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Governor

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May 21, 2007

Mr. President, Mr. Speaker,
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Mr. Speaker, and Members of the Legislature:

With this letter, I am returning LB 321 with my signature and with line-item reductions. My vetoes of General Fund appropriations in LB 321 total \$23.6 million over the next two years.

I have also reduced the appropriation from the Department of Roads Highway Cash Fund by \$19.0 million in FY 2008-09 to eliminate a gas tax increase included in LB 321 by the Legislature. The price of gasoline is at an all-time high. Now is not the time to increase the gas tax. The corresponding FY 2008-09 cash fund appropriation for road construction has been reduced by \$18.5 million and \$500,000 for mass transit aid. During the 2006 legislative session, the Legislature already increased mass transit aid by \$1,500,000 in FY 2006-07, a 98.4% increase.

In my budget message to the Legislature on January 11, 2007, I asked for your serious consideration and enactment of legislation to reduce the tax burden on our citizens and to restrain the growth of government spending. I am very pleased with the passage and enactment of tax relief measure LB 367, and I appreciate the spending restraint that is evident in the mainline budget bill LB 321. We are in agreement on the vast majority of the appropriations contained in LB 321.

I have made some line-item reductions to help temper spending growth, eliminate the replacement of federal funds with State General Fund appropriations, and for other specific reasons cited within the balance of this letter. A summary list of individual vetoes is attached to this letter.

I want to point out some well-intended, but problematic intent language added to Section 19 of LB 321 for the Supreme Court's budget for Probation Community Corrections. As the Chief Justice noted in a letter to the Appropriations Committee on May 4, 2007, the language in Section 19 ". . . directly conflicts with the Fee for Service Voucher Program developed by the Office of Probation Administration and formally approved by both the Nebraska Supreme Court and the Community Corrections Council." Even though the language in Section 19 cannot be legally administered from a technical accounting standpoint, my concern is with the proposed redirecting of community corrections funds without any recommendation, discussion, or input from the Community Corrections Council. The language in Section 19 is opposed by the Chief Justice, State Probation Administration, the Community Corrections Office Executive Director, and the Chairman of the Community Corrections Council. I share their concern and am opposed to the Legislature's intent. Nebraska has been recognized for its efforts with regard to

Community Corrections because of the well-coordinated implementation of goals and objectives. This intent language conflicts with the Community Corrections Council's direction and approved plan for the delivery of treatment services for those individuals in the criminal justice system. The state has come a long way thanks to the collaboration among the three branches of government. The proposed language has the potential to jeopardize the significant progress made so far.

I have vetoed \$60,000 General Funds in FY 2007-08 and \$60,000 General Funds in FY 2008-09 from the Supreme Court that has been appropriated to establish a Prostitution Diversion Court. It is difficult to justify the allocation of scarce state resources for this purpose when there are many other worthy priorities in the state court system.

I have vetoed one-half of the additional funding provided to the Supreme Court and State Probation above the amount provided for salary increases for other state employees. This equates to vetoes of \$732,695 General Funds and \$667,267 Salary Limit in both FY 2007-08 and FY 2008-09. I encourage the Supreme Court to focus the remaining allocation of additional salary funds primarily to non-management workers in the county court system and state probation system.

I have vetoed \$200,000 General Funds in FY 2007-08 and \$200,000 General Funds in FY 2008-09 from the Attorney General's Office to offset similar budget increases of \$200,000 cash funds in FY 2007-08 and \$200,000 cash funds in FY 2008-09 that have been appropriated from the State Settlement Cash Fund. Overall, these cash fund increases and General Fund vetoes have no net impact on the agency budget, as the agency has been authorized to draw on excess cash fund balances.

I have vetoed excess funding of \$100,000 General Funds in FY 2007-08 and \$100,000 General Funds in FY 2008-09 from the Attorney General's Office for the newly created child autopsy reimbursement program that began on July 1, 2006. The program has recorded total expenditures of only \$2,960 for the first ten months. After my vetoes, the budget still leaves \$50,000 General Funds in FY 2007-08 and \$50,000 General Funds in FY 2008-09, which should be more than sufficient to cover the potential cost to the state.

I have vetoed \$48,887 of new Salary Limit added in FY 2007-08 and \$51,380 of new Salary Limit added in FY 2008-09 for the Attorney General's Office to hire an additional half-time attorney for school finance litigation. I believe any remaining work can be managed without adding personnel.

I have reduced the General Fund appropriation to the State Treasurer for the Long-Term Care Savings Plan Program by \$20,000 for each of FY 2007-08 and FY 2008-09. This removes the one-time funding originally put in place for only the current fiscal year and recognizes the Legislature's intent when the program was created in 2006.

I have vetoed \$650,000 in General Funds and \$253,855 in Salary Limit from the Department of Education's operations program in both FY 2007-08 and FY 2008-09. Funding local schools is one of my top priorities and LB 321 increases TEEOSA aid to public schools by \$52.2 million in FY 2007-08 and \$131.2 million in FY 2008-09. Significant increases in school aid require us to constrain appropriations for other state operations, including those of the Department of Education. After my line-item reduction, the Department continues with a General Fund appropriation of \$9.8 million for operations.

I have also reduced the funding increase for special education aid from four to three percent annual growth in FY 2007-08 and FY 2008-09, reducing General Fund appropriations by \$1,742,802 in FY 2007-08 and \$3,607,599 in FY 2008-09. After my veto, special education aid will still increase \$5,228,405 in FY 2007-08 and \$10,613,664 in FY 2008-09, which is the same rate of growth provided in FY 2006-07.

I have vetoed \$500,000 General Funds in each of FY 2007-08 and FY 2008-09 in the Department of Revenue for increased state spending on the County Property Tax Relief Program. After my veto, \$1,500,000 in funding remains to help revive this previously defunded local government assistance program in each of the next two years.

I have vetoed \$59,050 General Funds and \$40,650 Salary Limit in FY 2007-08 and \$111,260 General Funds and \$81,310 Salary Limit in FY 2008-09 from the Department of Revenue. This veto reflects the operating expense savings resulting from the repeal of the contractor labor sales tax included in LB 367.

LB 321 contains General Fund provider rate increases totaling \$7,538,577 in FY 2007-08 and \$15,451,387 in FY 2008-09 within the Department of Health and Human Services above the amounts I recommended in January. I have vetoed \$3,616,652 General Funds in FY 2007-08 and \$7,415,076 in FY 2008-09, representing approximately one-half of the provider rate increases in excess of the amounts included in my original budget recommendations to the Legislature. This action has no impact on provider rates where the Legislature agreed with my January recommendations. The veto represents an attempt to meet the Legislature half-way in areas where the Legislature increased rates above my original recommendations.

I have vetoed \$100,000 General Funds in FY 2007-08 and FY 2008-09 for the nursing faculty loan program in the Department of Health and Human Services. This program was funded with a one-time appropriation of \$150,000 General Funds in FY 2006-07 only after the express statutory prohibition of using General Funds for the program was eliminated with the passage of LB 962 in 2006. I encourage efforts to generate cash funds through grants and private donations in order to fund the program as envisioned when it was created by the passage of LB 146 in 2005.

I have vetoed \$100,000 General Funds in FY 2007-08 and \$372,523 General Funds in FY 2008-09 for Behavioral Health Aid in the Department of Health and Human Services. The funds are designated as aid to Region VI Behavioral Healthcare and earmarked by the Legislature to provide matching funds for a federal grant received by a specific private provider, Heartland Family Services. The earmark of General Fund appropriations for Heartland Family Services has been eliminated by my veto for both FY 2007-08 and FY 2008-09. My veto leaves \$126,044 General Funds in FY 2007-08 available as interim funding for the same purpose if decided by Region VI Behavioral Healthcare. I encourage the Legislature to refrain from earmarking appropriations directly to private providers.

I have vetoed \$290,000 General Funds in each of FY 2007-08 and FY 2008-09 for Community-Based Aging Services. The funds are earmarked to provide supplemental funding exclusively for the Eastern Nebraska Office on Aging (ENOA). I have vetoed this item to eliminate the preferential treatment in the distribution of funding for community-based aging services across the state. ENOA is encouraged to establish budget priorities and provide services, within available resources, as is the case for other area agencies on aging.

I have vetoed \$86,557 General Funds and \$66,500 Salary Limit for both FY 2007-08 and FY 2008-09 provided to the Coordinating Commission for Postsecondary Education for a new Data and Research Analyst position in Administration. The Commission currently has 15.2 full-time equivalent budgeted positions; 13 of these positions are in Administration. This is not the time to be adding positions in Administration. Thirteen positions are more than sufficient.

I have vetoed the \$250,000 increase in General Funds in FY 2007-08 and the \$500,000 increase in General Funds in FY 2008-09 provided to the Board of Regents of the University of Nebraska for the replacement of lost federal funds for the Area Health Education Centers (AHEC's). This replacement funding was not requested by the Regents. It first appeared before the Legislature in the form of LB 438, which was heard before the Appropriations Committee and was not recommended by the committee. This replacement funding and the program itself do not seem to be a priority of the Board of Regents or the Appropriations Committee. In addition, the program was started with federal funds. Based on materials obtained, it would appear that the funding provided in LB 321 would be only the starting point in the replacement of federal funds. Using FY 2006-07 as the base year, with funding of \$2.2 million for all five AHEC's, the projected total federal funds shortfalls appear to be as follows: FY 2007-08 \$443,367; FY 2008-09 \$838,367; FY 2009-10 \$953,367; FY 2010-11 \$1,303,367; FY 2011-12 \$1,556,867, for a cumulative total of \$5,095,335. The state cannot afford to set a precedent for picking up lost federal funds of such a magnitude.

I have vetoed new funding increases added by the Legislature for the Equal Opportunity Commission, including \$75,000 General Funds in FY 2007-08 and \$150,000 General Funds in FY 2008-09. After my vetoes, a \$75,000 General Fund increase for FY 2007-08 remains to provide the agency time to prioritize its long-term resource allocations. The replacement of federal funds with expanded General Fund appropriations is difficult to support when other worthwhile programs are attempting to manage within existing state and federal resources.

I have vetoed \$36,318 General Funds in each of FY 2007-08 and FY 2008-09, along with \$31,578 Salary Limit in the next two fiscal years for increased staffing at the Foster Care Review Board. Ongoing efforts to reduce the number of children in foster care will reduce the need for additional staff.

LB 321 includes additional state funding for the Department of Economic Development not included in my budget recommendations: \$1,000,000 of Cash Reserve Funds in both FY 2007-08 and FY 2008-09 for increased funding to the Microenterprise Development Program and \$250,000 of Cash Reserve Funds in both FY 2007-08 and FY 2008-09 for increased funding to the Building Entrepreneurial Communities Act (BECA) Program. While I considered line-item reductions of these two items, I did not veto appropriations for FY 2007-08 and FY 2008-09, after taking into account the fact that these two items are one-time appropriations that will not be replenished or replaced in subsequent budget bienniums.

I have reduced funding for an additional staff position for the Investment Council that was not included in my recommendation. This equates to vetoes of \$97,000 cash funds and \$70,000 Salary Limit in FY 2007-08 and \$91,600 cash funds and \$70,000 Salary Limit in FY 2008-09 to the Council. The need and justification for this additional high level management position within an agency with a total staff of six is not apparent.

Finally, I have vetoed the transfers of \$6.0 million from the Tobacco Products Cash Fund to the General Fund in FY 2007-08 and FY 2008-09. I also have reduced the transfers from the Securities Act Cash Fund to the General Fund by \$4.0 million in FY 2007-08 and FY 2008-09.

Mr. President, Mr. Speaker, and Members of the Legislature
May 21, 2007
Page 5

The veto of these transfers totals \$20.0 million. These vetoes reserve an amount equal to one-half of the additional \$40.0 million in tax receipts estimated for the 2007-2009 budget biennium by the Economic Forecasting Advisory Board at its April 2007 meeting. As noted in your publication "State of Nebraska Biennial Budget FY 2007-08 and FY 2008-09", dated April 2007, the revenue forecasts for FY 2009-10 and FY 2010-11 are ". . . significantly higher than preliminary, unofficial estimates prepared by the Nebraska Department of Revenue (NDR) and the Legislative Fiscal Office (LFO) using Global Insight forecasting information." I concur with this statement and urge you to sustain my veto of these transfers as a further measure to reserve additional funds and restrain new spending.

My line-item reductions offer the opportunity for further savings and additional spending restraint—excellent hallmarks for the 2007-2009 biennial budget for the State of Nebraska.

I appreciate your hard work and urge you to sustain these reductions to LB 321.

Sincerely,

Dave Heineman
Governor

Attachment

100TH LEGISLATURE, FIRST SESSION (2007)
LB 321 - Mainline Budget Bill
Governor's Line-Item Vetoes

| Agency Name | Item | Fund | FY08 Veto | FY09 Veto | Biennium Total |
|------------------------------|---|--------------|------------------|------------------|-----------------------|
| <u>Appropriations</u> | | | | | |
| Supreme Court | Create Prostitution Diversion Court | General | 60,000 | 60,000 | 120,000 |
| | One-Half of Special Pay Adjustments | General | 732,695 | 732,695 | 1,465,390 |
| | | Salary Limit | 667,267 | 667,267 | 1,334,534 |
| Attorney General | Excess Child Autopsy Appropriation | General | 100,000 | 100,000 | 200,000 |
| | Utilize Excess Settlement Funds Instead of General Funds | General | 200,000 | 200,000 | 400,000 |
| | Half-Time Assistant Attorney General for School Finance Litigation | Salary Limit | 48,887 | 51,380 | 100,267 |
| Treasurer | One-Time Long-Term Care Savings Program Start-Up Costs | General | 20,000 | 20,000 | 40,000 |
| Education | Reduce Administrative Costs | General | 650,000 | 650,000 | 1,300,000 |
| | | Salary Limit | 253,855 | 253,855 | 507,710 |
| | Special Education Aid Increase at 3% Instead of 4% | General | 1,742,802 | 3,607,599 | 5,350,401 |
| Revenue | Operational Savings from Contractor Labor Sales Tax Repeal | General | 59,050 | 111,260 | 170,310 |
| | | Salary Limit | 40,650 | 81,310 | 121,960 |
| | Resurrect County Tax Relief Program at \$1.5 million Instead of \$2.0 million | General | 500,000 | 500,000 | 1,000,000 |
| Health and Human Services | Preferential Aid for Eastern NE Office on Aging | General | 290,000 | 290,000 | 580,000 |
| | Appropriation Earmark for Private Provider - Heartland Family Services | General | 100,000 | 372,523 | 472,523 |
| | General Fund Support for Nursing Faculty Loan Program | General | 100,000 | 100,000 | 200,000 |
| | One-Half of Provider Rates Greater than Governor's Recommendation | General | 3,616,652 | 7,415,076 | 11,031,728 |
| Roads | Highway Construction | Cash | 0 | 18,500,000 | 18,500,000 |
| | Additional Mass Transit Aid | Cash | 0 | 500,000 | 500,000 |

100TH LEGISLATURE, FIRST SESSION (2007)
LB 321 - Mainline Budget Bill
Governor's Line-Item Vetoes

| Agency Name | Item | Fund | FY08 Veto | FY09 Veto | Biennium Total |
|---|--|---------------------|-------------------|-------------------|-------------------|
| Postsecondary Coord. Comm. | Additional Administration Staff | General | 86,557 | 86,557 | 173,114 |
| | | Salary Limit | 66,500 | 66,500 | 133,000 |
| University of Nebraska | Replace Federal Funds for Area Health Education Centers | General | 250,000 | 500,000 | 750,000 |
| Equal Opportunity Comm. | Replace Federal Funds | General | 75,000 | 150,000 | 225,000 |
| Foster Care Review Board | Additional Staff | General | 36,318 | 36,318 | 72,636 |
| | | Salary Limit | 31,578 | 31,578 | 63,156 |
| Investment Council | Additional Staff | Cash | 97,000 | 91,600 | 188,600 |
| | | Salary Limit | 70,000 | 70,000 | 140,000 |
| TOTAL APPROPRIATIONS VETOES | | General | 8,619,074 | 14,932,028 | 23,551,102 |
| | | Cash | 97,000 | 19,091,600 | 19,188,600 |
| | | Total | 8,716,074 | 34,023,628 | 42,739,702 |
| | | Salary Limit | 1,178,737 | 1,221,890 | 2,400,627 |
| <u>Transfers to General Fund</u> | | | | | |
| Revenue | Reduce Tobacco Products Administration Cash Fund Transfer | General | 6,000,000 | 6,000,000 | 12,000,000 |
| Banking | Reduce Securities Act Cash Fund | General | 4,000,000 | 4,000,000 | 8,000,000 |
| TOTAL TRANSFERS VETOES | | General | 10,000,000 | 10,000,000 | 20,000,000 |
| <u>Roads Highway Cash Fund</u> | | | | | |
| Roads | Reduce Appropriation from Highway Cash Fund to Roads Operation Cash Fund | Cash | 0 | 19,000,000 | 19,000,000 |