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Transcriber's Office

Floor Debate
January 15, 2019

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FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifth day of the One Hundred Sixth Legislature, First Session. Our chaplain for today is Senator Hilkemann. Please rise.

HILKEMANN: (Prayer offered.)

FOLEY: Thank you, Senator Hilkemann. I call to order the fifth day of the One Hundred Sixth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

ASSISTANT CLERK: There is a quorum present, Mr. President.

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

ASSISTANT CLERK: No corrections this morning.

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

ASSISTANT CLERK: There are, Mr. President. I have a Reference report for LB136-LB218, plus LR5CA. I have a notice of committee hearing from the Agriculture Committee and from the Retirement Systems Committee. Announcement of Committee Vice Chairs: Urban Affairs has chosen Senator Hunt as Vice Chair; General Affairs has selected Senator Lowe; and Retirement has elected Senator Lindstrom. And that's all I have.

FOLEY: Thank you, Mr. Clerk. First on the agenda is introduction of new bills. Members, if have you bills prepared for introduction, you may bring them forward to the Clerk's desk at your convenience.

ASSISTANT CLERK: Mr. President, (Read LB257-LB262 by title for the first time.) That's all I have at this time.

FOLEY: Thank you, Mr. Clerk. Senator Lathrop, for what purpose do you rise?

LATHROP: Thank you, Mr. President. Colleagues, if I could have your attention for just a second. Yesterday I had passed around a sheet that showed the census in each of the particular

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Transcriber's Office

Floor Debate
January 15, 2019

facilities at the Department of Corrections. As many of you know, the population in the Department of Corrections is somewhere near 160 percent of designed capacity. State law requires that the Governor declare an emergency at 140 percent next July, so we have a year and a half to address this issue. I've had a number of you contact me and talk to me about your concerns. We are going to use some of the time the Judiciary Committee and others, that are interested in this subject matter, to give you background so that you can better understand some context for the bills that will be entered or debated in the upcoming session. So today I passed around something I'd like you to take a look at, if you are interested, and these are three different events. The first one is today at 1:00, we're going to meet at the penitentiary. We're going to-- this is open to senators, not staff, senators, who are interested, not just Judiciary Committee senators, but any senator in the body who is interested in the topic of the Department of Corrections and the issues relative thereto. We're going to take a tour of the Nebraska State Penitentiary here in Lincoln, and then go to the Diagnostic and Evaluations Center. These are two significant institutions in the Department of Corrections. The tour is not going to be the executive tour where we go and look at the administrative offices, but we're going to go back where there are inmates that are held so that you can get a sense of what this overcrowding is all about. That's going to be drive yourself to the pen. If you can't do both of them, you're welcome to do the first and just go through the penitentiary with us. The second thing we're going to do is Wednesday at 11:00, we're going to have a briefing. And I call this Corrections 101. This is going to be over in the Warner Chamber at 11:00. We're going to hear from Deb Minardi who is with Probations; Julie Micek, who is with Parole; and Doug Koebernick, who is the Inspector General. Koebernick is going to kind of give us an overview of the Department of Corrections. This isn't intended to be an issues oriented briefing. We are not going to be debating any issues, we're not going to be interrogating anybody on the issues, like you might at a committee hearing, but we are going to hear from Koebernick about the Department of Corrections: how many institutions do they have, how many people do they have, how many people do we have to see released before we would meet the 140 percent of designed capacity threshold? We will also hear from Deb Minardi. Deb Minardi was just recently placed in the position of chief probation officer, she's the administrator. Probation does presentence investigations, they take care of people who are on probation, take care of and monitor people who are placed on post-release supervision. She is going to give us an overview of what Probation does. And finally, we'll hear from Julie Micek who is going to talk about Parole, the Parole Board, its relationship to state government, what the role is, and answer questions. It's intended to give you background and to give you information so that you can understand bills as they come to the floor. We're not going heavy into issues with any of these folks. That is open to senators and staff, and, again, that will be across the hall in the Warner Chamber. And then on Friday, the Director of the Department of Corrections, Scott Frakes, is going to do a briefing. This, too, will be across the hall at the Warner Chamber. That will be open to members, not just Judiciary Committee members, but members and your staff to attend. This is an opportunity for us to ask Director Frakes this simple question, he's giving us an hour and a half of his time. We're at 160 percent, we need to get to

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

Floor Debate
January 15, 2019

140 percent, what's your plan? What's your plan and what do you need from the Legislature to get there? And-- now, there will be a little more detail than that, but it's not going to be the deep dive into anybody's bills. We're not going to talk about the minutia of policy inside the Department of Corrections, but really to get a sense of what do we got to do to get the Department of Corrections down to the threshold required by state law before we have to start releasing-- before the Governor has to declare an emergency and come up with a plan to release people to get the population below 125 percent. So these are important issues. They're very, very important to not just the Judiciary Committee but to this body and running the Department of Corrections so that we take care of public safety; we're not releasing prisoners because we haven't developed a plan and implemented one. So you all are invited to that as well, your staff are invited. As far as I'm concerned, this isn't just a Judiciary Committee event either. If you have questions you would like to present to Director Frakes and he has the time in that hour and a half, you're welcome to. But I think you'll find it useful background for the bills that we'll be debating this session on the Department of Corrections. I would encourage you to attend. And that briefing is at-- it's not on my list. I think it's at-- pardon me? No snags, no snags. I think that's at 1:30. If it's not 1:30, I'll let you know-- 1:30, OK. So that's at 1:30 as well over in the Warner Chamber for one hour and a half. That's it. Thank you, Mr. President.

FOLEY: Thank you, Senator Lathrop. Senator Williams, for what purpose do you rise?

WILLIAMS: Mr. President, I rise for a point of personal privilege.

FOLEY Please proceed.

WILLIAMS: Thank you, Mr. President; and good morning, colleagues. Forty years ago today, one of our great state citizens started his career working in this building for the Nebraska Legislature. Today I would like to say a special honor to Bill Marienau. This is the 41st session of the Legislature that Bill has worked in. This starts the 33rd session that he has been legal counsel to the Banking, Commerce and Insurance Committee. He has served under 11 Chairmen of that committee. Three of those Chairmen are still serving in the body today. I've had the opportunity to know Bill for a long time, being a banker and having worked with him on issues. He's highly professional, he's highly knowledgeable. He has a mind like a steel trap, is what some of his colleagues would say, and remembers all of those hidden things around here. And one thing you may not know is he is a huge Vikings fan. And we tried to arrange today to bring the Viking horn into the Capitol, but Bob Ripley wouldn't stand still for that. But it is my pleasure to ask all of you to give a loud and rousing round of applause to my friend Bill Marienau. [APPLAUSE] And also, between 2:30 and 3:30 this afternoon in the Banking, Commerce and Insurance office, which is on the first floor, Room 1401, we will be having treats.

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

Floor Debate
January 15, 2019

So if you would like to stop by with you and your staff, we would appreciate it and say congratulations to Bill on 40 years. Thank you, Mr. President.

FOLEY: Thank you, Senator Williams. Senator Lindstrom, for what purpose do you rise?

LINDSTROM: Mr. President, I rise for a point of personal privilege, please.

FOLEY: Please proceed.

LINDSTROM: Thank you, Mr. President. I, too, would like to take this opportunity to recognize the Banking, Commerce and Insurance Committee counsel, Bill Marienau, for his 40 years of dedication and service to the Legislature. Bill started in 1979, and many senators have had the privilege to work with him since then, including myself. All 11 Banking Committee Chairmen have the good sense to keep him on as committee counsel. And as a former Banking, Commerce and Insurance Committee Chair, I was able to work with Bill on a regular basis and have gained a true appreciation for his professionalism and mastery of the legislative process. Whether dealing with pay day lending or updating the banking act, Bill approached every issue that came before the committee with a professionalism and diligence. Bill's impressive knowledge of statute and detail-oriented approach was invaluable to me during my time as Committee Chair and has been a great help to many others who rely on him as a source of institutional knowledge and honest counsel. He works tirelessly to make sure committee members have accurate summaries of anything they will encounter in hearings and is careful to schedule bills covering similar subjects on the same day, which makes the committee more efficient. It also makes life easier for testifiers. For all these reasons, Bill Marienau is a great committee counsel, but more than that he is a great husband to his wife, Lynn; he's a great father to his daughter, Nicole; and has been a great friend to me. And because of this I would like to take this opportunity to recognize Bill Marienau and thank him for his 40 years of public service. So if you'd join me in thanking Bill Marienau once again. Thank you, Bill. [APPLAUSE]

FOLEY: Thank you, Senator Lindstrom. Mr. Clerk, more bills.

ASSISTANT CLERK: Thank you, Mr. President. (Read LB263-LB272 by title for the first time.) That's all I have at this time, Mr. President.

FOLEY: Thank you, Mr. Clerk. Additional bills, Mr. Clerk.

ASSISTANT CLERK: (Read LB273-LB292 by title for the first time.) That's all I have at this time, Mr. President.

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

Floor Debate
January 15, 2019

FOLEY: Thank you, Mr. Clerk. Members, if you have additional bills, we need to receive them in the next five minutes or so, because after the Governor's speech, we will be adjourning. So if you have new bills, bring them in the next five minutes, otherwise hold them until tomorrow. Thank you. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. I would like to make a motion that we have a committee of five be appointed to escort the Governor of the state of Nebraska to the Legislative Chamber to deliver his State of the State Address. Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen. Members, you heard the motion. Those in favor say aye. Those opposed say nay. The motion is adopted. I hereby appoint the following five members to serve as our Escort Committee: Senators Crawford, McDonnell, Geist, Bostelman, and Hughes. If those five senators could please retire to the rear of the Chamber for the purpose of escorting the Governor. Thank you. The Chair recognizes the Sergeant at Arms.

SERGEANT AT ARMS: Mr. President, your Committee now escorting the Governor of the great state of Nebraska, Governor Pete Ricketts and First Lady Susanne Shore. [APPLAUSE]

FOLEY: Please be seated. Members of the One Hundred Sixth Legislature and distinguished guests, I present to you the Governor of the great state of Nebraska, the Honorable Pete Ricketts. [APPLAUSE]

GOVERNOR RICKETTS: Good morning. Morning. Thank you. Morning, thank you. President Foley, Speaker Scheer, members of the Legislature, distinguished guests, friends, fellow Nebraskans, and of course, our First Lady, my lovely wife, Susanne, good morning. [APPLAUSE] Once again, congratulations on the commencement of the One Hundred Sixth Nebraska Legislature. And congratulations, Speaker Scheer, on your reelection. I look forward to working with you. This Unicameral is a unique institution among legislative bodies in our nation. Each of you has a solemn responsibility as one of 49 citizen legislators to represent the best interest of your constituents. As I begin, I want to take a moment to welcome the newest members of the body. Each of you brings significant experiences and perspectives. Senator Arch has a background in health care management. Senators Brandt, Murman, and Dorn will be voices for agriculture as we work to grow our number one industry. Senators Cavanaugh and DeBoer have experience in higher education. Senator Gragert is a 40-year veteran of the Air Force and the Nebraska National Guard. Senators Hansen, Hunt, La Grone, and Slama bring important perspectives as entrepreneurs, small business owners, and young professionals. Senator Lathrop is a seasoned legislator as he returns. And Senator Moser is a small business owner and a former public servant as the mayor of Columbus. Let's recognize this new class and welcome them again. In the coming weeks and months, each of us will experience or use our experience as we

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

Floor Debate
January 15, 2019

shape public policy to work together. Our republic works best when we find areas of collaboration where we can put Nebraskans first. As we begin our work this year, I am happy to report to you that the state of the state is strong and growing. Last week I relayed to you in my inaugural address that Nebraska has achieved high marks over the past year. We are the number one state for fiscal condition; number two for cost of doing business and regulatory environment. We have the third highest wage growth of any state since 2014. We have the fourth best workforce participation rate. Forbes says we are the fifth best state overall for business. And we have the sixth lowest unemployment rate in the country. Over the past four year, we have strengthened Nebraska's place in the world with our four pillars of growth which include developing our people, cutting the regulatory red tape, controlling spending so we can deliver tax relief, and promoting Nebraska both nationally and internationally. This has led us to back-to-back awards for the most economic development projects per capita of any state in the nation. In our work this year, it is important to remember that even as the state is employing record numbers of Nebraskans, our number one industry--agriculture--is grappling with low commodity prices. Since 2013, farm income in Nebraska has been cut by over 60 percent. Think about that for a moment. When a family's income falls by over half, you are forced to make tough decisions that have a significant impact on your way of life. During this session and throughout the year, we must work to expand opportunities for our farm and ranch families. We are doing that in the area of value-added agriculture so that more families can bring the next generation home to the family farm. Last year, we welcomed six new counties into the state's Livestock Friendly County program for a total of 49. Layering livestock into the family operation is a game changer for many families. Take for example the Schulz family of Seward County. Three generations of Schulzes have joined us here today under the north balcony. They recently received approval to build a barn to raise chickens for Costco. Their new poultry operation will allow Joe, the third generation and a recent graduate of the University of Nebraska, to return to the family farm. Please help me welcome and congratulate Joe and the Schulz family. As I worked on this two-year budget, I had one thing in mind--the people of Nebraska. We have a responsibility to the people we care for and the people who pay the bills--the taxpayers. Let's put Nebraskans first as we work on this budget. In all my budgets, I have worked to keep the rate of growth at about 3 percent or less. The budget I am presenting to you today is no different. It keeps the rate of spending growth to 3.1 percent. A significant portion of the spending increase is attributable to Medicaid expansion and state aid to public schools. In my budget, state agencies continue to control spending growth with an average two-year operations increase of just 2.3 percent. Even while controlling spending, we have prioritized new initiatives to help grow Nebraska, recognize the dignity of human life, and protect public safety. With this budget, we can do more to help grow Nebraska in three ways. First, we are doing more to help Nebraskans take great paying jobs. Job creators across this state name work force as the top priority. We have a low unemployment rate, a high labor force participation rate, and lots of great jobs. With the right opportunities, the next generations of Nebraskans can find a pathway that gives them the career they need to stay in Nebraska and enjoy the good life. Take, for example, the story of Chris

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

Floor Debate
January 15, 2019

Nightser. Chris started high school with industrial arts classes. After graduation, he took a job in a fabrication shop which then led to a career with Miller Electric, starting as an apprentice. He has earned his associate's degree, bachelor's degree, and master's in business administration while working thanks to tuition reimbursement programs and scholarships. This gave him over \$100,000 of education with relatively little debt. Today he is a prefabrications operation manager at Miller Electric. Chris' story is important because he was exposed to opportunities in his field at an early age, and he was able to take advantage of them because of an apprenticeship, scholarships, and tuition reimbursement. Please help me welcome Chris who is with us in the north balcony. To help more Nebraskans like Chris find great careers, I am making two new proposals. As previously announced, I am recommending the creation of the Nebraska Talent Scholarships program to help our community colleges, state colleges, and university system attract even more students in targeted programs from engineering to healthcare with over 2,100 new scholarships. Additionally, I am recommending the expansion of the developing youth talent initiative to connect more middle school students to opportunities in manufacturing and IT, with an additional \$1.25 million annually. This program has already impacted 7,000 students, and this expansion will help reach even more. Working together to create more pathways, we can help connect more Nebraskans with the countless great opportunities available in communities across the state. Second, my budget also takes new steps to make state government more effective, more efficient, and more customer focused. Over the past two years, we have worked together to successfully create a department of transportation and a unified veterans agency. This year, Senator Hughes and I are proposing to bring together the Department of Environmental Quality and the Energy Office creating a Department of Environment and Energy. That will allow the state to form a unified vision and strategic plan for our work in these related areas. Senator Lowe and I are also recommending moving three key safety inspection programs from the Department of Labor to the State Fire Marshal's Office to better align with its purpose of protecting public safety. The third priority we are working on in this budget is tax relief. Thanks to our work on controlling spending over the past few years, we have been able to build new tax relief into this budget. Property tax relief is the number one priority Nebraskans want as I travel the state. And many of you have shared similar stories with me from your districts. I have three property tax relief proposals. First, my budget provides \$51 million in new, direct property tax relief through the Property Tax Relief Credit Fund each year. This is a 23 percent increase in property tax relief from this fund to all Nebraska property owners. Second, Senator Lindstrom and I are recommending that we establish a statutory floor of \$275 million for the Property Tax Credit Relief Fund. This will give taxpayers more certainty about future tax relief. And third, Senator Linehan and I are proposing to establish a 3 percent cap on property taxes levied by local governments. Over the past decade, local property taxes have risen by over 57 percent. To deliver long-term structural relief is important that we limit the growth of property taxes. Our proposal comes in the form of a constitutional amendment which must be approved of by the people after receiving your consideration. These proposals together will help deliver immediate relief and structural reform. Furthermore, I stand ready to work with all of you on additional property tax

Floor Debate
January 15, 2019

relief proposals such as Senator Erdman's income potential evaluation bill which would help deliver much-needed reform to our property tax system. I know there will be many proposals introduced this year. As we work together on property tax relief, any proposal should help control spending, fit into the budget, and cannot raise taxes on one group of people to reduce the taxes on another. My last proposal in the area of tax policy delivers tax relief for Nebraska's veterans. Thank you to Senators Brewer, Blood, Bostelman, Clements, Crawford, Gragert, Linehan, and Lowe for your work on this initiative to help make Nebraska a better place to retire as a veteran. Our proposal is a 50 percent tax cut for all veterans receiving military retirement benefits. Five out of our six surrounding states do not tax veterans' retirement benefits. This proposal is a step forward which makes Nebraska more tax competitive so that we can keep our veterans and their families here after retirement. Numerous veterans and representatives from the Nebraska National Guard have joined us here today and are sitting in the north balcony. Please help me recognize them. Thank you for your service. Another important area that will be addressed in the session is incentives. You all have already started an important conversation about the future of Nebraska Advantage and what the state's tax incentives should look like. Across the nation, incentives are an important tool for attracting new jobs and investments. As you work to reform incentives, I encourage you to keep in mind these goals. Nebraskans want tax policy that is simple, transparent, accountable, and attracts higher paying jobs. Finally, there are a few more items that I want to highlight in my budget. My budget implements Initiative 427, fully funds state aid to K-12 public schools, recognizes the dignity of human life, and protects public safety. In November, voters approved Medicaid expansion, and my budget recommendation reflects the vote of the people of Nebraska. Right now the Medicaid team is working to fulfill the direction of the initiative to file a state plan with the federal government by April 1. My budget provides new aid to K-12 public schools by fully funding the \$103.8 million TEEOSA increase. This means the formula will provide a record \$1.1 billion in annual schooling. As I have noted before, Nebraska is a pro-life state. My budget contains the pro-life language approved by the body last year. Furthermore, I want to commend Senator Albrecht for her continued work to protect the dignity of the unborn life. I look forward to working with all of you this session as we represent pro-life Nebraska and look for new ways to support expecting mothers and unborn children. We must also continue to protect public safety and Nebraska's communities. Each year we have collaborated in bringing about important change in our Corrections system. Together we have completed sentencing reforms for nonviolent offenders. We have invested in our prisons and are upgrading our physical plant of our facilities to help deliver programming that we need to reduce the recidivism rate. We are assessing inmates more quickly to connect them with the right programming. And we have invested in additional staff and staff retention incentives. As you know, there is more work to be done. While sentencing reforms have helped control population growth in our prisons, new felony admissions mean our population has not decreased at the rate expected. My budget recommends an additional 384 high-security beds which will help assist and bring our prison population below the emergency level set by the Legislature. I look forward to working with Chairman Stinner, the

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

Floor Debate
January 15, 2019

Appropriations Committee, and the entire body to pass this budget. As we work together this session, many challenges and opportunities lie ahead. Let's roll up our sleeves to connect Nebraskans to great paying jobs, to control spending, to make government more effective, to deliver tax relief for our veterans, and to cut property taxes. This session and this budget present an opportunity to put the priorities of the taxpayers and the people of Nebraska first. I ask for your help in enacting this vision to grow Nebraska. God bless you all and God bless the great state of Nebraska.

FOLEY: Thank you, Governor Ricketts. Would the Escort Committee please assist the Governor and the First Lady as they depart the Chamber. Additional bills, Madam Clerk.

ASSISTANT CLERK: (Read LB293-LB303 by title for the first time.) Legislative Resolution LR8CA, introduced by Senator Linehan at the request of the Governor. It's a constitutional amendment to provide the total amount of property tax revenue raised by a political subdivision shall not be more than 3 percent greater than the amount raised in the prior fiscal year. (Read LB304-LB312 by title for the first time.) That is all that I have at this time, Mr. President.

FOLEY: Senator Pansing Brooks, for what purpose do you rise?

PANSING BROOKS: I would like to make a point of personal privilege.

FOLEY: Please proceed.

PANSING BROOKS: Thank you. I would like to announce that today we have with us members of the Sovereign Nation who are located under the balcony. The Sovereign Nation in Nebraska of the Omaha Tribal Council. We have Tribal Chair Isaac Sherman here, as well as the Nebraska Indian Commission Executive Director Judi gaiashkibos. Please help me in welcoming them.

FOLEY: Mr. Clerk, you are recognized.

ASSISTANT CLERK: Mr. President, some items for the record. I have notice of committee hearing from the Banking Committee, the Transportation and Telecommunications Committee, the Education Committee, and the Urban Affairs Committee. Announcements: the Business and Labor Committee will hold an Executive Session at 11:15 in Room 2022. The Education Committee will meet now under the south balcony. Reference Committee will meet in Room 1003 upon adjournment. Series of name adds: Senator Hunt to LB5; Senator Hilkemann to LB7; Senator Hunt to LB12 and LB13; Senator Williams to LB14; Senator Brandt to LB14; Senator Hilkemann to LB15; Senator Hunt to LB43; Senator Kolowski to LB212; Senator Briese to

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

Floor Debate
January 15, 2019

LR5CA. Mr. President, priority motion: Senator Crawford would move to adjourn until Wednesday, January 16, 2019, at 10:00 a.m.

FOLEY: Members, you heard the motion to adjourn. Those in favor say aye. Those opposed say nay. We are adjourned until 10:00 a.m. tomorrow. Members, today is Senator Mike McDonnell's birthday, that's the purpose of the doughnuts being shared with us today. Thank you very much. And thank you and happy birthday, Senator McDonnell.