

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 28, 2025
Rough Draft

KELLY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fourteenth day of the One Hundred Ninth Legislature, First Session. Our chaplain for today is Arin Hess, chaplain and president of Capital Studies from Senator Bosn's district. Please rise.

ARIN HESS: Dear Heavenly Father, we come before you with a humble and grateful heart asking you to give wisdom to those who are seated in places of authority in our nation. For President Trump, Vice President Vance, those representing the United States Senate and the U.S. House, and those representing us in our Nebraska State House, we thank you for them, Lord. You have empowered these senators to make laws and decrees which help manage our daily lives and make us safe. Please guide their decisions. May they always put love and justice first. Bring to them people of high moral character and spiritual maturity who can provide good counsel. Among the many voices which cry out to them every day, may they hear your voice above all others. Give them discernment on the difficult issues being discussed and decided on our behalf. We know we are all sinful and subject to fall short, so we ask for an extra measure of grace, mercy and humbleness, to know the wisdom that only comes from you. May the virtues of the angels in the Rotunda, wisdom, self-control, generosity, justice, courage, faith, hope and love, be manifest in this body today. We submit ourselves to you, God, recognizing our rights are given by you, our ultimate authority. We ask you to protect the lives of the unborn and innocent, maintain our religious freedom, and uphold family as you so beautifully and perfectly designed. Give our leaders help as they seek to secure a peaceful and quiet living in our communities. Please protect each of them and their families, Lord, especially during times of separation. Grant them the health and strength they need for every day. And may each of them know the saving grace of Jesus Christ that alone gives us hope for the future. We ask this all in His name. Amen.

KELLY: I recognize Senator Hardin for the Pledge of Allegiance.

HARDIN: Please join me. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

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KELLY: Thank you. I call to order the fourteenth day of the One Hundred Ninth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

CLERK: There's a quorum present, Mr. President.

KELLY: Thank you. Are there any corrections for the Journal?

CLERK: I have no corrections this morning, sir.

KELLY: Are there any messages, reports or announcements?

CLERK: There are, Mr. President. Your-- notice of committee hearings from the Natural Resources Committee, the Judiciary Committee, the Revenue Committee, and the Education Committee. Additionally, your Committee on Natural Resources, chaired by Senator Brandt, reports LB91 and LB167 to General File. Additionally, your committee on Judiciary, chaired by Senator Bosn, reports LB51, LB52, LB72, LB85 to General File. Your committee on Revenue, chaired by Senator von Gillern, reports LB182 and LB208 to General File. And your committee on retirement-- Nebraska Retirement Systems, chaired by Senator Ballard, reports LB108 to General File. Motion to be printed from Senator Moser, suspending Rule 3, Section 14, to permit cancellation of a public hearing. That's all I have at this time.

KELLY: Thank you, Mr. Clerk. Senators Clements and Jacobson would like to announce some guests in the north balcony: Nebraska Bankers Association leadership class from across the state. Please stand and be recognized by the Nebraska Legislature. Senator Brandt would like to recognize the CSG group: Tim Anderson, Laura Tomaka, seated under the south balcony. Please stand and be recognized by the Legislature. Senator Bosn would like to recognize Dan Coke, the Sower Church in Lincoln, Nebraska, under the north Balcony. Please stand and be recognized by the Legislature. And Speaker Arch would like to recognize the following, attending for the Nebraska State Bar Association, all under the south balcony: Steve Gealy and Julie Shipman-Burns, and attending from the Nebraska State Bar Association, the Honorable Judge John Gerrard, Ken Hartman, and Liz Neeley. Please stand and be recognized by the Nebraska Legislature. And the physician of the day, Dr. Theresa Hatcher. Please stand and be recognized by the Nebraska Legislature. Speaker Arch, you're recognized for an announcement.

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ARCH: Thank you, Mr. President. Colleagues, I am distributing a memo this morning. It-- it'll come around if you don't have one already. And it, it has to do with procedural motions and how we're going to handle these as we begin our floor debate tomorrow. If you have-- if you're returning from 2024, this looks very familiar, because it's-- it is. We clarified some things, but honestly, there's not a lot of change from what we did in 2024. We are going to-- for the traditional legislative bills, we're going to have an 8-4-2 on, on the three rounds of debate. We're going-- we're going to have an option-- I'm going to have an option for, for shortening that to 4-2-1 on those emotionally-charged, controversial type bills, and usually those are the kind of bills that require an up/down vote, and lengthy debate probably isn't going to be changing a lot of minds. So, there'll be a few of those, but not, but not routine. And, and it-- and it also talks about what we're doing with appropriation bills, as we did last time, reports, committee reports, those types of things. So, you can, you can read that. It, it does provide me with some flexibility. I don't intend to deviate from the 8-4-2 or the 4-2-1, whatever is announced ahead of time. If we get into a debate, there is some flexibility there, but again, don't intend to deviate. So again, as I say, if you are-- if you are-- if you're returning from 2024, you're going to-- you're going to see something that you recognize. One change: we originally thought we would begin at 9:00 tomorrow morning; we are going to begin at 10:00. We're going to convene tomorrow morning at 10:00, and we'll do that for this week. We do have worksheet order bills that we will begin debating tomorrow, and thank you very much to the committees that are, that are moving those worksheet order bills. And we will, we will, we will put those up. So, with that, thank you very much, Mr. President.

KELLY: Thank you, Speaker Arch. Senator Clouse, you're recognized for a motion.

CLOUSE: Thank you, Mr. President. I move that the 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.

KELLY: Members, you've heard the motion. All those in favor, say aye. Those opposed, nay. Motion carries, and we'll ask Senators Hallstrom, McKinney, Rountree, Storer and Storm to go to the rear of the Chamber

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and escort the Chief Justice. I recognize the Senator-- Sergeant of Arms [SIC].

SERGEANT AT ARMS: Mr. President, your committee escorting the Chief Justice of the Nebraska Supreme Court, the Honorable Jeffrey Funke. Thank you.

JEFFREY FUNKE: Please be seated. Mr. President, Mr. Speaker, and members of the Legislature, thank you for inviting me here today to report on the current state of the judicial branch, to highlight some of our successes, and to identify future opportunities yet to be acted upon. It is an honor to address this legislative body. I am joined by my fellow members of the Nebraska Supreme Court. May I introduce, in order of seniority, as in years of service on the Court, Justice Lindsay Miller-Lerman of Omaha; Justice William Cassel, of O'Neill; Justice Stephanie Stacy, of Lincoln; Justice Jonathan Papik, of Omaha; and Justice John Freudenberg, of Rushville. I would also like to acknowledge soon-to-be Supreme Court Justice Jason Bergevin of Columbus. I appear before you as the newest Chief Justice of the Nebraska Supreme Court. Though giving this address is new to me, seeing the excellent work of the men and women of the judicial branch is not. The extraordinary efforts of these dedicated professionals ensures that all Nebraskans have a forum to peacefully resolve disputes. Many of you, I have known for years, and some of you I have met for the first time these last few months. When speaking with you, it is abundantly clear that, although the judiciary and the Legislature are separate branches of government, we share the common goal of serving Nebraskans to the best of our abilities. Over the years, we have collaborated to find new and innovative ways to administer justice. In doing so, the judicial branch has expanded its core functions, which has proven to be a benefit to our citizens. The partnerships and cooperation between our branches are vital to maintain a society where the law is applied fairly and justice is accessible to all. Some of these partnerships include probation, post-release supervision, problem-solving courts, and public guardianships. Our joint efforts have increased public safety and saved taxpayer dollars. But as I stand here today, we can all agree that there is more work to be done. Our past accomplishments have built a strong foundation for our future successes, and this legislative session marks the next opportunity for our branches to work together to serve Nebraskans. Back in 2014, and again in 2021, all three branches of Nebraska's government participated in criminal

justice reinvestment efforts. The principal goal of these efforts was to reduce the costly utilization of incarceration. Even though our state's crime rate has decreased, our rate of incarceration has increased. We continue to have one of the most overcrowded prison systems in the United States. These criminal justice reinvestment efforts identified a need to divert less serious felons from prison and place them on probation. As a result, probation has been tasked with supervising more people with higher risk to recidivate and higher needs to rehabilitate. Despite this increase in more complex cases, the work of our adult probation office continues to provide excellent results. The recidivism rate for those successfully completing probation is an exceptional 19%. Today, adult supervision-- adult probation supervises over 14,000 individuals across Nebraska. Our probation officers are educated and trained in evidence-based practices focused on behavioral change. The success of these strategies requires a high degree of involvement with families, service providers, employers and community members to ensure accountability for offenders and safety for the victims and the public. We currently operate 17 community reporting centers throughout the state, which provide a central location for a continuum of services. Last year, over 7,000 probationers accessed our reporting centers. In 2022, Nebraska probation was selected by a national foundation as one of three innovation sites in the country to work with young people aged 18 to 25, referred to as "emerging adults." Our work focuses on redefining strategies to improve outcomes for this age group. As the data has shown, emerging adults are the group most likely to re-offend. This past June, the Supreme Court approved the first ever strategic plan for probation. The goals outlined in this plan will ensure that Nebraska probation remains a national model of proven sentencing alternatives for our courts. Furthermore, Nebraska probation is cost-effective. The average cost of incarceration in Nebraska is \$41,000 per person, per year; the average cost of adult probation is \$3,500 per person, per year. As part of that 2014 justice reinvestment effort, research show that Nebraska's felony sentencing system failed to provide adequate supervision for individuals upon their release from incarceration. Accordingly, when this body enacted LB205 and 2-- and LB605 in 2015, it turned to the judicial branch and Nebraska probation to administer post-release supervision. On a daily average, 1,300 individuals are supervised under this program. Those on post-release supervision must comply with court ordered conditions, including maintaining employment, participating in behavioral health

services, and refraining from criminal activity, all while being intensely supervised by a probation officer. Less than 10% of those under post-release supervision return to the Department of Correctional Services because of a probation revocation. There is no doubt that the administration of this program by probation has prevented future crimes that kept thousands of individuals from returning to our prison system, and has done so at a substantially lower cost to taxpayers. Another partnership between our branches is our state's problem-solving courts. To date, a dug-- adult drug courts have been established in every judicial district. Additionally, our trial court judges have implemented four veterans treatment courts, two re-entry courts, one young adult court, a mental health court, and a DUI court. Our juvenile court judges have implemented two family treatment courts, and a juvenile drug court. Nebraska judges volunteer to preside over these labor-intensive courts, and their role is vital to the success of these programs. The recidivism rate for those who successfully graduate from a problem-solving court is 24%. There are over 800 participants in these courts, which is nearly an all-time high. However, more Nebraskans can and should be served. To do so, we will need your continued commitment to provide additional resources. The strategic plan for problem-solving courts identified the need for growth and expansion. Following the plan, in 2024, the Supreme Court invited judges, prosecutors, defense attorneys, law enforcement, treatment providers and probation staff to participate in a summit to address these needs. Summit attendees made recommendations to assist with the expansion and growth of problem-solving courts, and they will continue working on these goals in 2025. Juvenile probation is yet another example of the collaborative work between our two branches. In 2013, the Legislature shifted full responsibility of juvenile supervision from the executive branch to the judicial branch. You did so because Nebraska had the country's highest rate-- more than double the national average-- of children being removed from their home and made wards of the state. Since taking on this additional responsibility, we have cut the rate of out-of-home placement nearly in half. On any given day in Nebraska, nearly 2,700 youth are on juvenile probation. In executing its duties, Nebraska Juvenile probation has become a nationwide leader in juvenile justice, and our results exceed national standards. Our recidivism rate continues to decrease, and is now at an all-time low of 17%. We have achieved these successes despite supervising an increasing number of youth who, again, have a higher rate to-- a higher risk to recidivate, and higher

needs to rehabilitate. However, juveniles who are on-- or who are responsible for violent crimes remain an area of priority focus. Though this population comprises of only 3% of the total juveniles on probation, it requires our full attention. To address this issue, we continually review supervision techniques and services in connection with subject-matter experts, including the National Center for State Courts and various universities. We have commenced a joint effort with the Department of Health and Human Services. This effort is aimed at transitioning youth out of youth rehabilitation and treatment centers, and stabilizing them within the community. The focus on community safety will continue, but it must involve all of us, including the courts and probation, this Legislature, the Department of Health and Human Services, schools, law enforcement, service providers, community leaders and family members. Our successes in probation, post-release supervision and problem-solving courts are reducing crime, rebuilding families, increasing workforces, and improving our communities. I would be remiss if I did not acknowledge the excellent work of our probation administrator, Deb Minardi. At the end of this week, Ms. Minardi will retire after 44 years of dedicated service to Nebraska probation. Her legacy of being a servant leader, an unparalleled visionary and an outstanding person will endure well after her retirement. Deb, on behalf of the state of Nebraska, we thank you. Also, in 2014, the Legislature enacted the Public Guardianship Act, and created the Office of Public Guardian. In doing so, you placed that office with the judicial branch to make certain there would be well-qualified guardians to serve Nebraskans. The office acts as a guardian of last resort for vulnerable individuals when no one else is available. From the time of its inception, the Office of Public Guardian has been asked to serve over 1,100 Nebraskans, and has a current caseload of nearly 400 individuals. Since creation of the Office of Public Guardian, you have approved additional funding to hire more associate public guardians, resulting in reduced numbers of those in need. However, there are still too many individuals on a wait list. I am confident that with your support, the Office of Public Guardian can continue to serve more Nebraskans. The work of the judicial branch cannot be completed without our outstanding judges and workforce. Chief Justice Mike Heavican opened each of the past two State of the Judiciary addresses by discussing the dire but improving staffing challenges faced by the judiciary. The improvement is due in large part to this body's acknowledgment of the need to increase wages. Besides wage increases, we have partnered with institutions of

higher learning to allow students to obtain college credit for participating in our new probation officer training program. This opportunity will create a pipeline for probation officers who are ready to work on day one. Along with the successes I've already mentioned, we have had other accomplishments that I would like to share with you, specifically involving access to justice in Nebraska. Our Access to Justice Commission identifies barriers to equal access to the courts, so that we can determine effective solutions. For example, anecdotal evidence from judges and court staff suggests that self-represented litigants continue having difficulty navigating the court system, and this, in turn, compromises the efficiency of the courts. In response, we have developed a pilot project that will establish an in-person self-help center in Douglas County to assist self-represented litigants in filing and processing their cases. Over time, our goal is to expand in-person and virtual self-help access statewide, especially in our rural communities and for our low-income core users. Another example of improving access to justice is Nebraska's Court Improvement Project, which focuses on the needs of children and families involved in the juvenile court system. In 2024, our Court Improvement Project, in partnership with the National Center for State Courts, hosted community engagement sessions in Red Willow and Cheyenne Counties. These groups identified strategies for prevention and intervention, and developed action plans for children and families in need of assistance. Over 50 years ago, this Legislature recognized that those unable to communicate in the English language could not fully participate in a legal process without available court interpreters. You enacted legislation for the appointment of interpreters, to guarantee that all courts shall be open for every person. I am pleased to report that the judicial branch continues to be successful in realizing that promise. Our Language Access Program plays a critical role to ensure state and federal mandates are met. Last year, we used interpretation services for over 60 different languages. In addition, we have recruited, trained and certified court-specific interpreters, have coordinated the appointment of those interpreters across the state. Recently we began collaborating with foreign consulates to produce videos in our court users' native languages, detailing the court process and the role of the interpreter. We have also expanded the ability for our court users who have hearing loss or difficulty hearing to fully participate in court proceedings. As a result of improvements in technology, nearly every courtroom in the state has been equipped with infrared assistive

listening devices, and at no expense to county governments. The judicial branch remains committed to the principle that every individual can fully participate in and avail themselves of judicial services. We continue to make advances in technology. Our emphasis has been in security, electronic exhibits, and remote access to court proceedings. To protect our systems and operations, the Nebraska judicial branch has implemented robust cybersecurity measures to reduce risk. Our new information security officer centralizes oversight, and provides consistent application of policies and standards. In the area of electronic court exhibits, we have built the Nebraska Judicial Electronic Exhibit system; it plays a critical role in modernizing courtroom operations by enabling the digital presentation of exhibits. The system will be instrumental in creating more efficient courtroom workflows and more effective evidence retention. Regarding remote access, our trial court judges have made significant strides, using technology to enable communication, document sharing and teamwork between courthouses. Our technology improvements have opened virtual courtrooms, have allowed remote hearings which reduce travel needs and provide greater scheduling flexibility. And this, in turn, improves access to justice. However, even with a well-connected and highly-trained staff, the successes of the judicial branch are impaired by our inefficient and outdated case management system, referred to as JUSTICE. That system was implemented in 1994, the same year Ben Nelson was Nebraska's governor, and the Cornhuskers won a national championship in football. We can no longer operate in the past. To address this archaic infrastructure, we have begun a comprehensive review of our current systems, architecture, workflows and user needs. This review is supported by a \$1.7 million grant, which will assist us in determining how to design and build JUSTICE 2.0. The modernized system will enable judges, attorneys and court staff to be more efficient and effective. But to make the plan a reality, we must have the financial support of this legislative branch. Another area of concern, which is largely outside the purview of the judicial branch, is the availability of behavioral health services. Substance use disorders or mental health issues put many Nebraskans in direct contact with the judicial branch, particularly by way of criminal charges, conservatorships and guardianships, and abuse and neglect of children. The lack of treatment options means that our citizens are not getting the care they need, which reduces their chance of stability and recovery. In 2024, over 6,000 probationers accessed probation's Financial Assistance Program for behavioral

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health services. However, our behavioral health partners continue to report a significant shortage of available providers, and reimbursement rates are not keeping pace with the cost of delivering those services. These issues negatively impact the sentencing options for our judges and the work of probation, post-release supervision, problem-solving courts, and the Office of Public Guardian, the very work you have asked us to do. Our branches must prioritize behavioral health services. Lastly, in 2022, this body supported our efforts to make Nebraska's judicial branch a competitive employer in the job market. In doing so, you agreed that salary increases were necessary to recruit and retain quality personnel. However, you asked us to use our existing funds to pay the salary increases, and no new funds were appropriated. We also sought funding in 2023 to increase the rate of pay for our interpreters, to add a drug court in Platte County and a veterans treatment court in Sarpy County, to hire three additional I.T. staff members to improve cybersecurity and cloud-based management. Those efforts were supported by this body by increasing our personnel spending limits. But again, you asked us to implement these efforts using existing funds, and no new funds were appropriated. We have done what you have asked; the existing funds we have relied upon will soon be exhausted, and we will be unable to support these advancements. Therefore, it is essential that the judicial branch receive adequate funding for the next biennium to sustain the progress we have made. In closing, I extend, extend my sincere thanks to you, the members of the Legislature, for your support of the judicial branch. Over the years, I've seen the positive impact of the work of this body, from approving funds that enable us to maintain and improve court and probation operations across the state to passing legislation so that our laws remain responsive to the needs of our citizens. Your dedication strengthens the foundation of our system of justice. I look forward to working together with you. Thank you.

KELLY: Will the escort committee please come forward and escort the Chief Justice? Please be seated. Mr. Clerk, for items.

CLERK: Thank you, Mr. President. Series of motions to be printed from Senator Conrad to LB645. Additionally, a report from the Transportation Committee on certain gubernatorial appointments, and the HHS Committee concerning gubernatorial appointments. Mr. President, an announcement. The Health and Human Services Committee, Thursday will be meeting-- their committee hearing will be in Room

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1023 January 30, this Thursday. Natural Resources will move to 1510--
Room 1510. This Thursday, Health and Human Services, Room 1023;
Natural Resources meeting in 1510. Mr. President, your Committee on
Banking, Commerce and Insurance, chaired by Senator Jacobson, reports
LB21 and LB187 to General File. Finally, Mr. President, priority
motion. Senator Quick would move to adjourn the body until Wednesday,
January 28, 2025 at 10:00 a.m.

KELLY: Members, you've heard the motion to adjourn. All those in
favor, say aye; those opposed, nay. The Legislature is adjourned.