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Transcriber's Office

Floor Debate  
January 22, 2009

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[LB18 LB179 LB180 LB346 LB653 LR10]

PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the eleventh day of the One Hundred First Legislature, First Session. Our chaplain for today is Senator Dierks. Would you all please rise. []

SENATOR DIERKS: (Prayer offered.) []

PRESIDENT SHEEHY: Thank you, Senator Dierks. I call to order the eleventh day of the One Hundred First Legislature, First Session. Senators, please record your presence. Please record, Mr. Clerk. []

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

PRESIDENT SHEEHY: Are there corrections for the Journal? []

CLERK: I have no corrections. []

PRESIDENT SHEEHY: Messages, reports, or announcements? []

CLERK: Mr. President, I have a Reference report referring LB417 through LB500. And I have a motion to withdraw LB18. That will be laid over. And a communication from the Speaker with respect to LR10. That's all that I have, Mr. President. (Legislative Journal pages 261-263.) [LB18 LR10]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. (Doctor of the day and visitors introduced.) Senator Gay, you are recognized for a motion as we approach the hour of 10:00 a.m. []

SENATOR GAY: Thank you, Mr. President. I move that a committee of eight be appointed to escort the Chief Justice of the Supreme Court to the Legislative Chamber for the purpose of delivering the State of the Judiciary Address. []

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed nay. The motion is adopted. I would appoint the following committee: Senator Ashford, Senator Council, Senator Lathrop, Senator Lautenbaugh, Senator Nantkes, Senator Nelson, Senator Pirsch, Senator White, and Senator Wightman. Would the Escort Committee please retire to the rear of the Chamber to escort the Chief Justice of the Nebraska Supreme Court and the members of the court also. The Chair recognizes the Sergeant at Arms. (Gavel) []

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SERGEANT AT ARMS: Mr. President, your committee now escorting Nebraska Supreme Court Chief Justice Mike Heavican and justices of the Supreme Court. []

PRESIDENT SHEEHY: (Gavel) Ladies and gentlemen, members of the Legislature, the Honorable Chief Justice Michael Heavican, Chief Justice of the Nebraska Supreme Court. (Applause) []

CHIEF JUSTICE HEAVICAN: Thank you, thank you very much. Mr. President, Mr. Speaker, members of the Legislature, fellow justices of the Supreme Court, and visitors. I would like to thank all of the members of the Legislature for inviting me to speak to you again this year. It is a great honor for me to be here today. I would also like to give a special thanks to Speaker Flood for the opportunity to showcase the judiciary--the third, and often least understood, branch of government. Let me begin by introducing the other justices of the Nebraska Supreme Court. To my immediate right is John Wright of Scottsbluff, and to his right is John Gerrard of Norfolk, and to Justice Gerrard's right is Justice Michael McCormack of Omaha. And to my immediate left is Justice William Connolly of Hastings, and to his left is Justice Kenneth Stephan of Lincoln, and to Justice Stephan's left is Justice Miller-Lerman, Lindsey Miller-Lerman of Omaha. I would like to take a moment to direct your attention to your copy of today's remarks and the accompanying cover photograph. That photo was taken last month during the 100th anniversary celebration of the 7-member Nebraska Supreme Court. In 1908, voters of this state approved a long sought-after constitutional amendment expanding the Nebraska Supreme Court from three members to seven members. The court is proud of its history and its accomplishments. But the judiciary is not made up just of the Supreme Court. Our state judiciary includes judges and employees serving every county of the state. The judicial branch also includes the Court of Appeals, 93 district courts, 93 county courts, 3 separate juvenile courts, the Workers' Compensation Court, and the statewide probation system. Over 41,000 new cases were filed last year in our district courts. Of those cases, 8,600 were felony criminal cases. County courts statewide received over 426,000 new filings. That number is up from 396,000 filings in 2007. This year in Lancaster County alone there were over 24,000 misdemeanor criminal cases filed, up from 19,000 last year. In 2007 there were nearly 26,000 new civil cases filed in Douglas County Court. That number jumped to over 31,000 new filings this past year. The activity in our trial courts mirrors the economic activity of the state. As for our probation system, over 16,000 individuals were placed on probation during the first 11 months of this past year. Of those individuals, over 13,000 were adults and 3,000 were juveniles. Eighty-four percent of both the adults and juveniles successfully completed their probation terms. The Supreme Court's General Fund appropriations for fiscal year 2007-2008 totaled about \$68 million. But last year the judicial branch also collected \$60 million in fees and fines. That money was redistributed to local school districts, Nebraska Legal Services, the Law Enforcement Improvement Fund, the state's General Fund, and other state and local agencies. Now I would like to speak to you about some

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of the court's priority initiatives. Many of you are familiar with the court's "Through the Eyes of the Child" Initiative. That initiative is a combination of programs which target abused and neglected children within the juvenile court system. Many of these children are wards of the state and are in foster care. The initiative is so named to remind all participants in abuse and neglect cases of the importance of a child's perspective in the court system. All of our judges with juvenile court jurisdiction are actively involved in the initiative. There are now 25 local teams across the state, each led by a local judge. These teams are comprised of county attorneys, parents' attorneys, guardians ad litem, caseworkers, Health and Human Services administrators, Foster Care Review Board members, Court-Appointed Special Advocates, service providers, foster parents, and other interested individuals. These teams meet regularly to address local issues and develop solutions. On a statewide basis, the initiative offers training, provides assistance to the teams, and continually looks at ways to systemically improve the handling of child abuse and neglect cases. 2009 will be a year of accountability for the initiative. Processes will be evaluated and goals will be measured. We already know that some efforts of the initiative have yielded positive results. Last year in this address I spoke to you of the process of "front loading"; that is, holding prehearing conferences in cases in which children have been removed from abusive or neglectful parents or guardians. The law requires that these children be returned to their parents, if possible, before other permanent, safe placements are sought. Most abusive or neglectful parents have substance abuse or mental health issues. Our prehearing conferences focus on getting services to those parents as quickly as possible. As I just noted, front-loading is providing positive results around the state. Foster care numbers have been reduced. We think our initiative has been a major factor in reducing those numbers. However, finding resources to address parental addiction and mental health issues is a problem contributing to longer foster care placement. I want also to note several procedural changes encouraged by the "Through the Eyes of the Child" Initiative. Nebraska's youth in foster care have informed judges and lawyers that they believe children should attend their own court hearings--which was not common several years ago. Some of our teams began implementing the suggested change, and now children are allowed to attend their own hearings in many parts of the state. Similar to the lack of attendance by children at court hearings, attendance by foster parents at hearings was unusual in many juvenile courts. Two years ago the Legislature passed a new requirement for courts to provide a process for foster parents to supply the court with information regarding children in their care. Judges have reported that the information received from foster parents is invaluable. And foster parents appreciate the opportunity to provide input. Judges also report that more foster parents are attending hearings. I want to thank the Legislature for addressing that issue. I would next like to speak to you about drug courts. The Nebraska Supreme Court now oversees 22 drug courts in 10 of our 12 District Court Judicial Districts. This includes 9 adult drug courts, 6 family dependency drug courts, and 5 juvenile drug courts. More than 1,300 drug-addicted offenders were served by these courts in the past year. This resulted in more drug-free babies born, more families reunited, and thousands of taxpayer dollars

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saved. The goals of drug courts include stabilizing families, protecting children, and improving family safety. This benefits not only individuals but also society as a whole. Drug courts are an important element in reaching those goals. In 2009 we will conduct an evaluation of our drug court programs. Drug courts involve an intensive use of judicial resources. I applaud those judges who willingly spend the additional time required to administer those courts. Now I want to address several of the judiciary's significant challenges. Last year Nebraska's courts needed interpreters in 21 different languages involving thousands of hours of court time. It is not unusual, for example, in Grand Island to need interpreters in languages such as Nuer, Dinka, and Nubian in court cases. Interpreter costs totaled just over \$1 million in 2008. Those costs have risen steadily over the last decade and continue to exhaust resources budgeted for other court projects. However, courts such as the Lancaster County, or excuse me, the Colfax County Court are using innovative ways to provide interpreter services through technology in an effort to curb those costs. Along with non-English speaking litigants, an ongoing challenge confronting our courts is the growing number of untrained, self-represented litigants in civil cases. The growing trend of self-representation presents a challenge for judges and court staff alike. The Supreme Court implementation committee on self-represented litigation has provided forms and instructions in certain types of cases in order to assist litigants before they enter the system. Volunteer judges, lawyers, and law professors met throughout the past year to develop those forms and instructions. Those forms are now available through the Judicial Branch Web site. Thanks to the Nebraska State Bar Association, the committee also developed a successful pilot program in Lancaster County in which volunteer attorneys provide legal assistance. A similar project is slated to begin in Omaha next month. When discussing challenges to the judiciary, I must also mention the disparity of caseloads in our court system. I believe I have mentioned judicial districts several times in this address. Nebraska has 12 District Court Judicial Districts and 12 County Court Judicial Districts. Caseloads are growing in some of those districts, stagnant in some of those districts, and decreasing in others of those districts. Our preliminary statistics show that the caseloads per judge in some of our growing districts are roughly twice as large as the caseloads per judge in other districts. Solving that problem requires more judges, redistricting, or both. Only the Legislature can create new judgeships or change district boundaries. The future of the courts is in technology. The court's technology group, in partnership with the Department of Motor Vehicles, is working with the State's Chief Information Officer to expand the capabilities of our Internet system to every courthouse in every county. This upgrade will enable all courts to communicate effectively. Currently, not all courts have the ability to use the scanning, imaging, and e-filing services provided for their use. This joint venture will solve that problem. Last year the judicial branch launched an online payment process for traffic tickets and other waivable offenses in courthouses throughout the state. The e-payment system offers drivers a secure online means by which to pay traffic citations, which in turn allows motorists and others to save time. This option also reduces the administrative load on our judges and our court staff. Ninety-two of Nebraska's 93 county courts have collected

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finer for traffic citations using the e-payment system. More than 12,000 e-payments have been received as of November of 2008, totaling more than \$1.6 million. For every traffic citation fine paid online, court staff is saved 3 to 5 minutes of work. E-payments currently make up approximately 10 percent of traffic citations. And that number continues to grow as more drivers become aware of the options available online. E-filing...I now wish to discuss our e-filing process. Another large-scale project undergoing expansion and development in the courts is electronic filing. E-filing will offer every court in every county the potential of 24-hour-a-day filing. Likewise, court filings, subject to court rules protecting individual privacy, will be available for online viewing by litigants and citizens 24 hours a day. E-filing is currently available in three of our district courts and six of our county courts. All of the state's courts operate on the same computer system, except for the Douglas County District Court and the Douglas County Separate Juvenile Court. Those two large courts are currently being converted to our statewide computer system. That conversion will allow the court's e-filing system to be uniform statewide. That system will eliminate redundant data entry and greatly increase our ability to provide timely information regarding court processes to citizens, litigants, governmental agencies, and other interested parties. Efficiency will accrue, not just to the court system, but also to the State Patrol, Department of Health and Human Services, Department of Motor Vehicles, and other state agencies. Special thanks to the cooperation we've received from Douglas County in implementing this project. All three branches of government participated in the installation of new digital cameras throughout the State Capitol building this past year. For the first time, the Supreme Court and Court of Appeals have the ability to Webcast court proceedings directly to the people of the state of Nebraska. Appellate court proceedings can be viewed on the closed-circuit TV system on Channel 36, or from the Nebraska Educational Television Web site. Our experience working with the professionals at NETV and the Office of Chief Information Officer has been a positive one. We owe a great deal to our partners in the public television industry for opening this window to the courts. Nebraska's trial courts are also experimenting with cameras in the courtroom. Last year, for the first time in Nebraska's history, a district court trial was broadcast over local news networks through the efforts of Judge Paul Korslund from Beatrice. Here in Lancaster County, Judges Karen Flowers and Steve Burns have worked in cooperation with Nebraska broadcasters to install Web cameras in two of Lancaster County's District Courts. These Webcasts are available to the news media and are fed directly to the University of Nebraska College of Journalism and the University of Nebraska College of Law for educational purposes. We expect some courts in Douglas and Sarpy Counties to experiment with electronic media in their courtrooms in the very near future. Another example of cameras in our courtrooms occurred last November 15. On that date there was courtroom coverage of Nebraska's National Adoption Day celebrations in Omaha, Lincoln, Hastings, and Grand Island. Judges in those communities opened their adoption proceedings in a targeted effort to increase awareness of the need for foster families and adoptive parents. This annual celebration is an opportunity initiated by our juvenile court judges to emphasize the need for permanent families for children in foster

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care and relates back, of course, to our "Through the Eyes of the Child" Initiative. We believe that Nebraska's courts have a great story to tell, and audio and visual coverage of our courts enhances our ability to tell that story. In conclusion, as noted, 2008 marked 100 years of the Nebraska Supreme Court as a 7-member body. Last month the Supreme Court set aside an evening to celebrate those 100 years. We acknowledge the role that ordinary citizens have had in supporting Nebraska's judiciary. And we acknowledge the role that Nebraska's legislators and governors have had in supporting Nebraska's judiciary also. We look forward to earning that continued support for the next 100 weeks and the next 100 years. Thank you again very much for this opportunity to speak to you today. Thanks. (Applause) []

PRESIDENT SHEEHY: Thank you, Chief Justice Heavican. Would the committee please escort the Chief Justice and the members of the Nebraska Supreme Court from the Chambers. Mr. Clerk, do you have items for the record? []

CLERK: Mr. President, some name adds: Senator Dubas would add her name to LB179 and to LB180; Senator Nelson to LB346; Senators Nordquist and Nantkes to LB653. Mr. President, one additional item: a hearing notice from the Natural Resources Committee signed by Senator Langemeier. (Legislative Journal page 269.) [LB179 LB180 LB346 LB653]

And I do have a priority motion. Senator Flood would move to adjourn until Friday morning, January 23, at 9 a.m. []

PRESIDENT SHEEHY: You have heard the motion to adjourn until Friday, January 23, 2009, at 9:00 a.m. All those in favor say aye. Opposed, nay. We are adjourned. []