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Transcriber's Office

Floor Debate
January 12, 2017

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PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the seventh day of the One Hundred Fifth Legislature, First Session. Our chaplain for today is Father Ryan Lewis of Gross Catholic High School in Bellevue, Nebraska. He is a guest of Senator Krist and Senator McDonnell and a friend of the presiding officer. Father Lewis, welcome.

FATHER LEWIS: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Father Ryan Lewis. I call to order the seventh day of the One Hundred Fifth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

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

CLERK: I have a Reference report referring LB164 through LB230. Hearing notices from the General Affairs Committee; Health and Human Services Committee; Government, Military and Veterans Affairs and the Revenue Committees, all signed by the respective chairpersons. Attorney General's Opinion addressed to Senator Stinner to be inserted into the Journal. And a motion: Senator Brasch would like to withdraw LB125; that will be laid over at this time, Mr. President. That's all that I have. (Legislative Journal pages 165-174.) [LB125]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Speaker Scheer, you are recognized.

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SPEAKER SCHEER: Thank you, Mr. President. If I could have a moment of personal privilege, colleagues, I would like to mention today that the person's birthday this morning that I would like to recognize has worked for the state of Nebraska 47 years. She has worked for this institution for 44 years. The legislative body, along with myself, have contributed and we would like to wish Kitty Kearns a happy birthday this morning, and we are providing cookies in her honor. Congratulations.

PRESIDENT FOLEY: Thank you, Mr. Speaker. Now proceed to the first item on the agenda. Mr. Clerk.

CLERK: Mr. President, Senator Groene would move to suspend Rule 3, Section 14 to permit the cancellation of the public hearing on LB14. [LB14]

PRESIDENT FOLEY: Senator Groene, you are recognized. [LB14]

SENATOR GROENE: In the hustle and bustle of moving into my new office, Senator Krist had...we had had a nice conversation about he wanted his bill later in the session. And my staff, you know, we had seven days to get the agenda and we only had about five bills to pick from at that time, and luck of the draw was we picked that one, but we need to remove it. Senator Krist wants more time to prepare for the hearing. Thank you. [LB14]

PRESIDENT FOLEY: Thank you, Senator Groene. Question before the body is rules suspension. This requires 30 votes. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please, Mr. Clerk. [LB14]

CLERK: 41 ayes, 0 nays, Mr. President, on the adoption of the motion to suspend the rule to permit cancellation of the hearing. [LB14]

PRESIDENT FOLEY: The motion is adopted. Thank you. Senator Krist, for what purpose do you rise? [LB14]

SENATOR KRIST: If I could, just to make a comment on that withdrawal, Mr. President, with your permission. [LB14]

PRESIDENT FOLEY: Yes, please proceed. [LB14]

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SENATOR KRIST: Occasionally, we come up with a piece of legislation that asks a division or another agency to do something. That, indeed, was LB14. It's a civics test. And although I feel very passionate about that test, I have met with the Department of Education on several occasions and their subcommittees are actually working on restructuring social studies to put civics involved. I told them I would re-insert this bill, as I have several times during my career here as a legislator, to remind them of the priority that I put personally on that civics test. They are working the issue, and I would just as soon they do it inside as the academics that they are rather than telling them how to do a job. So you'll see LB14 come back, probably not in the same fashion, if they need any legislation to assist them. Thank you for your courtesy, Mr. President. [LB14]

PRESIDENT FOLEY: Thank you, Senator Krist. (Doctor of the day introduced.) Next on the agenda is introduction of new bills. Senators, if you have additional bills, you can bring them down to the Clerk's desk at your leisure. New bills for the record, Mr. Clerk. [LB14]

CLERK: Thank you, Mr. President. (Read LB298-316 by title for the first time, Legislative Journal pages 175-178.) [LB298 LB299 LB300 LB301 LB302 LB303 LB304 LB305 LB306 LB307 LB308 LB309 LB310 LB311 LB312 LB313 LB314 LB315 LB316]

PRESIDENT FOLEY: Additional bills to be read on the record, Mr. Clerk?

CLERK: Thank you, Mr. President. (Read LB317-326 by title for the first time.) That is all that I have at this time, Mr. President. (Legislative Journal pages 178-180.) [LB317 LB318 LB319 LB320 LB321 LB322 LB323 LB324 LB325 LB326]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Kolterman, you are recognized for a motion.

SENATOR KOLTERMAN: Mr. President, I move that 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.

PRESIDENT FOLEY: Thank you, Senator Kolterman. Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The motion is adopted. I now appoint the following escort committee: Senators Brasch, Kuehn, McDonnell, Kolterman, and Howard; if those senators would please retire to the rear of the Chamber to escort the Governor. Thank you. The Chair recognizes the Sergeant at Arms.

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

PRESIDENT FOLEY: Members of the One Hundred Fifth Legislature and distinguished guests, I present to you the Governor of the state of Nebraska, the Honorable Pete Ricketts.

GOVERNOR RICKETTS: Thank you very much. Thank you. Thank you very much. Thank you. President Foley, Speaker Scheer, members of the One Hundred Fifth Legislature, Tribal Chairmen, distinguished guests, friends, fellow Nebraskans and, of course, our First Lady, my lovely wife, Susanne, good morning. Now, before we get started here today, I understand that we have somebody who's got a birthday today. Kitty, it's your 70th birthday, is that right? Where's Kitty? Give her a round of applause. I will spare you my rendition of "Happy Birthday." Everybody's happy about that too. Well, congratulations on the commencement of the One Hundred Fifth Nebraska Legislature. I want to thank each and every one of you for your willingness to serve our fellow citizens. I also want to highlight that you are beginning a historic year, the 150th of our statehood, which we'll celebrate on March 1, our sesquicentennial. I am honored to be with you here in the people's house. We all appreciate the unique nature of our nonpartisan Unicameral. Nebraska consistently passes a balanced budget--on time; not every state can say that. In our system, every bill gets a hearing, and every senator a priority bill. Senators can have an impact with legislation, regardless of party or seniority. And debate happens right here on the floor, not behind some closed-door conference committee. Our Unicameral empowers citizens with increased access to the process, greater transparency, and responsive representation. Now, why do we have such a system? Well, we have it because of a man by the name of George Norris, who believed that government should be more open and responsive to the people--a man who traveled 5,000 miles, wore out two sets of tires, sent out 192,000 fliers, all at his own expense, to advocate for our Unicameral. George Norris was a man with vision. He had initiative. He persevered. He was tenacious. He had grit, Nebraska grit. And that is characteristic of our people. As a people, Nebraskans have a heart for their neighbors, a firmness of character, and they demonstrate resilience and fortitude. Nebraska is what America is supposed to be. We are blessed with so many everyday heroes in our communities, like the men and women that comprise Nebraska's law enforcement. They work hard and risk much to keep us safe. We are also grateful for our servicemen and -women and the Nebraska National Guard and their families. Another great example of true Nebraska grit is Don Stratton; he grew up in Red Cloud during the Great Depression. He was in the news just a few weeks ago during the 75th anniversary of Pearl Harbor. On that fateful Sunday morning in 1941, a Japanese dive bomber caused an explosion that engulfed the USS Arizona. Stratton and his battery mates were trapped in a metal compartment being scorched alive. Finally, a serviceman from a repair ship tied up to the Arizona, threw a rope to Stratton and his battery mates. With burns covering 65 percent of his body, he peeled loose skin from his arms so he could climb hand-over-hand across 75 feet of rope, in excruciating pain, dodging Japanese pilots' fire, and suspended 45 feet above flaming

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oil, Stratton made it. And it is with that same spirit and determination that we must approach the work before us. Our families, our friends, and our neighbors are relying on us. What's more, we have a chance to give a voice to the voiceless, to improve people's lives, and to craft policies that build a brighter future for generations to come. I am excited to serve with each and every one of you to grow Nebraska. Speaker Scheer, congratulations on your election. Thank you for your dedication. I appreciate all your work for the citizens of Nebraska. And that goes for all the new committee chairs. Thank you very much for your leadership. And for our new senators, congratulations. With farmers, small businesspeople, veterans, and attorneys, a firefighter, and a teacher, your diversity of experience will enrich the body and reflects our people. I look forward to what we will be able to accomplish working together. In this One Hundred Fifth Nebraska Legislature, in the 150th year of our statehood, you are all a part of our unique Nebraska history. Your first legislative session provides an opportunity for decisive action that will shape our state in years to come. I am halfway through my four-year term of service as your Governor. This morning, I am going to highlight some of our accomplishments, discuss our legislative efforts to grow Nebraska, address the budget adjustments, and detail my plan for the biennium. I will also share with you our plans to deliver much-needed tax relief to hardworking families. By identifying our mission to create opportunity through more effective, more efficient, and more customer-focused government, we have made progress toward a vision of growing Nebraska. We are making government work for the people. That thinking is contagious. The Department of Environmental Quality has launched on-line applications for storm water permits and new general air construction permits that has reduced wait times. Health and Human Services, once under special investigation, is now accomplishing their mission of improving people's lives. ACCESSNebraska has reduced the average call wait time, improved SNAP application processing, and in doing so saved the state \$17 million. In our Department of Labor, we have launched a first-ever reemployment program to help job seekers connect with good-paying jobs faster, and saving Nebraska businesses \$17.6 million in taxes. There are more efficiencies that we can bring to government. Earlier this week, Chairman John Murante and I announced a merger of our Division of Veterans Homes and our Nebraska Department of Veterans Affairs. We will eliminate red tape for our veterans and can provide streamlined services to them all under one roof. Thank you, Director John Hilgert, and your team for your diligent work to continually provide better services to our veterans. Chairman Curt Friesen and I are also working on another merger, this time between the Department of Roads and the Department of Aeronautics. We'll merge that into the Department of Transportation. Among other things, we will be able to find efficiencies that will allow us to put more money into runways and roads without sacrificing jobs. Thanks to Director Ronnie Mitchell of Aeronautics and Director of Roads Kyle Schneweis for their work on this merger. I also want to recognize my entire cabinet, who is here with us today in the gallery. This dedicated bunch is working to transform the culture of state government and deliver better services at a lower cost. Thank you for everything you do for our people of Nebraska. I know that unnecessary regulations hamper job growth. This year, we need to continue to get rid of unnecessary regulations to empower everyone from car salespeople,

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barbers, and cosmetologists to audiologists and massage therapists. We're going to help people who want to work in these professions get to work more quickly. Thank you to Senators Albrecht, Craighead, Geist, Erdman, Larson, Lindstrom, Lowe, and Riepe for all of your work to introduce these bills to cut red tape. I think that's worth (inaudible). With initiatives like these, we have built a strong foundation in state government. And the state of the state is strong. Now we also know that we have challenges. Farm income has gone from \$7.5 billion just a few years ago, down to \$4.5 billion in 2015, and closer to \$4 billion last year. As a result, we face reduced tax receipts. Our revenues were \$95 million below forecast in our first fiscal year and the Forecasting Board cut another \$172 million out of the current fiscal year. The next biennium will require continued expense control. As Nebraskans, we don't spend money we don't have. We balance our budgets. At the state level, we have maintained a healthy Cash Reserve and set spending priorities like education, public safety, and infrastructure. This commonsense approach has put us in a financial position where even a budget challenge, such as this one, can be managed. In a year where we have to make difficult budget decisions, we have to favor the taxpayer. Special interests can hire lobbyists to achieve their desired ends. As elected officials, we have a duty to be advocates for the citizens and a voice of the people. This is an opportunity to put our Nebraska grit to work, like Don Stratton. Let's roll up our sleeves and do what needs to be done to set a course for future prosperity. Our first task is to adjust the current year budget to bring it back into balance. As I have said, it is easy to view a government budget as a collection of numbers in rows and columns next to agencies and programs, but behind the numbers are people's lives. The dollars that fund our budgets are dollars that are earned by hardworking Nebraskans. Additionally, our agencies and programs are designed to serve our citizens, and many of them are people in need. With that in mind, I worked with my agencies and my budget office to prepare budget reductions, which I presented to you last week. My proposal provides more resources for child and family services, invests in education, protects reforms in Corrections, and balances the budget without raising taxes. I will not support any effort to raise taxes on Nebraskans. As Ronald Reagan said, "Simple fairness dictates that government must not raise taxes on families that are struggling to pay their bills." I urge you to take up the budget by the first week of February because there are less than six months left in this fiscal year. And the work we do is critical to finish this budget to set the foundation for the next budget. And I appreciate the work of Chairman Stinner and all the members of the Appropriations Committee on this. Now today, I present to you my recommendations for the upcoming biennium. Four principles guide my budget recommendations. First, the revenue gap must be closed without increasing taxes. Raiding the property tax credit relief fund, raising the sales taxes, taxing food and groceries would all be bad for Nebraska families and would hurt our economy. Second, the budget must be balanced. Third, we must reduce government expenditures. And fourth, we targeted keeping \$500 million in the Cash Reserve so that we are in good position to address future uncertainty. Now having said that, there are certain priorities that we must continue to fund. That is why we propose increasing funding for K-12 education. I know that education is an investment in our children and in our future. When most areas of the state budget are essentially

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flat, I am proposing a 2.7 percent average increase for the next two years for K-12 education. That's a 5.4 percent increase for the biennium. I also recommend an additional 3 percent biennial increase in the special education fund. This is significantly more than the overall state budget is growing and is responsible within our resources. Now, you all will be lobbied that this budget does not fully fund education. That is not true. That statement is based upon a flawed TEEOSA formula, that school aid formula, that encourages spending. That formula allows schools to grow their budgets at 12 percent. What I have proposed is responsible. It respects the taxpayers and protects K-12 education with a significant increase, amounting to a historic high of over a billion dollars per year in General Fund support. Another priority is our Department of Corrections. Together, we have made significant progress in an agency that has been neglected for years. In addition to providing the basic needs of more than 5,300 inmates, Corrections successfully launched an automated sentence calculation program, implemented the first-ever risk-assessment tool; they've reformed restrictive housing, completed a culture and staffing analysis, expanded mental health and cognitive behavioral health programming, created mission-specific housing, and have developed an inmate healthcare plan, while addressing pay and quality of life issues for our Department of Corrections officers. With this budget proposal, we will reduce protective service vacancy rates, we will upgrade technology, and improve the Lincoln Correctional Center. I want to thank Director Scott Frakes and the members of his team, who are with us here today. They've put themselves in harm's way to keep us safe, and they have worked together to transform the culture of this agency. Please join me in thanking them. We began work on this budget last June to right size appropriations with actual spending. Our recommendations are thoughtful and reflect the input of my agencies. These are reductions that can be made without affecting operations. In the end, our first fiscal year increase is 1.5 percent followed by a 1.9 percent increase in the next fiscal year for a two-year average of 1.7 percent increase in spending. This is in line with my current year recommendation. As I have traveled the state, I hear almost universally from Nebraskans that they are taxed too much. So I am proposing both property and income tax reform. Property taxes are too high, especially our agricultural producers. Between 2003 and 2013, property taxes paid by farmers and ranchers have risen 137 percent. As cattle and crop prices decline, it is important that assessments drop as well. Taxes should correlate with income. We have to think bold. We have to think long term, bold and long term. This year we have a chance to achieve lasting, fair, and structural property tax reform by changing the way that we value ag land. The Agricultural Valuation Fairness Act, sponsored by Ag Committee Chairwoman Lydia Brasch, changes the methodology for assessing property value from a market-based system to an income-potential assessment. Income potential is much more fair and will slow the growth of ag land valuations. If this system were in place in 2017, it would reduce ag land valuations by about \$2.2 billion. Income potential-based property tax assessment for ag land is used in North Dakota, South Dakota, Kansas, Iowa, Wisconsin, Illinois, Indiana, and Ohio. This method is much more fair and standard across ag states, which is why a number of Nebraska ag producers have suggested it to me. We would implement this change beginning in 2019 to give local taxing entities and county assessors plenty of time to prepare.

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Now in the past, Nebraska has attempted to get property tax relief by putting more money into TEEOSA, or the school aid formula. That has proved to be a failed policy. Historically, additional spending, additional aid without spending restraint has only resulted in additional spending and higher property taxes. Finally, I want to talk about reducing income tax rates. When I travel the state, Nebraskans make it very clear that they are taxed too much and that they are tired of government taking their money. When it comes to the income tax, they get a reminder of this every first and fifteenth of the month when they get their paychecks. It's not just Lincoln reaching into their pockets, it's Washington, D.C. Now, we can't control what goes on in Washington, but we can here in Lincoln. Let me tell you, our people get frustrated when they hear us talk about finding revenues, or new resources, or rebalancing, because they know that these are code words for raising their taxes. The way to grow revenues is to grow the number of people who live in our state and to create more and better paying jobs. To do that, we have to be more competitive. Only one of our bordering states has a higher tax rate than we do and that's Iowa. South Dakota and Wyoming have no income tax. Colorado, Kansas, and Missouri all have lower tax rates. Our high tax rate hampers our ability to grow our economy over the long term. It discourages investment and chases away great people. If we want to outpace other Midwestern states, we have to be more competitive. Do you know it's been 20 years since middle-class Nebraskans have seen a cut in their income tax rate? The hardworking people of Nebraska deserve better than for their elected officials to treat cutting income tax rates as a once-in-a-generation event. Partnering with Senator Jim Smith, Chair of the Revenue Committee, we propose to take that top income tax rate down roughly one-tenth of 1 percent per year, as long as our revenue growth is 3.5 percent or higher. In effect, we will have a trigger when we hit 3.5 percent growth to take that income tax rate from 6.84 percent down a little each year until we get it under 6 percent. If our revenue doesn't grow fast enough, the tax rate doesn't come down. It's that simple. Now, I want to take a minute to address the top income tax bracket. In a world of hyper-political rhetoric, people are quick to say that a reduction of the top income tax bracket is a tax break for the rich. Any single individual making \$29,831 is caught in this highest tax bracket. Folks, \$29,831 is not rich. It is middle class. And for married couples making \$59,661, they are also caught in this top tax bracket, and that's more than half of them. Nebraskans look at us and wonder why it is so hard for us to let them keep more of their money. The only way to have sustainable tax relief is controlling spending. Any opportunity for tax relief is fundamentally the difference between spending restraint and revenue growth. Controlling spending must come first. Detractors of this tax plan will point to other states that have reduced taxes before reducing spending and then struggled to catch up. That's not what we do here. We are controlling spending first. That is responsible budgeting and that is responsible tax relief. That is the Nebraska way. Join me in helping middle-class working families. Let's spur economic growth and make Nebraska more attractive to businesses and families looking to relocate. Let's do it the Nebraska way. The reductions we make to the budget to balance it and continued attention to spending control will allow us to cut taxes and grow Nebraska. This isn't easy. It will require Nebraska grit. Speaking of Nebraska grit, one other thing I didn't tell you about Don

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Stratton. After several months of surgeries and rehabilitation at naval hospitals, he was sent home to his parents in Red Cloud. And after several more months of recuperation, Don Stratton reenlisted. That's right. He reenlisted. Now he had to convince the draft board in Omaha to take him back into service. And they put him through boot camp all over again to make sure he was physically up to it, but he made it, went back to the Pacific Theater. He was assigned to a destroyer where he protected U.S. Marines in the invasion of Okinawa. After 82 days of brutal combat, U.S. forces took Okinawa. Don Stratton, nearly fatally injured in the first American battle of World War II, played an important role in one of the last battles of that war. Don Stratton finished the war. Now it is our job to finish the work in front of us. With determination, we can address our challenges and position our state for future long-term growth. We can balance the budget, set spending priorities, deliver essential services, all without raising taxes on Nebraska families. And by controlling spending, we can set ourselves up for future tax relief. That is the Nebraska way. Folks, this is our opportunity to demonstrate what a little Nebraska grit and a free economy have to offer. The sky is the limit. I look forward to working with each and every one of you to keep Nebraska the best place in the world to live, work, and raise a family. God bless you all for your work. God bless America. And God bless the great state of Nebraska. Thank you. Thank you. Thank you very much. Thank you.

PRESIDENT FOLEY: Thank you, Governor. Would the escort committee please assist the Governor and the First Lady from the Chamber. Thank you. Additional bills to be read into the record. Mr. Clerk?

CLERK: Mr. President, new bills. (Read LB327-353 by title for the first time, Legislative Journal pages 188-194.) [LB327 LB328 LB329 LB330 LB331 LB332 LB333 LB334 LB335 LB336 LB337 LB338 LB339 LB340 LB341 LB342 LB343 LB344 LB345 LB346 LB347 LB348 LB349 LB350 LB351 LB352 LB353]

PRESIDENT FOLEY: Thank you, Mr. Clerk.

CLERK: (Read LB354 by title for the first time.) Mr. President, hearing notices from the Education Committee and from the Judiciary Committee signed by their respective chairs. Mr. President, a new resolution, LR12, introduced by Senator Kuehn; that will be laid over at this time. (Legislative Journal pages 194-195.) [LB354 LR12]

And, Mr. President, I do have a priority motion. Senator Schumacher would move to adjourn the body until Friday morning, January 13, at 10:00 a.m.

PRESIDENT FOLEY: Members, you've heard the motion to adjourn. All those in favor say aye. Those opposed say nay. We are adjourned.