

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 17, 2013

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PRESIDENT SHEEHY PRESIDING

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

SENATOR COASH: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Senator Coash. I now call to order the seventh day of the One Hundred Third 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, Mr. President.

PRESIDENT SHEEHY: Messages, reports, or announcements?

CLERK: Mr. President, I have a Reference report referring certain legislative bills, specifically LB194 through LB238. A series of appointments to various special committees by the Executive Board were made yesterday; that report will be inserted in the Journal. Announcement: The Natural Resources Committee has selected Senator Brasch as the Vice Chair of the Natural Resources Committee. I have hearing notices from the Health and Human Services Committee, and the Judiciary Committee. And an announcement that the Building Maintenance Committee will meet upon...will meet after the State of the Judiciary Address underneath the north balcony; Building Maintenance, after the State of the Judiciary Address, north balcony. That's all that I have, Mr. President. (Legislative Journal pages 175-178.)

PRESIDENT SHEEHY: Thank you, Mr. Clerk. (Visitors introduced.) Senator Wightman, you are recognized for a motion.

SENATOR WIGHTMAN: Mr. President, I move that a committee of five 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. Thank you.

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PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. The motion is adopted. I would appoint the following senators to serve as the Escort Committee: Senator Ashford, Senator Nelson, Senator Conrad, Senator Seiler, and Senator Wightman. Would you please retire to the back of the Chamber to escort the Chief Justice. The Chair recognizes the Sergeant at Arms.

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

PRESIDENT SHEEHY: Ladies and gentlemen, members of the Nebraska Legislature, the Chief Justice of the state of Nebraska, Chief Justice Mike Heavican.

CHIEF JUSTICE HEAVICAN: Thank you. Thank you, Mr. President. Mr. President, Mr. Speaker, members of the Legislature, and fellow Justices of the Nebraska Supreme Court, I would like to thank the members of this body, and specifically thank Speaker Greg Adams, for inviting me to address you again this year. It is always a great honor for me to report on the court's past year and to discuss the court's future. But first I will introduce my fellow Justices of the Nebraska Supreme Court. To my immediate right is Justice John Wright of Scottsbluff. Next to Justice Wright is Justice Kenneth Stephan of Lincoln. And to Justice Stephan's right is Justice Lindsey Miller-Lerman of Omaha. To my immediate left is Justice William Connolly of Hastings. We initially thought he was not going to be here today, but we appreciate his ability to be here. To his left is Justice Michael McCormack of Omaha. And to Justice McCormack's left is our newest member of the court, Justice William Cassel of O'Neill. You've all been provided with a copy of these remarks, along with the Nebraska Supreme Court's Strategic Agenda. Because my time with you is limited, I will only be able to touch on a handful of our many important goals and initiatives. The core mission of the Nebraska judicial branch is the delivery of justice in a fair and timely manner. Justice may be as mundane as paying a traffic fine or as significant as protecting the constitutional rights of an accused in a capital case. Our courts provide access to justice for all of our citizens. Today I will speak to you about children's rights in Nebraska's courts; sentencing alternatives, such as drug courts and community-based supervision; the rights of Nebraska's vulnerable adults; the challenge of providing language access in our courts; and judicial branch technology. First I will speak to you about the need to have adequate rehabilitative services for delinquent children in our courts. In January 2012, Senator Bob Krist introduced LB985 to enhance the Nebraska Juvenile Service Delivery Project. The project is designed to keep children who are involved in the juvenile justice system from becoming repeat offenders by providing individually targeted services for youth while on probation. The project aims to keep children from being jailed while they receive services or treatment. Emphasis is placed on school attendance, and parents are involved in the rehabilitative process. Significantly, children do not have to become wards of the state in order to receive services from the project. Thus, not only does this

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project provide individualized treatment for children, but it is designed to save money for the state and to assist our juvenile courts with case management. The program also builds communities by reducing recidivism in our juvenile population. In the three pilot projects established in Omaha, North Platte, and Scottsbluff, approximately 600 youth have been served since July 1, 2012. Eighty percent of these young people were able to remain in their family homes rather than being institutionalized. In the first six months of this project, there has been an 80 percent successful probation completion rate, which is higher than the statewide average. In addition to Senator Krist, I would also like to thank Senator Brad Ashford, Senator John Harms, and Senator Tom Hansen for their considerable work toward the passage of this bill. I've spoken to you in the past about our Through the Eyes of the Child Initiative and am pleased to give you this annual update. The initiative is comprised of 25 judge-led, multidisciplinary teams located around the state. The initiative continues to improve the way abused and neglected children are served in our courts, on both a local and statewide level. In 2012, the initiative hosted or co-hosted eight educational training sessions attended by over 700 people in the following communities: Kearney, Scottsbluff, South Sioux City, Hastings, Papillion, North Platte, Lincoln, and Omaha. One of these training sessions was our Nebraska Children's Summit held in Kearney in September. This event was attended by over 450 individuals, including all of our juvenile court judges, as well as attorneys, caseworkers, Department of Health and Human Services supervisors, service providers, and youth. I would like to express my gratitude to Senator Kathy Campbell, Senator Mike Gloor, and Senator Annette Dubas for supporting and participating in the summit. Several of our local teams have excelled, providing increased services to abused children. The largest project is led by Judge Michael Burns of Hastings and his fellow judges of the 10th Judicial District. The Hastings team has been awarded over \$1 million in grants to create a transitional living center for foster youth who have reached the age of majority. This facility is currently being renovated and is set to open this summer. Also, our Sidney-area team, under the leadership of Judge Randin Roland, secured and renovated a housing unit where families can live independently while participating in substance-abuse and mental health treatment. They enrolled their first family in April 2012, using a blending of HUD funding and DHHS support. I would like to thank Senator Harms and Senator Ken Schilz for being part of this endeavor. These teams are great examples of how collaboration among local, state, and national organizations can create positive, sustainable change. On a broader scale, children are achieving stability more quickly because of court-based initiatives, such as prehearing conferences. These prehearing conferences are led by specialized facilitators trained at our Office of Dispute Resolution's regional mediation centers. Due to the success of these hearings and coordination between the courts and DHHS, some termination of parental rights trials and appeals have been avoided, resulting in more timely permanency for children. I now call your attention to important sentencing alternatives to incarceration for adults in Nebraska. In an effort to craft better, longer-lasting solutions to drug abuse, we have developed specialty drug courts which target the underlying problems that bring people into our criminal justice system. For too many Nebraska

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offenders, crime and drug addiction are intertwined. We now have 25 drug courts in operation across the state. This year, for the first time, we anticipate drug courts will be available in all 12 of our judicial districts when the 5th Judicial District in east-central Nebraska opens its first drug court. Recently, a three-year statewide evaluation of Nebraska's drug courts was conducted by the University of Nebraska Public Policy Center. The evaluation confirmed several areas of success: Nebraska drug courts match or exceed national drug court participant graduation rates and boast lower rates of recidivism; Nebraska drug court programs are cost-efficient and comparable in cost to drug court programs across the nation; and, as noted, Nebraska drug courts are becoming more widely available. Upon completion of the evaluation, the Supreme Court Committee on Drug Courts, under the leadership of Judge James Doyle of Lexington, adopted a new five-year strategic plan. Another sentencing alternative provided by the court's adult probation system is the Specialized Substance Abuse Supervision Program which we call SSAS. SSAS is designed for adult felony offenders with chronic drug problems. The program has been in effect since 2006. This sentencing alternative, available in Omaha, Lincoln, Papillion, Nebraska City, South Sioux City, Kearney, and Lexington, addresses the treatment and supervision needs of offenders who might otherwise have been incarcerated. The SSAS Program continues to show success. Nearly 90 percent of SSAS alumni were not rearrested within the first year of program completion. Reporting centers are an essential component of the SSAS Program. Funded by both state and county dollars, these on-site, community-based facilities blend high levels of offender control with intensive delivery of services. The reporting centers offer 96 different rehabilitative options. This, in turn, reduces the reliance on prisons and jails. However, the program is currently filled to capacity and cannot be expanded without additional funding. I will now speak to you about the court's efforts to better serve vulnerable adults. In April 2010, following well-publicized cases of theft, the Supreme Court organized a review task force on the Status of Guardianships and Conservatorships in Nebraska's court system. The task force was chaired by Senator John Wightman. In October 2010, the task force submitted its recommendations to the Nebraska Supreme Court, the Nebraska Legislature, and the Nebraska State Bar Association. The laws enacted by the Legislature and the rules adopted by the court were in response to the recommendations of the task force. We applaud the Legislature for its thoughtful and timely response to the needs of Nebraska's vulnerable adults. There have been many issues and concerns with the implementation of these new laws and court rules. We are working with the Nebraska State Bar Association to identify areas where the process can be simplified while still maintaining an adequate level of protection for these wards. Nebraska's county courts monitor nearly 13,000 ongoing guardian and conservator cases each year. Nebraska court staff and administrative office staff field a multitude of calls, inquiries, and complaints about the new guardianship rules, forms, and procedures. Thanks to our judges and court staff for their exemplary response to the additional work and responsibilities created by these changes. Judges and clerk magistrates report that the changes have provided additional protection to Nebraska's wards. They also note that the increased monitoring

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of annual reports has uncovered further instances of theft and misuse of funds by guardians and conservators. The Supreme Court has announced the creation of a permanent Commission on Guardianships and Conservatorships to carry on the work begun by the original task force. The commission will focus on further implementation of the protections provided by Nebraska's laws and court rules. Emphasis will be placed on balancing those protections with the legitimate needs of guardians and conservators to have simple, understandable reporting requirements. I turn now to another of the ongoing challenges facing Nebraska's courts--providing justice to increasing numbers of individuals who speak little or no English. These individuals come before our courts as victims, witnesses, defendants, and parents of juveniles. Not only is it important that these individuals be heard, but it is equally important that judges, attorneys, and jury members understand the testimony and arguments of non-English speakers so that justice can be served. The number of Nebraskans with limited English skills, as you know, has increased significantly between 1990 and 2010. Last year interpreter services were provided in 39 spoken languages and American Sign Language for over 20,000 court hearings and probation appointments. For example, during the past six months, Czech interpreters were provided in Sidney; interpreters skilled in the African languages of Dinka and Somali were provided in Grand Island; Mandarin Chinese interpreters were provided in Valentine, Fremont, O'Neill, and Kearney; interpreters skilled in K'iche, a Guatemalan language, were provided in Fremont, Hartington, Schuyler, Columbus, Madison, and Grand Island; and American Sign interpreters were provided in Center, Scottsbluff, and Ord. Spanish language interpreters are regularly provided throughout the state. In response to this challenge, in October Nebraska joined 48 other states, the District of Columbia, and two territories in a grant-funded National Summit on Language Access in the Courts. Attendees included Senator Harms, Justice Cassel, Judge Patrick McDermott, and staff of the Administrative Office of the Courts. We thank Senator Harms, in particular, for taking his valuable time to explore with us the challenges of language access in Nebraska's courts. The Supreme Court is addressing language access needs in a number of other ways as well. Work is progressing on a Language Access Plan to help the court system identify future needs of all court users, including judges, attorneys, and jury members. This plan consists of research into Nebraska's immigrant and refugee language needs, appropriate signage and translation of documents, interpreter availability, and education for judges and court staff. The Language Access Plan is expected to be completed this year. Nebraska courts and probation offices are also utilizing technology in providing interpreter services. Spanish-certified interpreters are available statewide daily, via videoconferencing and by telephone. This program has increased access to interpreters and has saved the state of Nebraska almost \$100,000 in travel time and mileage compensation since January 2010. Interpreters for hard-to-find languages can also be accessed remotely. And in order to encourage and support the use of remote interpreters, equipment, such as webcams, monitors, and laptops, has been distributed to courts in 53 counties utilizing a federal grant. Technology is increasingly important to the operation of the entire judicial branch. In June 2012, the Supreme Court adopted a

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new strategic plan, submitted by the court's Technology Committee. Among the objectives established under the plan, the court will work toward electronic filing in appellate court cases, electronic publishing of appellate Opinions, additional use of videoconferencing in the trial courts, and increased use of technology in all our courts to further promote judge and staff productivity. In 2012, the trial courts collected over \$11 million by electronic payments using the [Nebraska.gov](http://Nebraska.gov) Web site. Nearly 65 percent of civil case filings in our county courts were electronically filed in 2012. This is a 20 percent increase over 2011 filings and represents a savings both for the state and all of Nebraska's counties. Over 2,700 attorneys are now registered to use e-filing in Nebraska's courts. The past year was a banner year for the use of videoconferencing in our trial courts. Sixty county courts and ten district courts used the technology in a variety of court proceedings to save travel time. Probation is also using secure teleconferencing to expedite investigations for the trial courts and to improve supervision of probationers. We will continue to expand the use of videoconferencing in 2013. In conclusion, I note that citizens interact with the state courts through our employees and judges in all 93 Nebraska counties. We have over 1,100 court staff and probation employees providing services to you and your constituents in civil, criminal, probate, juvenile, and family court matters. Over 400,000 new cases are filed annually in Nebraska's trial courts, and every day approximately 17,000 adults and children are being supervised by our probation officers. Over 1,000 cases are heard each year by the Nebraska Supreme Court and Nebraska Court of Appeals. The judicial branch touches all Nebraskans, including the most vulnerable of our citizens: children, the elderly, the poor, and the unfortunate victims of crime and abuse. We are proud of the accomplishments our programs have achieved in addressing the needs of all these Nebraska citizens and appreciate the support the Legislature has given the judiciary. We look forward to working with you and continuing to serve all of Nebraska's citizens in the coming years. Thank you again for this opportunity to speak with you today. Thank you.

PRESIDENT SHEEHY: Thank you, Mr. Chief Justice. Would the committee please come forward and escort the Chief Justice and members of the Nebraska Supreme Court from the Chamber. Members, just for your information, today the doughnuts that are being distributed are being provided by Senator Schilz in honor of his birthday. Happy birthday, Senator Schilz. Mr. Clerk, you are recognized for an announcement.

CLERK: Mr. President, a reminder: The Building Maintenance Committee will meet underneath the north balcony, I believe, now; north balcony now, Building Maintenance.

PRESIDENT SHEEHY: Mr. Clerk, you do have a motion on your desk.

CLERK: Mr. President, I do. Senator Dubas would move to suspend Rule 5...I'm sorry, Rule 3, Section 14 so as to permit cancellation of a public hearing scheduled on LB31 for Tuesday of next week. [LB31]

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PRESIDENT SHEEHY: Senator Dubas, you are recognized to open on your motion to suspend the rules on a cancellation of a public hearing. [LB31]

SENATOR DUBAS: Thank you, Mr. President. Yes, I do move for the suspension of the rules. We've had a request to rereference a bill that had originally come to the Transportation Committee. Through some discussion, we'll have it rereferenced to the Urban Affairs Committee, and I have no objection to that at this time. [LB31]

PRESIDENT SHEEHY: Thank you, Senator Dubas. You have heard the opening on the motion. Seeing no requests to speak, Senator Dubas, you're recognized to close. Senator Dubas waives closing. The question before the body is on the suspension of rules for the cancellation of a public hearing. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB31]

CLERK: 30 ayes, 0 nays, Mr. President, on the motion to suspend the rules and permit cancellation of the hearing. [LB31]

PRESIDENT SHEEHY: The motion is adopted. [LB31]

CLERK: Mr. President, I have a notice of cancellation of hearing signed by Senator Dubas, as Chair of the Transportation and Telecommunications Committee. That's all that I have. (Legislative Journal page 185.) [LB31]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now move to introduction of new bills.

CLERK: Mr. President, new bills. (Read LB298-318 by title for the first time.) That's all that I have at this time, Mr. President. (Legislative Journal pages 185-188.) [LB298 LB299 LB300 LB301 LB302 LB303 LB304 LB305 LB306 LB307 LB308 LB309 LB310 LB311 LB312 LB313 LB314 LB315 LB316 LB317 LB318]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. (Doctor of the day introduced.) Members, if you have new bills for introduction that you want read in today, if you could get those up to the Clerk's desk, we would appreciate it. Mr. Clerk, we will continue with introduction of new bills and messages on your desk.

CLERK: Thank you, Mr. President. (Read LB319-339 by title for the first time.) Mr. President, I have a hearing notice from the Natural Resources Committee. I have a selection by Senator Hansen of the Building Maintenance Committee of Senator John Nelson as Vice Chair of the committee. Communication from the Speaker directing the Clerk to forward LR22 to Reference for referral to standing committee for purposes of a public hearing. And I have two new resolutions. LR23 is a resolution by Senator Avery

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proposing the Legislature support an amendment to the United States Constitution that would clarify several misinterpretations of the Constitution by divided actions of the United States Supreme Court that have culminated in the wrongly decided Citizens United v. Federal Election Commission; that will be referred to Reference. And LR24 is by Senator Nordquist; that will be laid over, Mr. President. (Legislative Journal pages 188-194.) [LB319 LB320 LB321 LB322 LB323 LB324 LB325 LB326 LB327 LB328 LB329 LB330 LB331 LB332 LB333 LB334 LB335 LB336 LB337 LB338 LB339 LR23 LR24]

And I have a priority motion. Senator Bloomfield would move to adjourn the body until Friday morning, January 18, at 10:00 a.m.

PRESIDENT SHEEHY: You have heard the motion to adjourn until Friday, January 18, at 10:00 a.m. All those in favor say aye. Opposed, nay. We are adjourned.