senator Fischer. Senator Pahls, you're recognized. [LB841]

SENATOR PAHLS: Thank you, Mr. President, members of the body. Could I entertain a question for Senator Harms? [LB841]

SENATOR CARLSON: Senator Harms, would you yield? [LB841]

SENATOR HARMS: Yes. [LB841]

SENATOR PAHLS: I can remember last year you spoke with great passion on this because I think this affects, as I can recall by looking at the research, about 160 to 170 sugar beet farmers. That, to me, that probably is a...and the dollar is a significant amount. What I'm surprised, is this--and maybe I should ask Senator Fischer--is this...was this a new regulation? Because you were so sure. [LB841]

SENATOR HARMS: No, it's been in existence since 1991. [LB841]

SENATOR PAHLS: And we just got caught in what I call the time warp then, is that? [LB841]

SENATOR HARMS: Pardon me? [LB841]

SENATOR PAHLS: Did we get caught in a time warp? I mean I thought many eyes would be looking at that. [LB841]

SENATOR HARMS: No. I'll tell you what I think just happened, is that, first of all, Senator, in the hearing that we had, no one came forward to testify that this was an issue for us. On this floor, with 49 of us, very little things slip by this group. I think really

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what happened here, it just simply fell through. There's always a lot of activity around that beet industry with actual getting permits added on and off. I could see how this could just slip past someone. [LB841]

SENATOR PAHLS: Oh, okay. [LB841]

SENATOR HARMS: Yeah. [LB841]

SENATOR PAHLS: So it was out there. We just did not comply. [LB841]

SENATOR HARMS: Yeah. [LB841]

SENATOR PAHLS: Now we have to be back into compliance. [LB841]

SENATOR HARMS: Yeah, that's correct, and I apologize for that but... [LB841]

SENATOR PAHLS: No. No, no, there's none needed. That's not my intent. [LB841]

SENATOR HARMS: So I just don't know what else to do. Uh-huh. [LB841]

SENATOR PAHLS: But let me ask you this: Do you have any idea how many dollars we would lose if this runs into the millions? [LB841]

SENATOR HARMS: Well, if we don't fix this bill and put it back to the original state, we would lose \$24 million in money that goes to our core in our highway system, so we can't afford that. What would happen in western Nebraska is that they're going to be confronted now with how to get by this particular issue. And what they're doing now is they're working with the federal representatives, along with representatives from our own Roads Department, to see if we can't somehow correct this because it's just a small niche but it's a big one for western Nebraska,... [LB841]

SENATOR PAHLS: Right. [LB841]

SENATOR HARMS: ...but the rest of the state doesn't deal with this. [LB841]

SENATOR PAHLS: Yes. [LB841]

SENATOR HARMS: And the beet industry has been very valuable to us. It pumps a lot of money... [LB841]

SENATOR PAHLS: Yeah. [LB841]

SENATOR HARMS: ...into...I'm burning up your time. I don't mean to do that but...

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[LB841]

SENATOR PAHLS: No. No, no. [LB841]

SENATOR HARMS: Well, thank you. [LB841]

SENATOR PAHLS: Well, I think because this explains more so why we are undoing something we had done. In other words, the rules are in place. We did not meet them so we have to undo it, which seems logical, because if we're going to lose \$24 million, that is one reason. Like Senator Fischer says, when you have the hammer of the federal government on you, you sort of have to comply or suffer the consequences, which would be \$24 million. I appreciate your efforts. Thank you. [LB841]

SENATOR HARMS: Thank you. [LB841]

SENATOR CARLSON: Thank you, Senator Pahls and Senator Harms. And there are still senators wishing to speak: Senators Wallman and Lautenbaugh. Senator Wallman, you're recognized. [LB841]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. And I, too, would like to thank Senator Harms for this. Would that affect the bridge weights or anything like this? Do you know? [LB841]

SENATOR CARLSON: Senator Harms, would you yield? [LB841]

SENATOR HARMS: No, it really doesn't. With the way that this has worked out, it would not be a problem at this point. I think it just has to be fixed according to what the fed's regulations are and I don't know whether we're going to be successful in this negotiations. But what the other option would be I think for our beet industry, it would just put more trucks on the road, and I worry just a little bit about that. [LB841]

SENATOR WALLMAN: Thank you. Yeah, you go to some other nations, they have a lot longer trucks than we have. So with fuel efficiencies and everything, I think length, unless it's extremely windy, doesn't hurt us. But thank you, Senator Harms. [LB841]

SENATOR CARLSON: Thank you, Senator Wallman and Senator Harms. Senator Lautenbaugh, you're recognized. [LB841]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. This bill is the quintessential necessary evil. We have to do it, I understand we have to do it. I don't like it. Senator Harms brought the bill that he brought last year for all the right reasons, to help out a local problem. And because we're under the gun for federal dollars, as I think I said yesterday and I think we all know, sometimes we make

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mistakes when we're chasing federal dollars; this isn't that case. This is a case where we're trying to keep what we have and, unfortunately, undo what was a good policy for our state, I believe. I intend to hold my nose and vote for this. I would urge you all to do the same. I am sorry, after Senator Harms's hard work on this, that this is what it comes to, because what we did last year was the right thing. And, well, I guess we are where we are. So thank you, Mr. President. [LB841]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Senator Fulton, you're recognized. [LB841]

SENATOR FULTON: Thank you, Mr. President. I want to say something similar to Senator Lautenbaugh and thank Senator Harms for his work on this. What's even double frustrating or triple frustrating here is that it's our money that we're being bribed with. The federal government takes our money and expects us to do X, Y, and Z, in order to receive our money back. It's just infuriating and it keeps happening, and it's happening over and over again, and about all we can do at this point is holler and scream. We have to do this. It's the responsible thing to do by our policy in Nebraska, but it's just infuriating that this is the way that our republic is going. I feel compelled to say something. There will be a day when I am no longer in this body and I'll have no voice, but at least I'll be able to look back and hopefully others will take up this cause when I'm gone and when others who have taken this cause on are gone. We the state of Nebraska are a sovereign entity and we ought to be able to decide what happens locally for our own people, as Senator Harms has done very responsibly for the people of his district. And now we have to renege on something that was done for our locale because someone in Washington tells us we have to. There's something wrong with that picture and something needs to be said. I will support this. Thank you, Senator Harms. Thank you, Mr. President. [LB841]

SENATOR CARLSON: Thank you, Senator Fulton. Those still wishing to speak: Senators Bloomfield and Karpisek. Senator Bloomfield, you're recognized. [LB841]

SENATOR BLOOMFIELD: Thank you, Mr. President. Would Senator Harms yield for a question, please? [LB841]

SENATOR CARLSON: Senator Harms, would you yield? [LB841]

SENATOR HARMS: Yes, I would, Senator. [LB841]

SENATOR BLOOMFIELD: Thank you, Senator. I believe somewhere I've read that there are some new regulations, believe it or not, coming from the federal government, that is going to increase the weight limits and the length permits on trucks. Are you familiar with any of those that might be coming? [LB841]

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SENATOR HARMS: No, I'm not, Senator. I'm not. Thank you. [LB841]

SENATOR BLOOMFIELD: We may be able to revisit the issue that you so nobly carried forward last year again if those events happen. [LB841]

SENATOR HARMS: Oh, I would hope we would be able to do that, but I'm not familiar with that so... [LB841]

SENATOR BLOOMFIELD: Okay. Thank you. [LB841]

SENATOR HARMS: Yeah, thank you. [LB841]

SENATOR CARLSON: Thank you, Senator Bloomfield and Senator Harms. Senator Karpisek, you're recognized. [LB841]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. And I support this, too, although fall in line with everyone else and not like it. But I, too, wanted to stand and remind everyone in this body that we do a lot of the same things that we are yelling about the federal government doing right now, and we could get into the sovereign state and all those sort of things. But everything that we pass on to our cities and our counties and our schools in Nebraska, they feel much the same way. They send their money here and we decide things for them. We tell them how they're going to teach. We tell them how much money we're going to give them in state aid. We tell them a lot of things. So I just want to stand and remind everyone in here that it's a double-edged sword. And when we're very upset about the federal government doing it, there are local governments very upset about some things that we're doing too--one huge reason why I came here, being a local elected official and being upset about the things that came our way; and there was nothing we could do because it was the state that told us to. And since I've gotten here I've been upset a few times because I still feel that my hands are tied because things go that way. Again, please remember these things as we move forward with different budget cuts and mandates that we pass on. Thank you, Mr. President. [LB841]

SENATOR CARLSON: Thank you, Senator Karpisek. Senator Council, you're recognized. [LB841]

SENATOR COUNCIL: Yeah, just very brief, Mr. President. I was sitting there and I was listening to the comments about the mandates and where our republic is going, and pretty much where it's been, and I just wanted to get up and echo Senator Karpisek's comments. I mean if we feel so strongly about mandates and the strings attached to mandates, we don't have to hold our nose and vote yes. We can vote no. And if we don't believe in unfunded mandates then we shouldn't engage in passing out mandates that we don't fund. So, you know, let us be careful with our words. If we want to use our



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time on the mike to engage in presidential election politics, then do it; but we're here today to talk about this bill that Senator Harms has introduced. It's a bill where the funds are needed and they're federal funds, and if we don't want to accept them, don't accept them. Vote no. Don't hold your nose. [LB841]

SENATOR CARLSON: Thank you, Senator Council. There are no other senators wishing to speak. Senator Harms, you're recognized to close. [LB841]

SENATOR HARMS: Thank you, Mr. President. Colleagues, thank you for the dialogue. I appreciate that. You know, I've introduced a number of bills on this floor and have always felt comfortable with them, and I've always kind of prided myself of trying to be accurate or making sure that you don't make these kinds of mistakes. And so to a certain degree, professionally, as a member of this forum, I'm a little embarrassed by this. But what has happened has happened, and I think everything we've done was for the right reasons. It just simply fell through. And so I would urge you to go ahead and support this LB841. I would appreciate that support. And thank you for the dialogue and the comments on this floor. I appreciate that. Thank you, Mr. President. [LB841]

SENATOR CARLSON: Thank you, Senator Harms. Members, you've heard the closing. The question is the advancement of LB841 to E&R Initial. All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB841]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB841. [LB841]

SENATOR CARLSON: LB841 does advance. Mr. Clerk, next item. [LB841]

CLERK: LB790, Mr. President, a bill by Senator Coash. (Read title.) Introduced on January 5 of this year, referred to the Judiciary Committee. The bill was advanced to General File. At this time I have no amendments, Mr. President. [LB790]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Coash, you're recognized to open on LB790. [LB790]

SENATOR COASH: Thank you, Mr. President. Good morning, colleagues. LB790 is a bill that moves one county court judgeship from the 5th Judicial District to the 3rd Judicial District. For your reference, there's some maps that I've passed out. The 5th Judicial District consists of the counties of Boone, Nance, Merrick, Hamilton, Platte, Polk, York, Colfax, Butler, Seward, and Saunders Counties. The 3rd Judicial District consists of Lancaster County. Let me just take a moment to explain how this bill came about. LB790 was not something that someone picked out a map and said Lancaster County needs a judge; where can we pull it from? There's a process in place, and I want to take a moment to explain that process a little bit to you because LB790 is the last step in that process. In 1992, this Legislature put into place the Judicial Resources

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Commission process. And what that process does, colleagues, is it evaluates caseloads on a weighted basis, and I'll get into that in a minute, and it makes recommendations at any time that there are judicial vacancies created when a judge retires, when a judge passes away, or is removed from office. And this Judicial Resources Commission consists of judges, lawyers, laypeople from every judicial district in the state. This is a statewide commission that takes a look at these. And at the end of that process, when there's a judicial opening, they make a decision whether or not that judge should be kept where it is or moved to another district, or filled or not. And I'm bringing this bill in response to that official recommendation of the Nebraska Judicial Resources Commission. On December 12 of last year, the commission met to discuss recommendations related to the retirement of a 5th Judicial District county judge, Marvin Miller. The commission decided unanimously that Judge Miller's retirement did constitute a vacancy in the 5th District. However, they also decided, based on weighted caseload statistics, that the vacancy should be moved and filled in the 3rd Judicial District. The vote was unanimous and the county judges of the 5th Judicial District did not oppose the movement of this vacancy. Because of this recommendation, I brought LB790 as the final step in this. I want to repeat something, colleagues, and I've passed this out to you. I passed out the minutes of that particular meeting where the decision was made, and I want to point out a couple of things to you. Not one attorney from the district that is losing a judge opposed it. In fact, there was an attorney on this panel that voted to move it. Not one judge in the district of the 5th District opposed this move. It was unanimous. When the Judicial Resources Commission meets, it is a public forum. Anybody can come and speak. Not one person came and opposed this. And sitting on the Judiciary for four years, I can tell you that if there are lawyers who felt that this would impact access to justice for them or the people they represent, they would have been there. So there were no opposition from the attorneys or judges on the commission side, and when we had the public hearing on LB790 there was no opposition to this as well. The 3rd District county court has shared with me some data that I'd like to share with you that illustrates the need for an additional judgeship in Lancaster County. In 1985, the municipal and county court judgeships in Lincoln and Lancaster County combined to form the Lancaster County Court. At that time there were 44,520 cases handled by a 6-person court, or about 7,420 cases per judge. That was in '85. In 2010 there were 66,000 cases handled by a 6-person court, or over 11,000 cases per judge. Thus, the judges in the 3rd District court have seen a 60 percent increase in the number of cases handled since 1985. According to the weighted caseload statistics assembled by the Supreme Court, the 3rd District county court requires 8 judges, 8.14 to be exact, but only has 6, whereas the 5th District county court requires 4.5 judges but has 6. And, colleagues, I've passed a double-sided handout to you that illustrates, if you look at the top, that the district where the judge is coming from, and I'm going to repeat this, needs 4.5 judges, has 6. And in Lancaster County they need 8 and they only have 6. According...in fact, and this is another interesting fact, the Supreme Court has some authority to move judges on a temporary basis, and for the past several years Judge Rouse, who is in the 5th Judicial District, has been

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coming over three days out of the week to try cases in Lancaster County. So in essence, what we are doing here, colleagues, is we are putting into statute what is already happening in practice. I want to talk a little bit about these weighted caseloads so that you will understand what goes into these decisions. First of all, it's judicial workload, number of cases that are compiled by the Supreme Court. They have to evaluate whether litigants in the judicial districts have adequate access to the courts, they look at the population of the judicial district, and they look at judicial duties and travel time involved in assuring efficiency and maximum service. All of those things are put into a formula by the commission and the Supreme Court, and the result of that is a calculation of how many judges are needed to serve. Travel time is part of that calculation. Colleagues, this is not a rural/urban issue. This is a resource issue. And I will tell you that there are options here. Here are the options, just so you have everything in front of you. LB790 is a reallocation of the current resources. The other option is add some. That costs money. The science will tell you and the process that we as a Legislature put in place will tell you that we have one judicial district that has, to be perfectly clear, 1.47 extra judges; and we have one judicial district that has 1.--I've got to do my math--has a need for 2 judges. That's what the science tells us, colleagues. I would appreciate your support of LB790. Thank you, Mr. President. [LB790]

SENATOR CARLSON: Thank you, Senator Coash. Members, you've heard the opening on LB790. There are senators wishing to speak: Senators Ashford, Larson, Dubas, and others. Senator Ashford, you're recognized. [LB790]

SENATOR ASHFORD: Thank you, Mr. President. I'd like to...first of all, I want to applaud Senator Coash for his efforts over the last few years in dealing with this issue, the judicial resource issue. He has worked hard on it, and the information he has given you is data-driven information that has been collected meticulously by those who are in charge of making these decisions. We are the ultimate decider in these matters, and I just want to retrace for you a little bit the history of why we are that ultimate decision maker. And as you can recall, those of you who have been here the last five or six years, that we have had...and prior to this time, back in the '80s and '90s when I was here before, we periodically had a debate about whether or not the decision-making process for moving judges around the state should be off-loaded, in effect, from the Legislature to a commission of judges or some other mechanism. And in all cases, obviously we are here today with the process we have because the Legislature has consistently resisted taking the final decision on judicial resources into its own hands. And there are good arguments on both sides whether we should...in effect, the argument against the Legislature making the final decision in all cases is, well, it's a political body and they're going to make political decisions. Quite frankly, my experience has been that the Legislature looks very carefully at the data that is presented, makes decisions based on what's been presented, and does not make purely political decisions on where a judge goes. The concerns, however, of individuals in rural Nebraska regarding resources are valid. And I know the Chief Justice is working, continues to

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work, as do the members of the bar, to come up with a variety of tasks and procedures and processes to maintain the viability of county courts throughout the state, whether it's processing of even of fines and tickets that are generated in Douglas County, and allocating those tasks across the county courts, across the state, to keep those county courts in business. I think that the Judiciary Committee has been committed to that and is looking for ways to address the concerns of rural Nebraskans and their county courts. Having said all that, the Judicial Resources Commission unanimously, except for one absent member, voted to move the judge from the 5th to the 3rd. It makes no sense, really, to move on a temporary basis a judge from one district to another. It's critical that there be continuity. In the case of Lancaster County, where each judge is handling 11,000 cases, that's an exorbitant number of cases; and to bring a judge in, Judge Rouse, who's done a great job, to ask Judge Rouse or any other judge from Seward to come in or some other place and handle cases in the middle or at the end or whatever it is, it just is not efficient use of judges' time. I certainly support LB790. It reaffirms...not only does it move a judge...as Senator Coash correctly states, we aren't adding any additional judicial resources, we aren't adding judges, we aren't expanding the budget or increasing the budget to add judges, though I think justifiably we could do that. We could make a very strong case I think for adding judges, but we don't do that; we haven't done that in a while. So I think that what we're doing here is really reaffirming what this Legislature... [LB790]

SENATOR CARLSON: One minute. [LB790]

SENATOR ASHFORD: ...has said over and over again: We as a Legislature want to make the final decision on where a judge is placed. I think it's worked well. I see no reason to change that. But I do think in this case the process is working well. Lancaster County has clearly met its burden to justify this change, and as Senator Coash suggests, the lawyers in the 5th District would concur with that result. So with that, I urge the adoption of LB790. Thank you. [LB790]

SENATOR CARLSON: Thank you, Senator Ashford. Senator Larson, you're recognized. [LB790]

SENATOR LARSON: Thank you, Mr. President and members of the body. As the only rural member of the Judiciary Committee, the only member that isn't from Omaha or Lincoln, I stand up today in opposition to LB790 and as I did in committee. Senator Coash outlined the point that this isn't a rural versus urban issue, but I think at the heart it is to a certain extent. I think we as a body, especially as rural senators, are possibly or have possibly in the past even but continuing to let a dangerous precedent be set. You've heard that everyone in the court system is okay with this, but that doesn't mean that we as a body should be okay with it. I think, as a rural senator, I realize that I represent everybody in my district, not just the judges and lawyers, and I want to ensure that they have continued access to the court system in the future. And hopefully all the

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things we're doing in the Legislature to boost rural population growth, we can, you know, not to say that we want more crime in rural Nebraska, but we have to ensure that we have proper access for all our constituents in the court system. Rural judges have many challenges that those in Omaha and Lincoln don't have. You know, they say they take into account the windshield time. Well, I know one of my judges, he's the county court judge in Holt County, serves another three or four counties, at the very least; and just to get to those counties he has to drive an hour, hour and a half. You know, I'd like to see a little more of the methodology how much of the windshield time did they take into account. You know, not only do they have to drive and have three or four counties, they have to deal with the disorganization in the multiple counties. You know, they have a home county but then they go to another one, and they have to deal with a different county or district court or county court clerk. Just the disorganization as a whole I think is something that we have to take into account as a body. I really think this is another example of the weakening of the rural court system. In the Judiciary Committee, we see a lot and we hear a lot, and the judicial branch has always made it very clear that the consolidation of rural courts is a possibility. And I think this measure, LB790, would continue to lead to that possible consolidation of rural courts. I'm not saying that it's going to happen anytime soon, but I think that is something that the court system has continued to move towards in the past, and I think that's something that they are continuing to move towards; and we have to be very cognizant, as rural senators, that this is a possibility and this is what they're moving towards. And I can't support LB790. I didn't support it in committee. And I'm looking forward to a good discussion and see where it goes from there. Thank you, Mr. President. [LB790]

SENATOR CARLSON: Thank you, Senator Larson. Senator Dubas, you're recognized. [LB790]

SENATOR DUBAS: Thank you very much, Mr. President. You know, when this bill was first brought to my attention and I looked at it thoroughly, I was immediately on the defensive--a very similar reaction to what Senator Larson has just outlined. I was immediately, it's those urban people going after the rural people again, and I was ready to do battle. But I have had some conversations with the people back in my district, the people who are directly impacted by this decision, and as I look at the people who were present at this Judicial Commission meeting, and I know several of them on there, and I know and trust that those people, if there was one...just one hint of feeling like this was going to have a negative impact on our area, they would not have been in agreement with this. So I trust the judgment of the people that I know who were present at this commission meeting, and I also know that they would have probably been one of the first people to contact me if they had any concerns. So after asking my questions about, you know, do you feel that this is going to impact your ability to serve the constituents of our area, is it going to put any undue burdens on you, you know, they explained to me, as has already been outlined, that, you know, we're already sharing a judge with Lancaster County. You know, they just didn't feel like this was going to have a negative

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impact on them, although they were quick to point out we can't afford to give anything else up. And I think that kind of goes to the points that Senator Larson has just made. You know, you open the door a crack and then what happens. So I do want to be on the record and I do want to be very clear that if there were any attempts in the near future to continue to shift some of the judges from this district into another one, I would not be on board with that. I do support LB790 only because I have been assured by the people in my district that this would not have a negative impact on them. But again, I'm going to reemphasize the fact that they raised to me that if there were any attempts to make any additional shifts in at least the near future, they would not be okay with that. So you know, I again want to be on the record that I would not be okay with that either. And again, I think Senator Larson has made some very good points about the challenges that our judicial system has to deal with in the rural areas of this state: the amount of windshield time, the access for our constituents and the amount of windshield time that they have to have when they're dealing with these types of matters. And these are issues that we can't ignore and we definitely have to be cognizant of when we're making these types of decisions. But again, in visiting with the people from the district, and I'm looking at who attended this meeting and their willingness to support this, it's taken a lot of the reservations that I had initially had away; and again, I will ultimately support the bill with the one condition that I did raise. Thank you, Mr. President. [LB790]

SENATOR CARLSON: Thank you, Senator Dubas. Those still wishing to speak include Nelson, Coash, and Sullivan. Senator Nelson, you're recognized. [LB790]

SENATOR NELSON: Thank you, Mr. President, members of the body and colleagues. In reference to the information sheet that Senator Coash has put out, I have no question about in the 5th District here, where the need apparently is 4.53 and there are 6 judges there, accepting those figures, why, then there's no question that the vacancy should not have been filled. But if Senator Coash would yield to a question, please? [LB790]

SENATOR CARLSON: Senator Coash, would you yield? [LB790]

SENATOR COASH: Yes, I will. [LB790]

SENATOR NELSON: You mentioned two options, Senator Coash, I believe: that you cannot replace the judge in that district; or, you might move to another district, such as the 3rd District. There's actually a third option, isn't there, just not to fill that vacancy; and therefore, decrease our output in judicial salaries and all the other things that go with it by the amount of that one judge? [LB790]

SENATOR COASH: Senator Nelson, you're correct. The commission could have recommended just not to fill that vacancy. [LB790]

SENATOR NELSON: All right. Thank you. Let's take a look then at the 3rd Judicial

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District where the contention is that they actually need 7.98 and only have 6. And of course, as you said, Judge Rouse is coming in for three days from Seward County. My question, Senator, is about the weighted caseload by case type; and you said you were going to explain that but it's still not clear to me. Let's take a look at misdemeanors there--369,774. Are those cases weighed cases, if you want to refer to them as that? [LB790]

SENATOR COASH: No, those are literal filings. [LB790]

SENATOR NELSON: What do you mean by literal facts? [LB790]

SENATOR COASH: Well, the number that you're referring to, the 369,000, those are actual misdemeanor filings. [LB790]

SENATOR NELSON: Filings. [LB790]

SENATOR COASH: Yes. [LB790]

SENATOR NELSON: Oh, okay, filings. All right. Do you have any idea then how many of those filings are withdrawn or cancelled or never heard? Are you including pleas then, like perhaps 90 percent of these cases they enter a plea? [LB790]

SENATOR COASH: Well, Senator Nelson, if I might, I appreciate the opportunity to answer that question. Those misdemeanors are part of a larger formula where in 2007 the National Center for the Courts did an assessment, right here in our state,... [LB790]

SENATOR NELSON: Uh-huh. [LB790]

SENATOR COASH: ...and said of those misdemeanor filings, based on how many we see in each judicial district, they know approximately how many of those will be pled down and actually not seen in front of a judge. And so while that's the number of filings, that is a factor in what goes into the... [LB790]

SENATOR NELSON: Okay. [LB790]

SENATOR COASH: ...judicial need. [LB790]

SENATOR NELSON: So what windshield factor would you have in Lancaster County? I mean would the judges there really drive any farther, or even less than some of us coming in to the Legislature, to get to the court? [LB790]

SENATOR COASH: Senator Nelson, the drive time would not be a factor in the weighted caseload for Lancaster County. [LB790]

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SENATOR NELSON: Uh-huh, with the exception of perhaps Judge Rouse coming in from Seward. [LB790]

SENATOR COASH: Senator Nelson, his would be weighted in that judicial district. [LB790]

SENATOR NELSON: Sure...oh, in that judicial district. All right. Well, I just have to say from a mathematical standpoint, and perhaps you and I can talk afterward if this goes forward, but just some initial figures on... [LB790]

SENATOR CARLSON: One minute. [LB790]

SENATOR NELSON: ...misdemeanors here. If you take that number, 369,000, and divide it by 12 months, you come up with 30,000. You divide that by 20 working days in a month, and you've got 1,500 misdemeanor cases a day. And even with those that are not heard and even if you have two judges out of the seven there hearing misdemeanor cases, that seems to me...those numbers seem entirely out of proportion with actual facts, from my experience, for instance, in Douglas County; and I don't think that Lancaster can be that much different. We may have twice as many or a third more, but we have more population up there. So I ask those questions and I'll continue to listen. Thank you, Senator, and thank you, Mr. President. [LB790]

SENATOR CARLSON: Thank you, Senator Nelson and Senator Coash. And now, Senator Coash, you're recognized to speak. [LB790]

SENATOR COASH: Thank you, Mr. President. I want to continue my comments to explain the weighted caseload statistics and how they're calculated. In 2007, the National Center for State Courts did an assessment of caseloads right here in Nebraska, and they took two initial steps. First, they did a time study of each judge, that is, each judge in every district recorded exactly what they did related to their job and how much time each of those things took. They recorded events, including casework; non-case-related judicial work--for example, reading briefs; and driving to and from the courthouse. So every judge did it. They calculated down to the minute what they were doing, including spending time in the car. Then the center went into the JUSTICE system, which is the big computer system which holds all of our court records, and they counted the different types of events that occur in the course of each type of case: such as a traffic case, the judge may only see the defendant once and that is the end of the case; or in a felony theft proceeding, the judge may see the defendant, plaintiff, and/or their counsel on several different occasions and there might be several different judicial proceedings. The resulting data allowed them to determine the average case time for each type of case. This then produced the weight given to each type of case, so you've got a weight to divorce cases, you've got a weight to child custody cases. And



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practically speaking, this assessment revealed the true time and energy value of each case, and it allowed for an accurate computation of judicial needs. For example, the data would reflect that 100 traffic infraction cases have less of a value or weight than 40 felony theft cases. Another example, the data would reflect that 50 divorce cases heard by a judge who spends two hours commuting between home and two different courthouses each day has a greater value or a greater weight than 50 divorce cases heard by the judge who spent only 15 minutes commuting and remains at one courthouse all day. We put this in statute, colleagues...just so that you're aware, 24-1206, we said that the analysis of the workload would include the following: whether litigants had adequate access to the courts; the population of that judicial district; the judicial duties and travel time involved with that judicial district. Those are factors put in statute to assure that these numbers become accurate. Colleagues, I'll remind you of something, and Senator Dubas talked about this. There's ample opportunity for people who access the court system, who use it as part of their profession, judges, all weighed in on this, and they had the opportunity to do it in the Judicial Resources Commission and they had the opportunity to do it at the public hearing. No one opposed, and there's a reason. The facts are the facts. The 5th Judicial District has more judicial resources than they need. Many of us in this body pride ourselves on being pretty tight with our money. If you fall into that category, colleagues, I don't know how you can justify a judicial district that has more than they need. [LB790]

SENATOR CARLSON: One minute. [LB790]

SENATOR COASH: How can you justify that? How can you justify that a district that has 6 but only needs 4.5 makes good fiscal sense? Thank you, Mr. President. [LB790]

SENATOR CARLSON: Thank you, Senator Coash. Those still wishing to speak include Senator Sullivan, Larson, Fischer, and Coash. Senator Sullivan, you're recognized. [LB790]

SENATOR SULLIVAN: Thank you, Mr. President. Good morning, colleagues. I certainly respect the hard work that Senator Coash has put into this legislation and also the judiciary as well. And I certainly recognize the increasing caseload of Lancaster County, and I certainly respect the fact that we have to have an effort to make government not only more effective but also more efficient. And so when I vote red on this, I'm doing perhaps more in principle. Because, as you've heard me say several times on this floor and if you remember my comments last year when we stripped away the aid to counties, I sort of felt like it was just another nail in the coffin for those of us out in rural Nebraska. And this legislation, it feels like yet another chipping away of the infrastructure that we have in rural Nebraska. And I certainly know that our Chief Justice is trying his best to not in any way lessen the access to the courts for the citizens all across the state, so I applaud his efforts in that regard. But still, at the end of the day, it's just another harsh reminder of the changing demographics of this state. And I don't

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want it to be, at the end of the day, a rural and urban thing, because we in this body make decisions that I hope will ultimately improve the quality of life of all our citizens no matter where they live. You've also heard Senator Harms and I talk periodically about the legislative Planning Committee. We formed a subcommittee of that group that I'm chairing called Nebraska's Emerging Future, and so I want you to know that I am totally committed to us reminding ourselves on a regular basis of what is happening in the changing demographics of this state and the need to take a look at it, have the conversations around it, and eventually make public policy that again makes sure that we are doing our very best to improve the quality of life and the resources accessible to the people in this state no matter where they live. Thank you. [LB790]

SENATOR CARLSON: Thank you, Senator Sullivan. Senator Larson, you're recognized. [LB790]

SENATOR LARSON: Thank you, Mr. President, and I'll try to be quick. You know, the one question I ask everybody is...you know, rural Nebraska continues to give and give and give, in my estimation, to Omaha and Lincoln, and Omaha and Lincoln does a lot for rural Nebraska, too; but each time we say, well, just this time we'll let you do it, but if you come back we're going to say no next time. This, and then the next time comes and we say, just this time but next time we're going to say no. When is enough, enough? When are we actually going to say no? When are we going to say, no; we're standing up for our court system. You know, when are we not going to let them take more control of what happens out there, whether it's the courts or anything else. Is that time going to come when the consolidation of courts or counties rolls around? Is that when it's going to be enough is enough and we finally stand up and say this isn't right? You know, that's something I think we have to keep in the back of our minds. What is enough? When do we finally stand up for ourselves and stop saying just this once but next time not? And for me, it's this time. No, I'm not going to let you. You know, you might be able to do it still. You might have the votes on this floor to do it, but I won't be one of those votes. You know, we have to continue to discuss this and I don't know where it's going to go, but I think enough is enough and that's why I voted no in Judiciary Committee and I will continue not to support it on this floor. And thank you, Mr. President. [LB790]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thank you, Senator Larson. The Chair recognizes Senator Fischer. [LB790]

SENATOR FISCHER: Thank you, Mr. President and members. I thank Senator Larson and Senator Sullivan for their very passionate and eloquent words on this issue. I rise in opposition to this bill. I think I've done it every year that I've been here, because we are always faced with a bill to take a judge or a bill to have a study to take a judge or a bill to consolidate this or a bill to consolidate that in rural Nebraska. Senator Sullivan talked

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about the planning process. That's important, but we haven't done it. As I said, I rise to fight this movement every year I've been here--and this is my eighth year. But we continue to see the same type of bill be presented every year. We continue to see the same type of bill come out of Judiciary Committee. Can we do some planning on this? If judiciary needs more money in their budget, can we address that? Because every citizen in this state deserves reasonable access to government services. I'm not saying equal access; I am saying reasonable access. As Chair of the Transportation and Telecommunications Committee, we have had proposals presented that would eliminate driver's license offices here in the state of Nebraska, and I'm sure next year, when I am no longer here, you will see one of those on the floor. There's a proposal to go to either 14 or 17 offices around the state of Nebraska. It will affect Douglas County. You will not have as many of those offices available for your citizens to be able to be there. But it will also mean closing every driver's license facility that is now maybe available once a month in Thomas County, once a month in Blaine County, once every two weeks in Brown County. You'll see those gone. And you'll see one in O'Neill, you'll see one in Valentine, you'll see one in Chadron and maybe in Hartington. That will be the northern tier in the state of Nebraska. Sure, you can go on-line and renew your driver's license, so what's the problem? Look at the age of the average citizen in rural Nebraska. They aren't as computer savvy as many younger people. They may not have a computer. They may not know how to work it. That's just another movement that's out there that I hope you're aware of. We've seen a number of HHS offices close, services that have now become a hardship for people across this state because they aren't able to go for help and to have their questions answered in Valentine. They aren't able to go to find help in Ainsworth, but they can go to a call center and they can try and find help there. Is that what government is about; that we make it more difficult for our citizens who are paying for these services through their taxes? I don't think so. Citizens in this state pay taxes and they deserve reasonable... [LB790]

SENATOR GLOOR: One minute. [LB790]

SENATOR FISCHER: ...access to governmental services. You know, in rural Nebraska we're not totally depopulated yet; and, in fact, there's legislation out there that we heard in Revenue Committee that would help to provide some incentives for communities to draw more people to rural Nebraska. We're seeing an increase in our young people in rural communities across this state, and that is definitely encouraging to see. But if we continue down this road of eliminating, not just consolidating, in my opinion, but eliminating services for all citizens of this state, then we're going to have trouble. We are not going to see Nebraska maintain a third Congressman and we certainly won't grow to have four. But if we can maintain those governmental services, those basic services... [LB790]

SENATOR GLOOR: Time, Senator. [LB790]

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SENATOR FISCHER: ...across this state, that matters. Thank you, Mr. President.  
[LB790]

SENATOR GLOOR: Thank you, Senator Fischer. Senators wishing to be recognized: Coash, Schumacher, Lathrop, Flood, Schilz, and Pahls. Senator Coash, you're recognized, and this is your third time, Senator. [LB790]

SENATOR COASH: Thank you, Mr. President. Many of you know I'm originally a rural guy so I look at those things as well. I grew up in Senator Fischer's district. I understand the population needs. But I also understand that the taxpayers expect us to be practical. And all I want to...one of the things I wanted to talk about on my time on the mike here is that the Judicial Resources Commission was set up in '92 for a reason. These debates about urban and rural, and resources that go to them, become political. And prior to the Judicial Resources Commission and that process being put in statute by our predecessors, these discussions became urban and rural political discussions. And our predecessors decided, you know what? That's not the right way to address these issues; it's not the right way to handle the taxpayers' money; we need to take the politics out of it and insert some science into it, and let's do it in a way that's open and transparent and that everybody who's affected by those decisions has an opportunity to say this is how it will affect me. So they put that in statute in 1992, and they said we're going to make sure we have equal representation. Every judicial district gets a representative on the commission. Judges will be represented. Lawyers who access the system will be represented. Laypeople will be represented. And we're going to put them...and anytime that there's an opportunity presented itself, because we have a couple hundred judges in our state between district and county court judges. Somebody is going to retire, somebody is going to pass away, somebody might get removed from office, and then we're going to have to make some decisions about how to move forward. And we don't want to make it a political decision. We want to make it a decision based on science. And so the Legislature put into practice, into statute, the scientific method via weighted caseloads, to make sure that people had access to justice, that the needs of the district would be taken into consideration, and we could make our decisions, ultimately in this body, but not based on the politics of it but based on the science of it. And this bill is not the result of politics. This bill is the result of science. And I brought it because it's clear to me that we have one district that needs a judge and one that has more than they need. And by the way, one of my colleagues said that we give and give; and I have to tell you that's correct. The 5th Judicial District, crime went down, colleagues. Since the last time that study was done, the crime that occurred in that district significantly decreased, and that's a function of the people who live there and how they operate their businesses, how they run their families. Crime went down. If crime had continued to escalate, the weighted caseload and the science would have reflected that. So I do appreciate the discussion. I do. I very much appreciate the comments from my rural colleagues. [LB790]

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SENATOR GLOOR: One minute. [LB790]

SENATOR COASH: Although I do represent Lincoln, I do consider myself one of you at heart, and I appreciate your comments and even agree with them. Thank you, Mr. President. [LB790]

SENATOR GLOOR: Thank you, Senator Coash. Senator Schumacher, you are recognized. [LB790]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. We live in a strange new world where we have to evolve and adjust and very wisely disburse our resources where they're needed and take them from where they're not needed. That's true whether it's in the global economy between Greece and Germany, right now; whether in our own federal budget where if everybody hung on to everything they had we'd never be able to get it under control, and probably won't anyway; to our local shortages in our Cash Reserve and how we're going to make it out of what still remains to be a very tough future. And this is just one part of the microcosm in that. We have to give and take and adjust and evolve, and try to respond to the economic realities and the social realities of our time. I'm from the 5th Judicial District, practiced law there for 30 years. One thing when this bill came up that I noticed was that I didn't get a barrage of e-mails from people saying, oh no, this is terrible. In fact, I went and contacted some of the judges and attorneys out there and said, are you guys cool with this? And the response was, yes, we probably have excess resources. But then he says, please, when you talk about this, go on the record and say, should that ever change, we'll expect our friends in the urban areas to adjust and redeploy resources to our area. But for now the Judicial Resources Commission has taken a look at this. The resources are probably better spent in the areas where people just get into all kinds of trouble, and not us good people in the 5th Judicial District who have these decreasing crime rates and run our businesses all okay--thank you, Senator Coash. So that's my report from the folks back there. Thank you. [LB790]

SENATOR GLOOR: Thank you, Senator Schumacher. The Chair recognizes Senator Lathrop. Senator Flood, you're recognized. [LB790]

SPEAKER FLOOD: Thank you, Mr. President and members. I appreciate what Senator Schumacher says. I was on the Judiciary Committee for two years. We're the state's board of directors. We make the decisions here for the judicial system in terms of where our resources are. There are about 11 counties in District 5; they've got six county judges. We have three county judges in the 7th Judicial District just north into Madison County. Mr. Mark Sipple, I believe, who is from Columbus and a practicing lawyer, sits on the Judicial Resources Committee, and he feels strongly that this is the right thing to do. If we start being territorial and parochial here, we're not doing our job to make sure that we have the right resources in the right places. The Judicial Resources Committee

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has a reputation for making sure access to justice happens across the state. There was a concern a long time ago they were going to move a judgeship out of Scotts Bluff. There was a concern a long time ago they were going to move a judgeship out of Cherry County. There have been those concerns all along the way. This is the first time, with the exception of maybe one judge in western Nebraska, that I remember them, in my eight years now, ever moving a judge from a district into another one. They're making the right decision. Six judges in this district is too much. And we all talk about government efficiency and we all talk about using the taxpayers' money wisely. Lincoln has the need. Lancaster County has the need. That doesn't make me any less of a rural senator. In 2005, Madison County had the need. We had three first-degree murder cases, death eligible, in Madison County. Our felony filings were well over 800 cases in the Madison County District Court. We needed another district judge and I fought for it. But as things happened over '06 and '07, the need went away and my interest in putting another district judge in Madison County also went away. Senator Coash has a good reputation, in my mind, for trying to take care of the court system and doing what's right; and it's nice to see a nonlawyer step up and try and help a branch of government that needs to allocate its resources wisely. You've got the senator from the county with the most population and the biggest number of cases saying he's going to vote for this bill. He has practiced a lot longer than anybody else--well, a lot longer than me. He was the county attorney in Platte County. He knows what county court is. He's in county court. He does estate work. County court judges deal with probate. This is an acceptable remedy. It does not hurt rural Nebraska. And in my eight years, if I felt there was a part of Nebraska, especially in the rural areas, that needed another judge, I would be the first to vote for it. I don't want any fewer judges than we have to have; but to come in here and say we have somehow rolled over to the urban areas, is shortsighted and flat wrong. I'm going to vote for this. Thank you. [LB790]

SENATOR GLOOR: Thank you, Senator Flood. Senator Schilz, you are recognized. [LB790]

SENATOR SCHILZ: Thank you, Mr. President. Members of the body, good morning. Once again, we're here talking about moving a judge from a rural area to an urban area. We've been through this fight before. We've seen what it has done at times to put a divide between urban and rural senators, urban and rural interests. But I'd like to take a step back from that and get down to the foundational issue that drives all of this. You know, Senator Sullivan talked about the changing demographics, i.e., the population decline. That's our true enemy. It's not an urban senator or a rural senator or urban interests or rural interests. This is Nebraska's interest, and population decline affects all of us, whether you're in Lincoln; Omaha; Beatrice; Brule, Nebraska; Arthur. Our state really needs to take this issue of population decline seriously. Senator Fischer is exactly correct when she says the deconstruction of rural Nebraska is occurring as we speak. It's not going to get any better if every single one of us--and I'm not just talking senators, I'm talking Nebraskans--don't put rural economic development and population growth as

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one of their number one issues. Without that, these conversations will continue; they will go on. They will be cast as an urban and rural fight, when, in fact, when these types of things happen and we have to start to choose where these resources go, because of the specter and the real idea and the real issue of population decline, none of us win. Thank you very much. [LB790]

SENATOR GLOOR: Thank you, Senator Schilz. Senator Pahls, you're recognized. [LB790]

SENATOR PAHLS: Thank you, Mr. President, members of the body. After listening to Senator Larson and Senator Fischer, I think I sort of get it. One thing I liked about Senator Cornett's bill this morning, it sort of implied like...I didn't hear the word Omaha where these centers could be. I heard Kearney, etcetera, etcetera, some of these out...so that was a good feeling. And for some of you who were not here when this all began, and I'm predating myself a little bit here, I started up brand new at this body, and one of the first hottest issues was Class I schools, and there was a lot of bloodletting on that. So I could see where the rural area of the state of Nebraska thought they were getting put to, you might say. See, I happened, at that time, I happened to just come from the...so I didn't really have much feeling for them because I had just moved from Kansas where we had...everybody had become unified school districts in '68. So I really wasn't listening to them very much; although I was from a small town, so I can get it. You start collapsing all these parts of the community that holds everybody together, so I can see...I see this as not necessarily the issue that we're talking about today, but the overall issue. I think sometimes we do it to ourselves. It would be interesting, that's one reason...I know we can't do it on every bill that we pass, but that would be one nice thing that we would put some type of stopping points. Let's recheck ourselves. It would be interesting, if the Class I schools came up again, if that would be a big issue. We know that there are schools out there who are merging, and there's a lot of animosity at times, because I grew up in that so I understand that; I could feel that. I'd be curious if we do that. And then I refer back, okay, to the big city. If we would take another look at the learning community, we may have a different view of it. Now I know we can't always go back and forth and all of a sudden change major things every year, but we ought to think about that. There's one thing about it that Senator...that I did remember from Senator Chambers. He says, you know, you make the vote today, it has a ripple effect; it bounces around for years. So if you continue to take away, what I'm saying, services from...and I'm going to say small-town Nebraska, it just keeps on, a ripple effect. So I can understand why if I were further west, I may look at these things with a little bit of a different perspective. I know the world is changing and we have to stay in front of the future, you may say, because of the population; and we do need to move things around. But there needs to be really a system involved. It's my understanding there was one for this particular bill. That's one reason why I really like Senator Harms's idea or the Planning Committee and the people on it so that we don't rush to judgment on some of these issues. But for those of you...it's just like somebody, if you've never been sick, you

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don't get it. You've been healthy all your life, you know, you don't...some of this stuff doesn't make sense to you. If you have a point in your life you're unhealthy, you take a different look at that; or if you've been poor, it's a different thing. I don't think a lot of times we look at all sides of the issue. One nice thing about living a long time, you have lots of different experiences. You've made many more mistakes than what I call my counterparts, and hopefully most of the time you live by those mistakes. [LB790]

SENATOR GLOOR: One minute. [LB790]

SENATOR PAHLS: Thank you. So I'm asking you today, even though Senator Flood did stand up and this is his area, you know, an attorney saying this is what we should do, because this does play on his livelihood, to be honest with you, because I'm assuming he deals with the courts. But let's pause a little bit and see, is this something that is an absolute? Do we need to do this? Or, as people living further west say, you just keep chipping away. There's two sides to this story. It's not always totally about efficiency, even though we do want efficiency. Sometimes it's just sort of about what life is about and fairness. Thank you. [LB790]

SENATOR GLOOR: Thank you, Senator Pahls. Senators in the queue: Louden and Wightman. Senator Louden, you're recognized. [LB790]

SENATOR LOUDEN: Thank you, Mr. President and members of the community. I need a little bit of a clarification, I think, on this bill. Would Senator Coash yield for questions? [LB790]

SENATOR GLOOR: Senator Coash, would you yield? [LB790]

SENATOR COASH: Yes, I will. [LB790]

SENATOR LOUDEN: Senator Coash, there on page 3 of the bill there, it says that Districts 5, 11, and 12 shall have five county judges. Now is that all three of them together collectively have five, or do they each have five county judges? [LB790]

SENATOR COASH: Each. [LB790]

SENATOR LOUDEN: In other words, that's 15 judges in that area there. [LB790]

SENATOR COASH: Yes. [LB790]

SENATOR LOUDEN: Okay. And in District 3 they went from five to seven judges, and that's Lancaster County. [LB790]

SENATOR COASH: It would go from six to seven, Senator Louden. [LB790]



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SENATOR LOUDEN: Or yeah, they went from six to seven in Lancaster County. Now is anything taken into consideration for the size of the territory because, before, how many judges did...District 5 had six county judges in District 5, didn't they? And they lost a judge out of District 5, is that what you've done? [LB790]

SENATOR COASH: Yes, District 5 currently has six...capacity for six. This bill will take that down to five. One of those judges is already coming to District 3, three out of five days out of the week. [LB790]

SENATOR LOUDEN: And what about District 11 then? They will stay at five like they were before? [LB790]

SENATOR COASH: That's right. District 11 is untouched by LB790. [LB790]

SENATOR LOUDEN: And 11 and 12 didn't change. In other words, District 5 is the one that lost the judge. [LB790]

SENATOR COASH: That's correct. [LB790]

SENATOR LOUDEN: Yeah. And I'm wondering, by the amount of territory you're talking about, see, that those judges don't have nearly as far to travel as they do out in the western areas; and I'm wondering if District 5 loses a judge, that's Hamilton and that's all up around Grand Island and those places like that, how come they weren't traded with Hall or somebody like that rather than with Lancaster County? [LB790]

SENATOR COASH: Senator Louden, just to answer a couple of your questions: First of all, in District 5, travel time is part of that science. And so while they're...you kind of get a higher weight if you have to drive an hour to get to the courthouse, so that is taken into consideration. And if you look at the handout that I gave you, you'll see that in Seward County, which is part of the 5th Judicial District, that is the county where they only need half a judge; and so they were sending that judge half the time to Lancaster County and that's why it's closer to Lancaster County. And the Judicial Resources Commission did look at all of these things and made their recommendation that resulted in LB790. [LB790]

SENATOR LOUDEN: Okay. Thank you. And then, so therefore, then 11 and 12 out at the farthest end of the state, they still stay at five county judges, which those county judges have quite a travel time the way it is. [LB790]

SENATOR COASH: That's correct, Senator Louden. Districts 11 and 12 have no change to the number of judges in that district. [LB790]

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SENATOR LOUDEN: Okay. Thank you, Senator Coash. And thank you, Mr. President. [LB790]

SENATOR GLOOR: Thank you, Senator Louden. Senator Wightman, you are recognized. [LB790]

SENATOR WIGHTMAN: Thank you, Mr. President. Members of the body, I don't intend to take very long. First of all, I want to second a lot of what Speaker Flood said. I also think that we need to look at this Judicial Resources Commission that was put here to study this very issue, to look at it throughout the state. I think there's somewhat equal representation, if not exactly equal representation, among the three Congressional districts. We look at their minutes. Although there were 16 of them present, and obviously outstate Nebraska was well-represented in that number, not one single one voted against this. Everybody voted for this reassignment of judges in which Lancaster County or Judicial District 3 would pick up the judge. That's the very purpose of this Natural (sic) Resources Commission: first, that it be representative. If I saw one vote here that was from outstate that indicated that they did not think that this was good, I might take a second look at it. But it's awful hard for me to second-guess what this commission did by a unanimous vote 16-0. So with that, I do support the advancement of LB790. I don't think it should be looked at as a rural/urban issue and strongly support the bill. Thank you, Mr. President. [LB790]

SENATOR GLOOR: Thank you, Senator Wightman. There are no senators remaining in the queue. Senator Coash, you're recognized to close on the advancement of LB790. [LB790]

SENATOR COASH: Thank you, Mr. President. Thank you, colleagues, for the discussion. I want to thank the Speaker for his words; Senator Schumacher for his words as well. And just to repeat some of the things that I heard, Senator Schumacher would have heard from his constituents if he thought this was going to decrease access to the courts. There is a judge currently coming three days out of the week to Lancaster County, and has been doing so for several years, at least two; and we haven't heard from that 5th Judicial District that that was a burden. And I want to address, finally just address some comments. We talked on LB790 about rural Nebraska and population decline, and those were good discussions and I appreciate all the comments that have come out. Rural population decline is something that we are taking a hard look at in this body. We need to continue to do that. I'm going to support every effort that draws people back into rural Nebraska: people who left, people who came into the urban areas, new people into our state; I'm going to support every effort into doing that. I will tell you, colleagues, though, moving a judge is not going to make a difference on population shifts in our state. It may be symbolic, and we've made it symbolic as far as this debate goes; but moving a judge is not going to impact whether or not somebody moves to rural Nebraska or not. So I would ask you to consider that as you consider

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LB790. Again, colleagues, I thank you for your discussion today and I urge your advancement of LB790. [LB790]

SENATOR GLOOR: Thank you, Senator Coash. Members, you've heard the closing on LB790. The question is the advancement of LB790 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB790]

CLERK: 27 ayes, 11 nays, Mr. President, on the advancement of LB790. [LB790]

SENATOR GLOOR: The bill advances. Speaker Flood, you're recognized. [LB790]

SPEAKER FLOOD: Thank you, Mr. President and members. We're heading into the weekend here, and we're all heading back to our districts to, I'm sure, see constituents tomorrow. I want to just put this on your radar because it relates to the priority bill process. Next week, obviously some important days, as we're going to start taking in, and the deadline for, your senator and committee priority bills; and then the requests for Speaker priority bills are due also next week, and you have a memo on that. Last year we didn't have very many requests. From everything I'm getting on the floor, I think we're going to have a lot of requests for Speaker priority bills. And remember, there's only 25 of them that are afforded to the Speaker; and so I want everybody to know that if you're banking on a Speaker priority bill, you know, those decisions will not be made until after, as you know, the deadline for your personal priorities. So there needs to be a lot of communication between members to make sure if you've got something you really need taken up, that you're working very hard on it. Do not count on a Speaker priority bill at this point, because I'm anticipating the requests for Speaker priorities are going to exceed anything I've seen in my prior five years as Speaker. I do intend to have a consent calendar this session, and that consent calendar is obviously a different model for how the bills are chosen. But I want to remind you what a consent calendar bill is. First of all, the bill is noncontroversial. Generally, bills do not fit consent if anybody testified at the committee hearing in opposition and a committee amendment does not take care of the testifier's opposition. We also have to think about the neutral testimony, and we can always look at the transcript to see what that is. The topic the bill opens up is noncontroversial. For example, a bill which makes technical changes to a parental notification statute, probably not eligible for consent calendar because it opens up a very controversial topic. The bill does not have a lot of changes; it's not a massive rewrite. The bill does not have a General Fund impact. And the bill has been reported to General File by the time I request consent calendar lists. We aren't going to be at that point for a little bit. I offer this to you so that you can ask yourself as you're considering your bills, does this qualify for consent calendar? To make it easy on you and your staff, if your staff wants to call up and speak to Laurie in my office about a bill that you think needs to be passed this year, and you're thinking about consent calendar, we'd be happy to talk to you, especially Laurie, and myself, if needed, about the bill that you're

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interested in. And remember, it is up to me as to whether or not it gets on consent calendar; but my practice has been that you also have to get the approval of the committee Chair that the bill is in front of. I guess I'm telling you all this, and I've never done this, this way before, because I see a lot of requests coming; and some of these requests that people talked to me about I do think are consent calendar eligible, some of them are not. If you are banking on a Speaker priority, please do everything you can to make sure that you're not left with nothing at the, you know, in two weeks when those announcements come out. A reminder that on Monday we're going to check in; we're going to do a few legislative confirmation reports, one from the General Affairs Committee, one from the Education Committee; and then we're going to adjourn for the day shortly after we take those up, because at 9:30 next Monday we are making up the hearings that we cancelled due to weather last week. So just a reminder: We start at 9:00 on Monday; not 10:00. Nine o'clock, short check-in; and then we'll have a full day of hearings. I hope this helps, and if you have any questions, please feel free to contact me or Laurie. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Speaker Flood. Mr. Clerk, for the record.

CLERK: Mr. President, name adds: Senator Pirsch would like to add his name to LB1118, Senator Council to LB599. (Legislative Journal page 491.) [LB1118 LB599]

And a priority motion: Senator Flood would move to adjourn the body until Monday morning, February 13, at 9:00 a.m.

SENATOR GLOOR: Members, you have heard the motion to adjourn until Monday, February 13, at 9:00 a.m. All those in favor signify by saying aye. Those opposed, nay. We stand adjourned.