

budget limitations as prescribed; to provide an operative date; to repeal the original sections; and to declare an emergency.

PRESIDENT HEINEMAN PRESIDING

MOTION - Escort Governor

Senator Cudaback moved 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.

The motion prevailed.

The Chair appointed Senators Brashear, Coordsen, Jones, Robak, and Thompson to serve on said committee.

STATE OF THE STATE ADDRESS

*"Working together, we can continue to make Nebraska,
already a great state, even better."*

- Mike Johanns, Governor

Mr. President, Mr. Speaker, Members of the Legislature, distinguished guests, friends, and fellow Nebraskans:

Much has changed since I delivered my last state of the state address.

A year ago, I set forth a broad and aggressive agenda to meet the needs of our citizens, address challenges confronting Nebraska, and fulfill our responsibility to move our state forward. That agenda was met with great success due in large part to our partnership and joint efforts in so many areas and I want to applaud the Legislature for its good work.

Among the initiatives approved by this Legislature and signed into law were the Invest Nebraska Act, the Ethanol Development Act, the Nebraska Health Care Funding Act, and Early Childhood Initiative legislation.

Since the conclusion of the 2001 legislative session, we have witnessed the fruits of our labors.

The Invest Nebraska Act has already spurred job creation and capital investment across our state. Union Pacific announced they will move 700 good-paying jobs from Missouri to Nebraska and build a \$200 million dollar plus headquarters in downtown Omaha. That announcement was followed by three others including 600 new good-paying jobs and over \$40 million dollars of investment for a Wal-Mart distribution center in North Platte, 25 new good-paying jobs and over \$10 million dollars of investment at American Meter in Nebraska City, and 25 new good-paying jobs and over \$10 million dollars of investment by BPI in South Sioux City.

That's good news for Nebraska workers and Nebraska families.

The Ethanol Development Act has stimulated unprecedented interest from Nebraska's agricultural community and other investors in ethanol production. Because of this legislation, and President Bush's decision to deny California's request for a waiver of the Clean Air standards, the prospects for ethanol expansion in Nebraska are greater today than they have ever been. For example, there are currently 12 new ethanol plants proposed in the state and existing plants are expanding at an unprecedented rate. These new investments will bring with them jobs for Nebraska workers, increased demand for Nebraska grain, and additional value to Nebraska's agricultural sector.

That's good news for Nebraska agriculture producers.

Nebraska has wisely used its proceeds from the national tobacco settlement for health-related purposes. Dollars have been divided among mental health and substance abuse services and treatment, minority health, developmental disabilities, respite care, biomedical research, and public health grants. Already, five new multi-county health departments covering nineteen counties that previously had no county health department have been established thanks to public health grants. These new departments will help identify health needs and develop solutions to meet those needs. More counties are expected to unite and form departments over the next few months. These developments are a major step forward for public health in the state. Nebraska has been cited by the federal Centers for Disease Control as a state that has made great strides in building its public health capacity.

Minority health has been boosted with \$1 million given to the Charles Drew Health Center and the Indian Chicano Center to eliminate health disparities among racial and ethnic minority groups. Three satellite offices of minority health are under development in Omaha, Scottsbluff and one in central Nebraska. These offices will enable us to reach out to more members of racial and ethnic minorities with public health services.

The blossoming of county health departments and the boost for minority health are but two examples of the many wonderful stories that will be told about the benefits of dedicating tobacco settlement dollars to Nebraska's health care needs. That indeed is very good news for the health and wellbeing of all Nebraskans.

Just last week the national publication Education Week praised our state's commitment to early childhood efforts.

The three initiatives singled out were the business child care tax credit which will be available beginning in 2003, a significant boost in funding for Early Childhood Projects which is a grant program that helps communities set up collaborative child care programs, and a scholarship program for

child care providers who pursue training in early childhood development.

These programs and our state's commitment to early childhood education and development initiatives are great news for children and families.

These are some of the success stories of 2001.

However, the successes of this past year have been overshadowed by national and international events.

Today our nation is in the midst of a recession. We know about the painful loss of tens of thousands of jobs across America including many here in Nebraska and we know about how the fall of the stock market has impacted the savings and pensions of millions of Americans and many thousands of Nebraskans.

It is no consolation to those who have been personally impacted by the economic downturn, but the fact remains that Nebraska's economy is in better shape than most states. Our economy continues to grow as evidenced by climbing state tax receipts, albeit at a slower pace than before the national recession. This stands in contrast to some states where the economy is actually contracting and tax receipts are sliding backward.

Besides the recession, 2001 will be forever remembered for the events of September 11th.

Even today we mourn the loss of thousands of Americans to senseless terrorism and we remain steadfast in our resolve to support the war on terror.

The jolt to our nation's and, to a lesser extent, our state's economy following September 11th left no doubt about the need to pull back on state government spending and restructure the budget.

In October, I called this Legislature into special session and presented a plan to adjust the budget. In a period of just nine working days you convened, rolled up your sleeves, got down to business, and approved a budget reduction package totaling \$171 million dollars. You adjourned knowing that there was work left to be done but with the satisfaction that agreement had been reached on a package addressing much of the state's projected \$220 million dollar tax receipt shortfall.

That brings us to today.

This morning I am introducing budget measures to address the \$30 million dollars in deficit requests received from agencies and to account for a portion of our remaining \$50 million dollar revenue shortfall.

As you recall from the special session, I suggested four principles to guide

our action in addressing our state's budget shortfall. They included: no tax increase; protect priorities including state aid to schools, Medicaid, public assistance, and public safety from across the board reductions; keep the cash reserve untouched; and, address most of the budget shortfall in the special session.

Today, I submit a partial budget modification framework that remains true to those four principles.

Through sound management practices, re-allocation of resources, and prudent program changes, these budget adjustments remedy almost half of the \$50 million dollar shortfall. And just as I promised you last Fall, before determining what other budget actions are necessary, we will responsibly wait until the state's economic forecasters provide us with an updated fiscal assessment in February.

However, I remain committed to solving the problem on the spending side of the ledger and not through tax increases that take from the pocketbooks of Nebraska's working families.

Fiscal issues will limit consideration of major new spending initiatives in this short legislative session but there is other work to be done including much-needed action on several criminal justice initiatives.

Over the last three years, we have scored success in the criminal justice and law enforcement arena by increasing the number of state patrol officers, settling a long-standing wage dispute with the state troopers association, criminalizing child enticement, increasing penalties for being an accessory to a felony, launching the state's sex offender registry, boosting law enforcement technology, and lengthening jail time for methamphetamine dealers.

Despite these successes, work remains to be done on other criminal justice priorities. This is the session to get the job done.

The issues I am asking you to act on include reform of post-conviction appeals, enactment of statutes to criminalize fetal homicide, changing our state's method of execution to lethal injection, making needed changes to the sex offender registry, and the conversion of carrier enforcement officers to state troopers.

I appreciate the controversy that some of these emotional issues may present. Sometimes the difficult issues are those issues that most compel our action.

Consider the legal chaos our state would face if the sentence in a capital case is jeopardized by a Supreme Court decision. Consider the issue of highway safety faced by motorists everyday because of too much turnover in the carrier enforcement division. Consider the federal funds Nebraska

will lose for not enhancing the sex offender registry or, more importantly, the threat posed by those offenders not required to register under our state's current system. Consider the possibility that another person at fault for the death of an unborn child due to a homicidal act will not be prosecuted. And consider the abuse of our criminal justice system by frivolous appeals when the defendant's guilt is not in question.

The need for reform of the post-conviction appeals process offers a good example of why these five priorities need to be addressed.

Let me describe a real example of how the system has worked for a person convicted of first degree murder fourteen years ago. This is not a death penalty case but rather a case where the defendant was sentenced to life in prison after being convicted in the late 1980's.

Two years later, his direct appeal from that conviction was heard and affirmed by the Nebraska Supreme Court. The Court specifically determined there was no reasonable doubt as to the defendant's guilt of committing the homicide.

Since the Nebraska Supreme Court's consideration of that direct appeal, the defendant has sought statutory post-conviction relief on four separate occasions. None of the post-conviction petitions were based upon claims of newly discovered evidence. None of this litigation has produced a single finding that the defendant was entitled to post-conviction relief.

This case has now consumed the time and resources of the local county attorney's office and the district court in question on five separate occasions, and the time and resources of the Nebraska Attorney General's Office and the Nebraska Supreme Court on four separate occasions. Of course, this abuse of resources pales in comparison to the emotional toll from the lack of finality that continues for victims and their loved ones.

This story reflects a broken system that this Legislature has a responsibility to fix.

For a justice system to be fair, it must be fair to the defendant. Someone who can be exonerated by new evidence must have the opportunity to bring that evidence forward. But as this case clearly illustrates, the system is being abused by needless, frivolous appeals that cost taxpayers thousands of dollars. And so for a justice system to be fair, it must also be fair to victims, to the friends and families of victims, and to the people who support the system by paying for the system.

That is the balance that must be struck, and, ladies and gentlemen, I offer that today our system is out of balance. This Legislature has a responsibility to rebalance the system.

Besides criminal justice matters, the area of juvenile justice reform