

ELEVENTH DAY - JANUARY 22, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION****ELEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, January 22, 2009

PRAYER

The prayer was offered by Senator Dierks.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:45 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Cook, Council, and Hadley who were excused.

CORRECTIONS FOR THE JOURNAL

The Journal for the tenth day was approved.

REFERENCE COMMITTEE REPORT

The Executive Board submits the following report:

LB/LR	Committee
LB417	Health and Human Services
LB418	Revenue
LB419	Revenue
LB420	Revenue
LB421	Revenue
LB422	Government, Military and Veterans Affairs
LB423	Judiciary
LB424	Nebraska Retirement Systems
LB425	Nebraska Retirement Systems
LB426	Nebraska Retirement Systems
LB427	Nebraska Retirement Systems
LB428	Banking, Commerce and Insurance
LB429	Judiciary
LB430	Judiciary
LB431	Banking, Commerce and Insurance
LB432	Banking, Commerce and Insurance

LB433	Judiciary
LB434	Government, Military and Veterans Affairs
LB435	Health and Human Services
LB436	Natural Resources
LB437	Natural Resources
LB438	Natural Resources
LB439	Natural Resources
LB440	Education
LB441	Urban Affairs
LB442	Judiciary
LB443	General Affairs
LB444	Health and Human Services
LB445	Banking, Commerce and Insurance
LB446	Health and Human Services
LB447	Agriculture
LB448	Health and Human Services
LB449	Nebraska Retirement Systems
LB450	Government, Military and Veterans Affairs
LB451	Health and Human Services
LB452	Health and Human Services
LB453	Banking, Commerce and Insurance
LB454	Appropriations
LB455	Revenue
LB456	Appropriations
LB457	Health and Human Services
LB458	Health and Human Services
LB459	Appropriations
LB460	Revenue
LB461	Education
LB462	Health and Human Services
LB463	Health and Human Services
LB464	Health and Human Services
LB465	Government, Military and Veterans Affairs
LB466	Revenue
LB467	Urban Affairs
LB468	Appropriations
LB469	Revenue
LB470	Revenue
LB471	Natural Resources
LB472	Judiciary
LB473	Education
LB474	Revenue
LB475	Government, Military and Veterans Affairs
LB476	Education
LB477	Natural Resources
LB478	General Affairs
LB479	Education
LB480	Revenue
LB481	Health and Human Services

LB482 Natural Resources
 LB483 Natural Resources
 LB484 Banking, Commerce and Insurance
 LB485 Revenue
 LB486 Government, Military and Veterans Affairs
 LB487 Revenue
 LB488 Government, Military and Veterans Affairs
 LB489 Health and Human Services
 LB490 Natural Resources
 LB491 Natural Resources
 LB492 Appropriations
 LB493 Banking, Commerce and Insurance
 LB494 Judiciary
 LB495 Urban Affairs
 LB496 Judiciary
 LB497 Transportation and Telecommunications
 LB498 General Affairs
 LB499 Judiciary
 LB500 General Affairs
 LR9 Judiciary

(Signed) John Wightman, Chairperson
Executive Board

MOTION - Print in Journal

Senator Christensen filed the following motion to LB18:
MO4
Withdraw bill.

SPEAKER'S ANNOUNCEMENT

Pursuant to Rule 4, Section 8, LR10 was referred to the Reference Committee.

MOTION - Escort Chief Justice

Senator Gay moved 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.

The motion prevailed.

The Chair appointed Senators Ashford, Lathrop, Lautenbaugh, Nantkes, Nelson, Pirsch, White, and Wightman to serve on said committee.

The committee escorted Chief Justice Michael G. Heavican to the rostrum where he delivered the following message:

Mr. President, Mr. Speaker, members of the Legislature, fellow justices of the Supreme Court, and guests. I would like to thank all of you for inviting me to address this body again. It is a great honor for me to speak with you 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 Justice John Wright of Scottsbluff. To his right is Justice John Gerrard of Norfolk. To the right of Justice Gerrard is Justice Michael McCormack of Omaha.

To my immediate left is Justice William Connolly of Hastings. To Justice Connolly's left is Justice Kenneth Stephan of Lincoln. And to Justice Stephan's left is Justice 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, the voters of this state approved a long sought-after constitutional amendment expanding the Nebraska Supreme Court from three members to seven members.

The judiciary is not made up of just the Supreme Court, however. Our state judiciary includes judges and employees serving in 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 in the district courts statewide in 2008. 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 Court there were over 24,000 misdemeanor criminal filings, up from 18,813 last year. In 2007 there were 25,971 new civil cases filed in Douglas County Court. That number jumped to 31,307 new filings this past year. The economic condition of the state is mirrored in the activity of our trial courts.

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. More than 3,000 juveniles were placed on probation through November 2008. Eighty-four percent of both adults and juveniles who were discharged from probation during this time period successfully completed their term of probation.

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 re-distributed to local school systems, Nebraska Legal Services, the Law Enforcement Improvement Fund, the state's general fund, and other state and local agencies.

"Through the Eyes of the Child"

Many of you are familiar with the Court's "Through the Eyes of the Child" Initiative. This 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 the child's perspective.

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 (CASA), 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 goals of the Initiative have yielded positive results.

Last year in this address I spoke to you of the process of "front loading" the system; that is, holding pre-hearing conferences in cases in which children have been removed from abusive or neglectful parents or guardians. The law requires that children be returned to their parents, if possible, before other permanent, safe placements are sought.

Most abusive or neglectful parents have substance abuse and/or mental health problems. The "Through the Eyes of the Child" Initiative's pre-hearing conferences focus on getting services to those parents.

As I noted previously, 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 to also 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 a common practice several years ago. Some of our teams began implementing the suggested change, and now children 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 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.

Drug Courts

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 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 saved.

The goals of drug courts include stabilizing families, protecting children, and improving family safety. This benefits individuals as well as society as a whole. Drug courts are an important element in reaching those goals.

We are currently in the process of creating a state-wide case management database that will collect and report valuable statistical data. One of our primary goals in 2009 is to 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 these courts.

I now want to address several of the judiciary's significant challenges.

Interpreters

Last year, Nebraska's courts needed interpreters in 21 different languages involving thousands of hours of court time.

It is not unusual in Grand Island, for example, 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 Colfax County Court are using innovative ways to provide interpreter services through technology in an effort to curb costs.

Self-Represented Litigants

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 these forms and instructions. Those forms are now available online 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 the districts, and decreasing in other 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

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 developed 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 to save time. This option also reduces the administrative load on judges and court staff.

Ninety-two of Nebraska's 93 county courts have collected fines for traffic citations using the E-payment system.

More than 12,000 E-payments had been received by November of 2008, totaling more than \$1.6 million. For every traffic citation fine paid online, court staff is saved 3-5 minutes of work. E-payments currently make up approximately 10% of traffic citations. And that number continues to grow as more drivers become aware of the option to pay online.

E-Filing

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 district courts and six county courts.

Completion of the JUSTICE System

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 courts to have a uniform statewide E-filing system. 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 for the cooperation we have received from Douglas County on this project.

Cameras in the Court

All three branches of government participated in the installation of new digital cameras throughout the State Capitol building this 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.

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 the 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, Judge Karen Flowers and Judge Steve Burns have worked in cooperation with Nebraska broadcasters to install web cameras in two Lancaster County District courtrooms. 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 County and Sarpy County to experiment with electronic media in their courtrooms in the near future.

Another example of cameras in our courtrooms occurred last November 15. 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 care and relates back 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 enhance our ability to tell that story.

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 played in supporting Nebraska's judiciary.

We look forward to earning that continued support for the next 100 weeks and the next 100 years.

Thank you so much for this opportunity to speak to you today.

The committee escorted the Chief Justice from the Chamber.

UNANIMOUS CONSENT - Add Cointroducers

Senator Dubas asked unanimous consent to add her name as cointroducer to LB179 and LB180. No objections. So ordered.

Senator Nelson asked unanimous consent to add his name as cointroducer to LB346. No objections. So ordered.

Senators Nantkes and Nordquist asked unanimous consent to add their names as cointroducers to LB653. No objections. So ordered.

NOTICE OF COMMITTEE HEARING

Natural Resources

Room 1525

Thursday, January 29, 2009 1:30 p.m.

LB379

LB482

LB483

(Signed) Chris Langemeier, Chairperson

VISITORS

Visitors to the Chamber were officers of the Nebraska State Bar Association.

The Doctor of the Day was Dr. Romaine Sangha from Omaha.

ADJOURNMENT

At 10:20 a.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Friday, January 23, 2009.

Patrick J. O'Donnell
Clerk of the Legislature