

NOTICE OF COMMITTEE HEARINGS
Health and Human Services
 Room 1510

LB 942	Thursday, January 22, 2004	2:00 p.m.
LB 941	Thursday, January 22, 2004	2:00 p.m.
LB 906	Thursday, January 22, 2004	2:00 p.m.
LB 929	Thursday, January 22, 2004	2:00 p.m.
LB 996	Friday, January 23, 2004	1:30 p.m.
LB 944	Friday, January 23, 2004	1:30 p.m.
LB 1027	Friday, January 23, 2004	1:30 p.m.

(Signed) Jim Jensen, Chairperson

MOTION - Escort Governor

Senator Aguilar 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 Jensen, Landis, Raikes, Schimek, and Wehrbein to serve on said committee.

STATE OF THE STATE ADDRESS

"We have a historic opportunity to effect substantial and necessary change."

Mr. President, Mr. Speaker, Members of the Legislature, Chairmen of the Omaha, Winnebago and Ponca Tribes, Distinguished Guests, friends and fellow Nebraskans:

Five years ago I stood before you as your newly elected Governor. Whether we had years of state service under our belts or just hours, we never could have predicted the events that would unfold in such a short period of time.

We now collectively look back. We've seen terrorist attacks on our land and we've mourned together as a nation.

Today we pause in gratitude to the soldiers who have bravely answered the call to defend our country. More than 1,200 of Nebraska's sons and daughters have accepted that duty since 9-11, eight of whom have given their lives to protect our freedom. We are forever grateful for their commitment and sacrifice. We pledge never to forget.

Our reflection on recent years also reveals an economic bubble that burst.

The economic "perfect storm" struck and devastated state budgets from California to Connecticut. The recession was not only as bad as we've seen since World War II, it was stubborn, and month after month it would not loosen its grip.

As I traveled the state the past two years I've been asked, "Are people giving up?" I'm proud to say my answer has been, "Not only are Nebraskans not giving up, they are fighting to keep going - like our ancestors who were pioneers and like our citizens who fought back from the Great Depression."

So today, in order to discharge my duty to report the state of the state, I report that Nebraska has never been stronger - not so much by the revenues flowing into our state coffers, but by the character of our people who refuse, in the face of adversity, to give up or to give in. In our state's history, we have seen over and over again that in order to survive our citizens have had to change how they lived and worked and did business. So must state government examine itself and change.

We begin with a budget deficit that must be addressed. The budget I submit to you provides balance with no tax increases. It includes funding for several priorities that demand our attention and resources. I am pleased to present my budget proposal for your consideration.

I also report to you that in the next 60 days we have a historic opportunity to set the stage for our future, to do what's right for our entire state. So where do we begin? I respectfully offer to you that you have already begun this important task.

With firm resolution, your Speaker, Curt Bromm, called on the state and his fellow senators to embrace long overdue reforms. The LB 407 Task Force was created by this body to examine Nebraska's tax structure and overall government and education structure. Your leadership identified the goal of the task force was to, and I quote: "...take a long-range look at state and local governmental infrastructure and spending commitments with an eye toward balancing and prioritizing the cost of state government with a revenue system reflective of the current society."

We all recognize that legislation like this sometimes receives lip service but compels no action. That has not been the case. Examine the work that has already been done as a result of the task force and in separate significant legislation.

With the leadership of Senators Brashear and Dwite Pedersen, real reform came to the criminal justice system with last year's enactment of LB 46; the community corrections bill. LB 46 will better serve our citizens and provide reprieve from the cost of forever expanding and adding very expensive prison capacity necessary in the traditional brick and bars approach to crime.

Senators Preister and Schimek, the Government Committee, and others asked for greater accountability in state contracts. They demanded the registration of contracts and an accounting system of checks and balances. LB 626 was passed. About two months ago, state departments reported to the Legislature about the success achieved in both areas. We are not yet finished, but solid progress has occurred.

Senator Wehrbein and the Appropriations Committee have worked as hard as any committee could. Much has been made of our past areas of disagreement on budget issues. Recently, however, I compared budgets now versus three years ago, before the recession set in. Virtually every state agency and many aid programs are spending less than anyone would have ever anticipated five years ago.

I believe we would all agree that in 2003 our choices could have been phrased as, "Pick your poison: cut programs or raise taxes." Neither is popular. The check and balance in the budget process between the Governor and Legislature can be painful, but in the end decisions are made.

Senator Raikes and the Education Committee fashioned a proposal last session that addressed state aid to schools. Examining the results of this legislation since it was passed has led me to the conclusion that this reform approach is on target and it is a part of my budget proposal this year.

Senator Landis skillfully restructured the regulation of our state's natural gas industry. It was a monumentally divisive issue that required two years of negotiation.

Senators Schrock and Stuhr took on an issue that has historically been regarded as one of the most controversial - water policy. Legislation will be in front of you that embodies unprecedented compromise and necessary stewardship.

Senators Kremer and Jones and the Agriculture Committee propose that the time has arrived to revisit the Initiative 300 provision of our state constitution. They could not have picked a tougher issue to address. The simple mention of this constitutional provision stirs aggressive debate. Committee members, however, recognize that young farmers and family farmers are being hampered, not helped, by this 20-year provision.

Every legislative session creates its own personality, and a mood is established early. I ask you in this legislative session to first recognize and applaud the reform initiatives undertaken by your fellow senators as I have laid out. Then, I ask you to help this process of reform continue; there are more issues that need your help. I need your help. We have a historic opportunity to effect substantial and necessary change.

In times of economic plenty, affecting change seems nearly impossible. Change will be difficult even today, but I believe we must act now.

I propose five goals for our future. They are mental health reform, education reform, reform of I-300, reform of water policy, and reform in the way we protect our children.

First, I implore you to reform our mental health system. Senator Jensen and I have worked on mental health reform virtually every day since the last day of the last session. He has courageously put forth LB 1083 to achieve this reform.

We have worked directly with citizens who have mental illnesses and they have moved and impressed me. They are not weak people; they are not troubled people; they are people who have an illness. They merely seek understanding as they work daily toward their recovery. With treatment, many are undaunted by the burden of their illness only to be held back by a stigma that has no rightful place in our society today, yet sadly continues. It is time to open the doors and shine light on the dramatic advances in treatment.

In our state, it is estimated that more than 67,000 adults have a treatable mental illness. Yet 37 of our counties are without any - or have only one - mental health professional. We currently ignore those gaps in service and devote enormous state resources, \$54.2 million last year, to three regional centers.

The Norfolk Regional Center, with a general fund budget of \$14.8 million annually, is so dilapidated that eight buildings are boarded-up with only one still used to provide mental health services.

We studied the population at the Norfolk Regional Center last August and discovered that the majority of residents are from other communities and have no ties to Norfolk. I was taken aback when I learned that 111 out of 170 patients were classified as intermediate or transitional. That means, by our own admission, they are no longer dangerous to themselves or others.

The Hastings Regional Center, with a general fund budget of \$11 million annually, tells much the same story. On the day we studied, we found 61 patients in residence, 42 of whom were either intermediate or transitional. Again, they were no longer dangerous to themselves or others.

We have a compelling moral responsibility to see that these individuals are cared for in the least restrictive environment.

We must also be mindful of the law of the land in this regard. In 1975, the U.S. Supreme Court, in the case of O'Conner vs. Donaldson, set the standard to deprive citizens of their liberty because of mental illness.

The court set forth two key holdings; First, and I quote, "A finding of 'mental illness' alone cannot justify a State's locking a person up against his

will and keeping him indefinitely...". The court also held that, quote, "There is ... no constitutional basis for confining such persons involuntarily if they are dangerous to no one and can live safely in freedom."

Yet our state's own 1999 study reached this conclusion: "Over half of the persons being served at the three regional centers could be served at a less restrictive, lower cost in the community." In other words, many people at the regional centers are ready for less restrictive care but continue to be held in our institutions simply due to a lack of community-based services throughout our state.

The financial aspects are as disconcerting. Federal Medicaid rules preclude regional centers from receiving federal funding even if the patients otherwise qualify. Approximately \$9 million dollars in federal funds are left on the table each year. If these citizens were in community-based services we could access those funds and finally acknowledge the life-changing advances in treatment.

We would, in effect, extend a long overdue invitation to many deserving citizens who share a common desire to contribute to their communities.

The legislation before you is the right thing to do. It commits us to a course of recovery for these citizens in their communities, near their support systems - whether that's a church, AA meetings, medical professionals, friends or family. It draws on our medical centers to create a statewide system of excellence. And it accesses federal Medicaid dollars that we have left behind year after year.

I realize that there are few things more concerning to a community than knowing the government jobs they've come to rely upon must be retooled. But I've also come to realize what this initiative means to citizens with mental illnesses. When Senator Jensen and I met with consumers from across the state, they applauded him for his courage and declared that this proposed reform gives them their first real hope for a better system and more productive lives. With that in mind, I have never been more committed to an initiative.

I fear if we lose this opportunity to reform mental health services, it will be lost for years to come. I ask for your help. Pass LB 1083 and I will sign it into law.

The second reform that I hope we can accomplish together pertains to the way we finance K through 12 education. Education is deeply valued in this state. A 2003 ranking shows we are sixth in the nation in the percentage of our total state and local budgets spent on education. Importantly, spending on elementary and secondary education comprises nearly 30 percent of our current state general fund budget.

Despite this commitment, however, we find ourselves facing major litigation

that challenges the way in which we distribute funding to all of our public school districts.

Senator Raikes and the Education Committee offer our state a way to improve our funding formula through LB 698. Proposed adjustments address important concerns that have been raised about the costs of educating students stricken by poverty and those with limited English proficiency. The bill also tackles concerns that districts have raised about the grade weighting, cost allowance, and adjusted valuation aspects of our current finance formula.

I applaud Senator Raikes for reaching out to all sides to find a solution to one of the most significant issues that Nebraska faces. I encourage our school districts to come to the table and offer insight as to how we might best address and finance today's classroom needs. Please send LB 698 to my desk and I will sign it into law.

A third area of needed reform requires a reexamination of Initiative 300. Twenty years ago, I-300 became a part of our constitution. It was touted as an effort to keep big corporations out of farming, thereby saving the family farm. Its provisions were broad and far reaching. It limited the ability of farmers and ranchers to sell their land, but in return it was to protect our state from big corporate operations.

A similar constitutional approach was enacted in South Dakota. Very recently, the United States Court of Appeals for the Eighth Circuit ruled that the South Dakota constitutional provision violated the commerce clause of the United States Constitution and was therefore invalid. We take note of the ruling knowing Nebraska falls within the Eighth Circuit jurisdictional boundaries.

In the last 20 years we have also learned I-300 has had unintended consequences. Neighbors can't pool resources in a corporate structure to farm together, raise livestock together, or bring their children into a farming corporation. I-300 prohibits this activity.

The solution to this dilemma is not immediately obvious. The legal decision in South Dakota is complex and its impact on Nebraska is not readily clear. For this reason, I support Senator Kremer's approach to bring Nebraskans together in the task force, put all issues on the table, and find solutions. Therefore, I ask you to pass legislation to create a task force and I will sign it into law.

Another area in vital need of reform is our state's water policy. We have struggled to achieve balance in our stewardship of water. Irrigation is our lifeblood, fueled by a finite resource. Poor water management in this generation will come at an enormous cost for the next generation. That's why the work of the Water Policy Task Force, sponsored by Senator Schrock, was so critical.

I thank Senators Schrock and Stuhr for leading this effort. This task force brought all water interests to the table. The bill before you may not be the last legislative word on water policy, but it represents commendable work and deserves to become Nebraska law. Pass LB 962 and I will sign it into law.

I have reserved my final comments for our children.

Approximately 90 days ago, I appointed a Children's Task Force and gave its members a direct charge - to turn our child protective system upside down and make recommendations to fix it. And turn it upside down they did.

Ladies and gentlemen, these hard working task force members deserve our sincere appreciation, as do Senators Aguilar and Stuthman for their commitment to this reform effort and to our children.

After hours of sad and painstaking work, the task force members have laid their recommendations in our hands. They ask us to adopt recommendations that I believe constitute the most comprehensive effort to reform the way we protect children in our state's history.

Summarized, the key recommendations ask us to do the following five things: increase the number of caseworkers, improve accountability, enhance the collaboration between all entities responsible for protecting our children, expand the role of child advocacy centers across the state, and authorize the Attorney General's Office to prosecute abuse and neglect cases in jurisdictions lacking a separate Juvenile Court.

I am grateful for the work of the task force members and I embrace their key recommendations. These recommendations are embodied in my budget proposal and in LB 1075. On behalf of our children and the task force, I ask you to pass this legislation so I can sign it into law.

Each one of these five major areas of reform represents tough issues that require difficult decisions. I ask you to join me in supporting each of them.

Five years ago, we gathered in this chamber, seasoned veterans and rookies. In the years since, we've faced tough decisions - sometimes agreeing, sometimes not. The agenda I outlined today addresses some of our state's most critical and complicated issues. It represents many hours of thoughtful research and collaboration between the executive and legislative branches, and I now ask you to tackle these reforms. I have great faith in your ability and great hope for our state's bright future.

God bless you in your work and God bless our great state of Nebraska.

The committee escorted Governor Mike Johanns from the Chamber.