

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

[LB824 LB871 LB921 LR223]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 6, 2008, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB824, LB921, LB871, and LR223. Senators present: Ray Aguilar, Chairperson; Kent Rogert, Vice Chairperson; Greg Adams; Bill Avery; Mike Friend; Russ Karpisek; Scott Lautenbaugh; and Rich Pahls. Senators absent: None. []

SENATOR AGUILAR: Welcome everyone to the Government, Military and Veterans Affairs Committee hearing. I'll start off by introducing the senators that are present, and I will introduce the others as they arrive. We've been attacked by a bunch of homeschoolers today and they've taken some of our senators captive. Anyway, on my far right is: Senator Scott Lautenbaugh of Omaha; next to him is Senator Kent Rogert, our Vice Chair, and he's from Tekama, Nebraska; on my immediate right is Christy Abraham, our legal counsel; my name is Senator Ray Aguilar, I'm the chair of the committee from Grand Island. On my immediate left is: Sherry Shaffer, our committee clerk; next is Senator Rich Pahls of Omaha; Senator Greg Adams of York; just coming in is Senator Bill Avery of Lincoln and late Bill Avery of Lincoln. Second from my left is Senator Mike Friend of Omaha and second from Senator Lautenbaugh is Senator Russ Karpisek from Wilber, Nebraska. Our pages today are Ashley McDonald of Rockville, Nebraska, Courtney Ruwe of Herman, Nebraska. And as far as the bills, they will be taken up as posted: LB824, LB921, LB871, and LR223. There are sign-in sheets at both the entrances. Sign in only if you're going to testify, and put the sheet in this box up here in front of Senator Schimek. If you're not going to testify, but would like to be on the record either as a proponent or an opponent on the bill, there's another sheet that you can fill out, and those are also on the tables by the doors. Print your name and indicate who you are representing. Before testifying, please spell your name for the record. Introducers will make initial statements, followed by proponents, opponents, and then neutral testimony. Closing remarks are reserved for introducing Senator only. Listen carefully to the testimony ahead of you and try not to be repetitive. If you have a prepared statement or exhibit and you'd like to give it to the page, they'll distribute it to us up here. Please turn off your cell phones and pagers and welcome, Senator Schimek, enlighten us. []

SENATOR SCHIMEK: (Exhibit 1) Thank you. Thank you, Senator Aguilar. Mr. Chairman and members of the Government, Military and Veterans Affairs Committee. For the record, my name is DiAnna Schimek and I represent the 27th Legislative District. I'm here to introduce a one-page bill--not even one page--LB824, a bill that would require gender balance for state boards, commissions, committees, and councils. I've long been an advocate for citizen involvement in government and for gender equity. Over the years of my legislative service, I have observed that many boards, commissions, and councils, and other similar bodies within state government have been heavily weighted

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

towards one gender or the other. I do not believe that this type of composition is always beneficial. LB824 is a bill that attempts to address this issue. And by the way, that was not a commentary on this committee at all. I just realized. This past summer, I had the opportunity at a legislative conference to talk with Libby Jacobs who is a representative from Iowa, and for those of you who may not know, her father was a member of the Unicameral back in the late '60s and early '70s, Bill Swanson. And Libby and I got into some kind of a conversation, I'm not sure exactly what caused it. But she informed me that the state of Iowa has long had a statute that requires gender balance for their state boards, commissions, committees, and councils since 1987 and that it works well, nobody has a problem with it. And in fact, I took their particular model for this particular bill. I have been approached by some representatives of different boards, commissions, councils, and committees with concerns about whether or not this bill would work for their entity due to the practicality of it. For instance, there may not be enough interest from the opposite gender or there may not be any candidates to serve on that entity due to additional statutory requirements regarding membership of that particular body. These are concerns I fully understand. They were the same kinds of concerns in Iowa and I certainly would have no problem with creating exemptions in those cases where you needed to do that. The problem is, however, that the exemption cannot be immediately written into this statute. It would have to...we would have to do like Iowa did and over the years consider exemptions to that rule. And I also would like to distribute to committee members some research that I had Legislative Research do, and it was done by Kate Gaul in the research office, and she took a look at my request at all these statutorily established boards and commissions in Nebraska. And if you read this carefully, she will say that first of all, the current Blue Book that she took this from is the 2006-07 edition, which is accurate to January of 2007. But since that time, the Governor did make 600 new appointments to boards and commissions. So all this information does is give you a snapshot in time. Secondly, she says that the material from the Blue Book does not actually break down membership in any categories and it simply lists the members. In other words, if you've got a name like Pat that could stand for Patrick or Patricia, you know, you can't really tell for sure. So what she has done, she went with the probability in some cases counting most Joyces, for instance, as female, but that's not always true. But she did her best to do this. And then she says finally in the comments section of the table, you will primarily find an accounting of ex officio members. Since this immutable fact would seem to have some bearing on the balancing of the sexes of a particular board. I think you can look at this at your leisure, but she broke it down into code agencies and noncode agencies, and then at the end of the whole thing...oh, and she looks at other state governmental bodies, but at the end of the whole thing there are some grand totals on the last page. And you will see that the grand total of membership is 1,311, that there are 849 males, 395 females, 40 unable to determine because of the name, and then there are some vacancies. Now again, this may be even out-of-date since she did that and that wasn't very long ago that she gave us this information. But there, of course, have probably been some appointments that have taken affect since that time, and it is hard to get a handle on all the boards and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 06, 2008

commissions in this state. But that's the information and those are my reasons for introducing the bill and I would be happy to take questions, Mr. Chair. [LB824]

SENATOR AGUILAR: Thank you, Senator Schimek. Questions for the senator? Senator Rogert. [LB824]

SENATOR ROBERT: Senator Schimek. [LB824]

SENATOR SCHIMEK: Yes. [LB824]

SENATOR ROBERT: Thank you for coming in today. [LB824]

SENATOR SCHIMEK: Yes. [LB824]

SENATOR ROBERT: And I'm just going to ask a couple of questions, it by no means...means no disrespect and I respect what you've done for the body over your years of service. Thank you very much. [LB824]

SENATOR SCHIMEK: Boy, I can hardly wait for this question (laughter). [LB824]

SENATOR ROBERT: I'm just playing devil's advocate a little bit. [LB824]

SENATOR SCHIMEK: Okay, please. [LB824]

SENATOR ROBERT: I've seen some numbers in terms of college of entrance, female-male in areas such as nursing where there are approximately 10 percent of those that are male, not very many, pretty common. I'm breezing through here real fast. I see on the Board of Nursing there are 12 total members, they're all female. [LB824]

SENATOR SCHIMEK: Right. [LB824]

SENATOR ROBERT: The Nebraska Center for Nursing Board, there are 16, 13 are female. Being in agriculture, I was a district manager for a seed company for seven years. We had zero women in those positions out of about 500 across the country. [LB824]

SENATOR SCHIMEK: In what kind of positions? [LB824]

SENATOR ROBERT: In my position as a sales manager and working with farmers. [LB824]

SENATOR SCHIMEK: Oh, okay. [LB824]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

SENATOR ROBERT: Obviously those are areas of which gender tend to migrate towards one way or the other. I think that some of those boards should be modeled toward the makeup of the field that they are overseeing, just as per se, what are your thoughts on that? [LB824]

SENATOR SCHIMEK: In some ways I don't disagree with you at all, and there are situations, I think, that would need exceptions, and the Board of Nursing was one that I had thought of that you might need to make that kind of an exception for. However, I would make the argument that in many, many, many fields of endeavor, women are now very active and, in fact, you look at some of our professional degrees and so forth, in some cases they're even predominantly women right now. And so I think by and large there are plenty of good candidates out there. Now one thing that comes to my mind is this whole idea about farmers, for instance, and I think the typical...I don't want to say stereotype because I don't mean it negatively, but the typical response that comes to mind when someone thinks farmer, they think male. [LB824]

SENATOR ROBERT: Absolutely. [LB824]

SENATOR SCHIMEK: And yet I will have...and we've got one of them in our body who will tell you she's just as much a farmer as her husband and she resents it... [LB824]

SENATOR ROBERT: As are many of my clients, absolutely. [LB824]

SENATOR SCHIMEK: ...when somebody says otherwise, and I suspect that there may be women out there who could be serving on some of these boards regarding agriculture that aren't being asked, perhaps. There is some of that, but I believe that your point is valid to a certain degree in that there would be exemptions requested. And this would not take effect...well, it would take effect, of course after 90 days, but you would go through a cycle of appointments when not all of them would be completed, you know, right away that may be an eight-year cycle or six-year, ten-year. I'm not sure because I haven't really figured all of that out. But you've got time to make those adjustments and time to request those exemptions if the need be there. [LB824]

SENATOR ROBERT: Sure. Thank you. I would say also by looking at this, we need to exert our powers and make some of these go away. There's a lot of people on these. Oh my goodness. [LB824]

SENATOR SCHIMEK: We tried. [LB824]

SENATOR ROBERT: Yeah. Thank you. [LB824]

SENATOR SCHIMEK: The Government Committee tried. [LB824]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

SENATOR AGUILAR: Senator Pahls. [LB824]

SENATOR PAHLS: Senator Schimek, as I just peruse this in a very hurried way, it looks like if...I mean, I look at Corn Board, I look at the Dry Bean Board, the Wheat Board, and those are male-dominated. Even if you bounce half those out that would make these numbers come down. There are some of these boards skew the numbers so much. Maybe that's because of the farming background. Show me a board that you think is totally out of whack. I mean, there are some on here other than those boards. [LB824]

SENATOR SCHIMEK: I haven't really studied the information that closely, Senator. I would not want to particularly... [LB824]

SENATOR PAHLS: No, and I'm not trying to...I'm just... [LB824]

SENATOR SCHIMEK: I mean, here's the Athletic Advisory Committee, for instance, just a little one, five members, all males. Don't we have women athletes in this state? Of course, I think they have a particular responsibility, if I'm not mistaken. So I guess you'd have to look into each one, and I would expect to hear from some of these possibly if we were to do this and hear from them and say they would like exceptions made and they'd have to justify that. [LB824]

SENATOR PAHLS: Because I do see several of these, like the Foster Care Review that's 5-4. I mean, there are number of these... [LB824]

SENATOR SCHIMEK: Right. [LB824]

SENATOR PAHLS: ...that do seem to be pretty equal. [LB824]

SENATOR SCHIMEK: Well, and you could look at one of them particularly have a fondness for because I helped establish it, but it's the Women's Health Initiative Advisory Council, and you'll see that they have a total of 32. They have 2 males and 29 females and 1 unidentified. So that kind of plops it back the other direction. It would be nice to have more male members of that particular council and there's no reason why there couldn't be because it isn't mandated that these people be female. There are a variety of health practitioners that are mandated for that council. So I think a little more reaching out, perhaps, might solve part of that problem. [LB824]

SENATOR PAHLS: And you'd be satisfied with the male-female, that's your intent? [LB824]

SENATOR SCHIMEK: Well, I see some people here in the audience that I know are going to come up and talk about diversity, and that was something that I thought about

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 06, 2008

because I think that we ought to have some diversity on our boards too. But I didn't find a good model for that and I don't know how...I'm open to that, but I didn't put it into this book because I didn't find a good model. [LB824]

SENATOR PAHLS: Okay. Thank you, Senator. [LB824]

SENATOR AGUILAR: Senator Avery. [LB824]

SENATOR AVERY: Thank you, Mr. Chair. Senator Schimek... [LB824]

SENATOR SCHIMEK: Yes. [LB824]

SENATOR AVERY: ...I think I can appreciate the spirit of what you're trying to accomplish. But it has an element of arbitrariness to it. [LB824]

SENATOR SCHIMEK: Um-hum. [LB824]

SENATOR AVERY: Are you trying to force these appointed boards, commissions, committees into an artificial division of 50/50? Would you be willing to accept, say, language that would say no appointed board, commission, committee, or council could have more than 75 percent of one gender? [LB824]

SENATOR SCHIMEK: How many women are there in this state, Senator Avery? [LB824]

SENATOR AVERY: Not enough. [LB824]

SENATOR SCHIMEK: Well, that's a good answer (laugh). I would say it's arbitrary not to make it 50 percent women. One of the things that I really believe is that we are missing out on a lot of leadership potential out there sometimes when we don't make these more diverse. Serving on a board or commission can be an entree into other kinds maybe even elective office or appointive office, and I would like to have that stereotype overcome--and we are overcoming it some--that you need to be male to run for office in this country. I think we've had lots of successes here in Nebraska, but we have never...well, I take it back. We have had one women Governor. We've had a few constitutional officers over the years, but by and large the history is that they are predominately male, and I think this opportunity to participate in the body politic is good for as many people as we can. I'm not a flaming... [LB824]

SENATOR AVERY: Feminist. [LB824]

SENATOR SCHIMEK: ...feminist. I'm a feminist, I think. I believe that we have many talents and capabilities just like everybody else, and I wouldn't want you to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

misunderstand this, but I think it's an easy thing to do. Iowa had no problem with it. They've done it for years. [LB824]

SENATOR AVERY: Well, I don't want you to think I'm hostile to the idea. [LB824]

SENATOR SCHIMEK: I don't. [LB824]

SENATOR AVERY: I spent my adult life in an environment where we worked really hard to get gender equity at the university, and my experience with that is that it was often not as easy as one might think. [LB824]

SENATOR SCHIMEK: That's true. [LB824]

SENATOR AVERY: And I'm suggesting that maybe there's some of these boards and commissions that have a purpose and role that's primarily orientated toward one gender or another that may not be inappropriate to have 75 percent of one gender. [LB824]

SENATOR SCHIMEK: That very well could be and I think we address that by saying there could be exceptions made. And we have heard from a couple of commissions. I think maybe two, that have argued that this wouldn't fit their commission at all, and I'd say fine. Let's let the issue come forward and let's do something about it. Until recently you didn't see very many women...well, you still don't see very many women in the court system either, but that's becoming better all the time as more graduate from law school and take up law practice, that's getting better. But I just think that if we're going to have boards and commissions that are really representing the public, the public is over 50 percent female. So that's my argument and I'm sticking with it. [LB824]

SENATOR AGUILAR: Senator Schimek? [LB824]

SENATOR SCHIMEK: Yes. [LB824]

SENATOR AGUILAR: Do you have any concern at all, and let's use the example that you referred to where there were 29 women... [LB824]

SENATOR SCHIMEK: Yes. [LB824]

SENATOR AGUILAR: ...two men... [LB824]

SENATOR SCHIMEK: On the Women's Health Initiative? [LB824]

SENATOR AGUILAR: ...two men and one question mark, I believe, is what you said. [LB824]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

SENATOR SCHIMEK: Yes. [LB824]

SENATOR AGUILAR: Do you have any concern at all that if we try to balance that out a little better about the experience we'd be losing off that particular commission? [LB824]

SENATOR SCHIMEK: I think that that... [LB824]

SENATOR AGUILAR: And I'm thinking in terms of what term limits are doing to this body, same principle. [LB824]

SENATOR SCHIMEK: In terms of what? I'm sorry. [LB824]

SENATOR AGUILAR: What term limits are doing to our body here. [LB824]

SENATOR SCHIMEK: Right, right. I think that's a question that you would have to ask if that particular group came forward and said we really need to have some imbalance because of what we do, but we assure you we will continue to try to locate and recruit male members of this advisory council too. This is part consciousness raising as well. [LB824]

SENATOR AGUILAR: And I'm wondering during this discussion if it wouldn't...rather than having legislation, if it wouldn't be better to recommend to the Governor, who is in charge of appointing all these boards and commissions in most cases, to recommend more gender balance so that it's effective over a period of time? [LB824]

SENATOR SCHIMEK: Well, and Senator Aguilar, I don't argue with that and, in fact, just the introduction of this bill I hope will get some wheels turning. Every time I see a national study of how we do in Nebraska, we're always way down on the totem pole, whether it's elective office or appointed office or boards and commissions, we just don't do a very good job. And I think we've been moving backwards to some degree with the elective office in this state. There are still a number of elected boards that do not have any female members. This body... [LB824]

SENATOR AGUILAR: And this bill would have no... [LB824]

SENATOR SCHIMEK: No, it wouldn't. But again, I go back to my premise that these kinds of opportunities are what encourage people to run for office. [LB824]

SENATOR AGUILAR: Further questions? Seeing none, thank you for joining us. [LB824]

SENATOR SCHIMEK: Thank you very much. [LB824]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 06, 2008

SENATOR AGUILAR: Could we have the first proponent of LB824, please? [LB824]

PEGGY ADAIR: (Exhibit 2) Good afternoon. I am Peggy Adair, A-d-a-i-r, representing the League of Women Voters of Nebraska. The league supports LB824 as an effort to improve the representation of women in political decision making positions in our state. Historically, 98.2 percent of our nation's elected officials have been men. In Nebraska, only two women have ever served as United State Senators and they served only a few brief months over 50 years ago. Only one woman has ever served in the U.S. House of Representatives from Nebraska out of a total of 107. In Nebraska statewide offices, men hold 85 percent of the elected positions. In this Legislature, men hold 82 percent of the law making positions. The six state executive offices of Governor, Lieutenant Governor, Attorney General, State Auditor, State Treasurer, and Secretary of State are all presently held by men. Decision making power in Nebraska is overwhelmingly in the hands of male officials, and coupled with a lack of representation of women on appointive boards and commissions leads to the actual or perceived lack of focus on the needs of half of the population of this state. Women play a significant economic and cultural role in Nebraska. Seventy-three percent of women in Nebraska with children under the age of six are in the workforce. Women are the majority of college graduates in Nebraska and they are the majority of consumers. But the vast majority of political decisions in Nebraska that affect women are made by men. Proactively seeking gender balance in governance is not unique or new. In Rwanda, women represent 49 percent of the national parliament, where 24 out of the 80 seats are reserved for women. Israel, Mexico, the United Kingdom, South Africa, and China are among 97 countries that have some sort of gender balance mandate. I have attached to my testimony a smaller survey of some of the commissions and appointive boards in Nebraska and as you can see, women have no representation at all on ten of these boards and they have a token 1 representative of 13 more. And women have been relegated to the traditional women and children's board, such as foster care and nursing. I would love to see more men on the Nursing Board. I don't think any of this is intentional. It's just that we haven't taken a hard look at this issue until Senator Schimek introduced this bill. Women have the right as citizens to equal representation. The reasons behind lack of female representation in elected political office are complex and they relate in part to the first 144 years of the United States when women were denied their fundamental right to vote. Providing for gender balance on state boards and commissions will help to compensate for the dearth of female elected decision makers in Nebraska. The present generation owes it to the next to set the foundation of gender equity in Nebraska. LB824 begins that foundation and we urge this committee to send this bill to the floor for full debate. And I welcome any questions. [LB824]

SENATOR ROBERT: Thank you, Ms. Adair. Any questions from the committee? Ms. Adair, I don't have a question but I have a comment and it's... [LB824]

PEGGY ADAIR: In all due respect? [LB824]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 06, 2008

SENATOR ROBERT: No. This is...I appreciate this what you just said and I think we need to further find ways to encourage women to ask for these positions, run for those elected positions, and participate in those discussions and I welcome your ideas in the future in how we can do that. [LB824]

PEGGY ADAIR: Well, thank you. Well again, I really sincerely don't think this had been an intentional thing. I just think...I mean, I was shocked, I was surprised at the discrepancy myself. [LB824]

SENATOR ROBERT: Sure. As am I. [LB824]

PEGGY ADAIR: So this is a way to solve the problem. [LB824]

SENATOR ROBERT: Thank you. [LB824]

PEGGY ADAIR: Thank you. [LB824]

SENATOR AGUILAR: Are there any other proponents? Seeing none, are there any opponents to the bill? I'm sorry. [LB824]

JOSE SOTO: I was a little slow on the uptake, Senator. I apologize for that. [LB824]

SENATOR AGUILAR: My apologies, didn't mean to rush you. [LB824]

JOSE SOTO: My name is Jose Soto, S-o-t-o, resident of Lincoln and I'm here in my stead as a private citizen and someone who is interested in issues of representation and diversity in, kind of, the entities that we put together. And I don't want to be repetitive but I think it's...I'd like to kind of weigh in, in that as I've talked to folks as part of my involvement in the community and part of my employment, which centers on issues of affirmative action, equity, and diversity I don't find much disagreement in principle that diversity benefits almost any body that representation is a worthy goal, and that inclusion really is a good thing. And it seems to me that when we have opportunities to actually appoint individuals to serve in any capacity, we should reach out and make reasonable good faith efforts to be as inclusive, as diverse, and as representative as is reasonable. My experience is that unless we individually and collectively take some form of affirmative action to figuratively and literally change the complexion of a body, and in this case we're talking about appointed boards and commissions, we really won't see much change or that change will be very slow to come. My last point in these regards in why I would support a bill like LB824 is that if we think diversity representation inclusion are important to the way we conduct business and as public entities, that it should be a goal that we strive for, then maybe we do need to mandate some level of representation as we make these...individuals make these

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

appointments. I don't know that I would limit the representation and the consideration just to gender equity. I think that there are opportunities to ensure that bodies that we appoint have a racial ethnic cultural representation. And it seems that if nothing else...if it's not something that we're willing to mandate, maybe there's some ways to send messages in the form of resolutions, in the form of executive orders that would let folks know that we are inclusive, we seek representation in principle and in practice. I would encourage you to take a close look at this opportunity. I think it has merit. In principle, it certainly presents some challenges in implementation, but that should not dissuade us from taking a very concerted look at it and engage each other in very open and honest discussion about what it is that we want to see in our public bodies. With that, I certainly would welcome any questions that you might have. [LB824]

SENATOR AGUILAR: Thank you. Are there any questions for Mr. Soto? Seeing none, thank you for taking the time to come down today, Jose. [LB824]

JOSE SOTO: Thank you very much. [LB824]

SENATOR AGUILAR: (Exhibit 3) Are there any proponents? Any opponents? Neutral testimony? For the record, I'd like to read in a letter of opposition from Jan Ream of Omaha. And that will...Senator Schimek to close. I'm sorry. Senator Schimek waives closing. That closes the hearing on LB824. Senator Dubas, what legislative gem do you bring before us today? Welcome. [LB824]

SENATOR DUBAS: (Exhibit 1) Thank you, Senator Aguilar, members of the Government Committee. Thank you for giving me this opportunity this afternoon. My name is Annette Dubas, A-n-n-e-t-t-e D-u-b-a-s, and I represent the 34th Legislative District. LB921 is a bill that would create the Nebraska Office of Energy Independence by changing the Nebraska Energy Office, which is currently under the Governor, into an independent noncode state agency. We have quite a few agencies in this capacity, one that most of us are familiar with is the Accountability and Disclosure Commission. This agency would be overseen by an advisory board consisting of key parties in the energy field in Nebraska. The Energy Office began in 1973 as the fuel allocations division within the Nebraska Department of Revenue. It gained independent status in 1977 and remained that way until 1987 when an executive order made it a division of the Policy Research Office. The funding for operations has remained largely consistent over the past years, including approximately \$6 million in federal aid, to administer such programs as weatherization assistance and energy savings loans. By creating the Nebraska Office of Energy Independence, we have an opportunity to make Nebraska a leader in the field of energy development and research. LB921 is similar to legislation that has been successfully passed in four other states, including Iowa and Minnesota. These states created a central office that coordinates their states energy policy. Through LB921 Nebraska can establish a central hub that can lead our state into the future. Right now all of our agencies that are involved in energy policies are not

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

connected and there is some information in the packet that I just passed out to you that illustrates that with some diagrams. And as seen from the results in these other states, it is essential to have a central coordinating point in our state. I liken this to kind of like the Department of Economic Development. That's a point of entry if a business wants to get started, needs to find out information, questions, what's available to it, the business can go to the Department of Economic Development and get those things answered and we really don't have a point of entry for energy policy or development. Through LB921 the Nebraska Office of Energy Independence will be responsible for coordinating, communicating, and collaborating with existing state boards, commissions, and agencies that work with energy-related issues. The Nebraska Energy Council will be the advisory board charged with overseeing the Nebraska Office of Energy Independence. Both the NOEI and the Energy Council are charged with reviewing the federal Energy Independence and Security Act of 2007 and making recommendations for comprehensive state energy policy to achieve that energy independence. Each year Nebraskans spend approximately twice as much as the amount of our annual budget on energy and many of those dollars go out of state because we're dependent on other sources for energy. So energy independence brings economic development into the state and a return to the investment people make in energy consumption. This bill is the culmination of many meetings with parties involved with energy. Listening to what is working and what is not brought me to the realization that without a comprehensive approach to energy development and oversight, we will lose opportunities to capitalize on economic development of renewable energy production. Nebraskans, just like the nation, identify energy as one of the most important policy issues facing us today. It is clear that Nebraska must develop a comprehensive energy policy that responds to the opportunities presented by this most federal recent energy legislation. This is a vital piece of legislation for the future of our state. Should any concerns be raised by the committee or testifiers, I want to publicly state that I will work with those parties to address any issues, and I've spent a great deal of time already talking to a lot of these people, encouraging them to ask me questions, seeking their input, inviting suggestions or comments. I've been working with legal counsel. I met with Lauren Hill this morning. I am very open to what it will take to make this bill what it is that I feel we need to serve the state of Nebraska. It is time for Nebraska to be a leader and not a follower, especially in this critical area that will impact the future of our state and country. I feel LB921 will allow us to be a leader and I ask for your support and I'd be happy to take any questions. [LB921]

SENATOR AGUILAR: Thank you, Senator Dubas. Questions for the senator? Senator Rogert. [LB921]

SENATOR ROBERT: Senator Dubas, I understand there could be some concerns by some interested parties on membership on the council. For the record, you've mentioned that you'd be willing to work and change or modify what we have right here. [LB921]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

SENATOR DUBAS: No question about that. That was the part of the bill, as I was working on putting it together, I struggled with the most because I wanted a council that would not be so cumbersome that we couldn't get anything done, but at the same time was able to represent all of the different perspectives dealing with energy production, conservation, and all those areas. So I am definitely open to what it would take to make that council be effective and a representative-type council. [LB921]

SENATOR ROBERT: Thank you. [LB921]

SENATOR AGUILAR: Senator Dubas, you'd mentioned that you'd had surveys and meetings with different constituency groups and my question is did they alliterate any or experience any hardships or roadblocks with the current system as it is? [LB921]

SENATOR DUBAS: I don't know if you would actually call it hardships or roadblocks, it was just like they didn't know where to go and when they did...you know, if they went to a board or, you know, some of the entities that are already in place, there wasn't always...well, I'm not quite sure about that answer and I also heard that we might be duplicating some efforts. The Ethanol Board is a very effective board, very successful board and is kind of in the leader and in speaking with some of their members and their director, a lot of people were coming to them and saying, okay, this worked for you, how do I make it work for me in another area. So it just seemed like we were lacking something. [LB921]

SENATOR AGUILAR: Thank you. Further questions? Senator Pahls. [LB921]

SENATOR PAHLS: I have a question. Do you feel like you've been stonewalled by anybody in particular? [LB921]

SENATOR DUBAS: No. No, everybody that I've been talking to has been very open and appreciative of the discussion and while we might not always have been looking at it from the same perspective or had a different way of approaching it, there has seemed to be very general agreement that we need to have this discussion, it's an important discussion for the state. We need to have something in place that will help us move forward. [LB921]

SENATOR PAHLS: Okay. Thank you. [LB921]

SENATOR AGUILAR: Further questions? Seeing none, thank you for coming today. First proponent of LB921. Welcome. [LB921]

RICH LOMBARDI: Good afternoon. My name is Rich Lombardi. I'm appearing today on behalf of the Center for Rural Affairs, L-o-m-b-a-r-d-i. The Center for Rural Affairs has

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

been around a long time and in our early days we had what was known as the small farm energy project, and that was in response to the oil embargo in 1973. Now I know some of you might not have been alive in 1973, but that was the...you're one year old? Yeah, that's what I was afraid of. (Laugh) The Legislature having passed former Senator Schmit back here, he was beginning his long standard track on ethanol and director Sneller and I had just recently graduated from Wesleyan and this state began a very serious attempt to react to a very critical crisis that paralyzed the entire state and sometimes we wish we had probably better memories of that and that we remembered that. So the Center for Rural Affairs embarked upon the small farm energy project and I suspect if you go on-line today you can see a lot of the products that were developed out of there as solar collectors and grain driers that used renewable energy. And in fact the state embarked upon a real serious effort to pass solar access laws and to create the State Energy Office in 1977. Now I can tell you that the first State Energy Office legislation was extremely timid legislation, that much of the drafting on that was in response to a number of folks in the energy industry that did not want to have a strong energy office, primarily because it was fear of regulation, there was fear of intrusion into work that they were doing. But nonetheless a piece of legislation was passed and the State Energy Office was created and over the years has been an important tool in dealing with various economic crisis that happened in the early '80s. When the farm crisis was here, the Energy Office was front and center looking at basically community energy planning. In 2004 numbers, according to the Energy Research Institute, probably around \$5.4 billion leaves the state through the purchase of energy and fuels. Most of the...and put that in context in that same year, the total amount of money that we got from all our ag products was \$9.7 billion. And I think Senator Dubas had mentioned that basically around probably in 2004, this was probably twice what people paid in their state and income taxes, huge amount of money. Since that time the center has embarked on in most our work here is working with a number of you on rural economic development issues. But clearly, if you put together a profile and a lot of time we have of each of your communities, you can hear that big sucking sound which is energy costs that are leaving your economy and leaving the state. What's nice about this bill is that not only are you creating and committing an office, but you've set the goal in the name and that's energy independence. And I suspect those of you that have run for office recently or had a recent town hall meeting, if you bring up and say energy independence, you see sparkles in peoples eyes. We've done a lot of polling over the years and I don't think there's an issue that unites people more in the state than doing something about renewable energy. But I think that we would have to say today that we have not embraced an initiative here that is significant enough to try to turn the corner on our energy consumption. And there needs to be a commitment at a state level to do battle on this front, and I don't think you'll find an issue that unites more Nebraskans than this particular type of proposal. And whether it's the creation of a new energy office, I have a great deal of respect for Lauren Hill. She is one of the best public servants I've ever had the pleasure of working with. But I think it's totally unrealistic to think that she can be a state energy director and a director of policy. There's just...if

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

we're going to be leaders--and I know there's a lot of you that want to be leaders in the energy area--then we're going to have to commit some time and some resources to it. And the way to really stimulate the economy...and I think that we need to turn some of those energy dollars and bring them back in the state and there needs to be a commitment at this level. And I think it's going to take the Legislature and the executive branch with all the allies out there to embark upon a serious campaign to be energy independent in this state. The other good thing about this particular proposal, which was not existent in 1977 when that legislation was drafted, is that you have a lot of departments that are doing work in this area. You have commodity boards that are doing work in this area. The nice thing about this particular piece of legislation tries to bring those parties together for the collaboration that we know happens when you draw people together, and I think that's one of the strengths of this bill. But I think that this is an action that you could take as a Legislature in conjunction with the executive branch to not only keep those dollars in here, but I think you have a tremendous potential--and you've already seen it in the ethanol area--to produce a lot of new jobs. And not too long after this bill was introduced, there was a great interim study done on solar jobs and the amount of job work that would come if we committed ourselves to a solar and renewable energy economy, and it was commissioned and done by the former president of the AFL-CIO, Bill Brennan, at the time and that talked about what some of the economic potential is. So to not take anymore of your time, but it does seem to me that it is time for this Legislature and this state to make a renewed commitment to energy independence, and I can't help but think that much of the populous will be right behind you. Thank you. [LB921]

SENATOR AGUILAR: Thank you. Questions for Mr. Lombardi? Senator Friend. [LB921]

SENATOR FRIEND: Thank you, Chairman Aguilar. Rich, are you...is there a little fear...and I've talked to Senator Dubas a little bit about this. I think all of us have. We know how much...how important not only this is to her, and she communicated it pretty well, that there's a mind-set here, there's a thought process and they've gone through the summer and the fall dealing with some of this stuff. But I didn't bring this to Annette's attention, but one of the things that worries me a little bit is if you have a code agency...let's set aside for a second that the code agency might not be working in an enforcement capacity like either the Governor or the office would like it to work. The Governor's still got the ability to turn around or the people that work for the Governor to turn around and to be able to turn that knob when they need to turn it. I guess a little bit of the fear and it's not enough to make me real concerned, but a little bit of the fear is the Energy Office is in a way an enforcement agency. I've worked with them on a couple of items that have come through Urban Affairs but they're meek. Well, how much...and that's not a bad thing. I'm just saying that's the way it is. I mean, they're not the FBI. What I'm wondering is if you make these type of changes, what happens then? I mean where you don't have a Governor or you don't have directors to turn that knob when they need to if they feel like the populous...the Governor's driven...and the directors that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

are with the Governor are driven by certain things, either political or from a populous standpoint...if you don't have that knob anymore, how does that knob get turned? I mean, you have an agency that's not a code agency anymore, how could we be assured that anything really changes, I guess is what I'm saying, for the better? [LB921]

RICH LOMBARDI: Well, I would hope that if the Legislature passes this legislation that there is a very active legislative oversight on your behalf because my sense is is that you're one of...the Legislature is one of the roles, one of the collaborators that is going to be necessary to move forward with if it's like any other state, and Iowa's probably the closest example of trying to use this particular model, that there is a lot of subsequent legislative action that's going to be required to fulfill the energy independence goals. [LB921]

SENATOR FRIEND: Rich, that's a good point but the thing is...and we all know this, I mean, we're creatures that debate and we can't hold hands and get across the street. I mean the Governor doesn't have to do that. I mean, he can just cross the street and not ask anybody. I mean, we have difficulty enforcing anything because we're a legislative body. I mean, do you see where I'm going with this? I mean, when that knob needs to be turned and somebody needs to point at the energy office, they can do that when they need to right now. I'm not saying I'm against this concept. What I'm saying is where does that control come from? I don't know that I have those...I'm struggling with that a little bit right now. So you can comment on that, but I don't know that there's anything to... [LB921]

SENATOR AGUILAR: Further questions? Thank you, Rich. [LB921]

RICH LOMBARDI: Thanks, Senator. [LB921]

SENATOR AGUILAR: Next proponent. Page. [LB921]

KEN WINSTON: (Exhibit 2) Page? Oh, sorry. I came the wrong direction. [LB921]

SENATOR AGUILAR: The media is not going to help you. (Laughter) [LB921]

KEN WINSTON: I don't know they've been... [LB921]

SENATOR FRIEND: Especially you, Ken. [LB921]

KEN WINSTON: Actually they've been very helpful to me in the past. [LB921]

SENATOR AGUILAR: Welcome. [LB921]

KEN WINSTON: But we won't go there. Good afternoon, Senator Aguilar, members of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

the Government, Military and Veterans Affairs Committee. My name is Ken Winston, last name is spelled W-i-n-s-t-o-n, and I'm appearing on behalf of the Nebraska Chapter of the Sierra Club. Let me just run through a few things here quickly. I won't read all my testimony, but I just wanted to talk a little bit about the importance of having an energy office that's independent, and there's been some discussion about the benefits of having this. One of the reasons it's good is because of the fact that Nebraska has a great deal of resources that could be tapped to deal with our energy issues and I believe that what we lack is vision in this area. We do have both the resources and there's also the research that the university is doing in this area. So LB921 would be a mechanism of creating leadership and direction on these issues. Now what--as I indicate--I'm also asking for some more things beyond what Senator Dubas is asking for, and I guess I wanted to use an analogy here for why the Office of Energy Independence is important. The Office of Energy Independence...part of the problem as Senator Friend alluded, the Energy Office...they're nice people, they work hard, they do their job, but they're not over here advocating. They're not out public advocating for development of new policies. They're not exercising leadership on these issues. I'm not faulting them. It's just the way their office is setup. They're not independent. They can't go out and do that kind of work and the way that--as I understand it--the way this office is envisioned by Senator Dubas, they would have independence, and I guess the analogy that I want to make for what I'm doing today is I'm asking for more things than what Senator Dubas is asking for in her bill because I'm independent of her. I support what she's doing but I'm saying let's do that and more, and by the same token if you had an independent energy office, they could go out and they could be saying, let's really develop our solar potential, let's really develop our wind potential. They could be setting up conferences to advocate for that. They could be bringing together experts on these issues. And so that's the kind of office that we would envision, and the creation of the kinds of policies that we really need in this state to take advantage of some of our resources and to use our resources wisely. One of the things that I want to talk about and I know that LB921 does address the issue of energy efficiency, but we really believe that energy efficiency is a central issue that needs to be addressed, it needs to have a central role in addressing energy policy. And part of this...and I don't think there's enough discussion about this, but there's lots of energy being wasted at the present time. We don't even know how much energy we are wasting. The public buildings in this state...you know, I sat on a school board for several years. And so I know that there's ways of becoming more efficient in the way that government does its business, and one of the ways that it can do that is to become more energy efficient. But as I said, we don't know how much we're wasting at the present time. So I would like to see more focus on that. One of the other things that I would like to see addressed in the bill is the idea that energy encompasses lots of different areas. It isn't just a matter of renewable energy creation. It isn't just a matter of energy efficiency in buildings. There's also issues related to building design, community planning, transportation, and while we're talking about it, we also ought to be thinking about our other resources, specifically water because water use is another factor that we need to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

think about in terms of our energy because the more water we use and the way that energy is used, the way that energy uses water, we need to think about those and factor those in when we're creating an energy policy. And then finally, and this is something that's probably going to be controversial with some people, and the reason I'm raising it is because it's my job to raise these kinds of issues. We don't talk about climate change in this state and I know that for some people they don't believe it exists. Some people don't believe that humans are involved with it at all. But I think we at least need to engage in the discussion about it because of the fact that other states and the rest of the country, the rest of the world is discussing it, and right now Nebraska is not talking about it at all. And to the extent that they're talking about it, we need to be able to shape our policies around that concept and to think about if that affects their policy. Maybe we need to be able to shape our policy in order to address their thinking even if we don't agree with it. And in addition, I think we need to think about international policies and international economic trends while we're developing energy policy. So those are some of the suggestions that we would have for this bill. We do believe it's a good concept and we'd be glad to work with the committee and with Senator Dubas for the advancement of this bill. I'd be glad to answer questions. [LB921]

SENATOR AGUILAR: Questions for Mr. Winston? Seeing none, thank you. [LB921]

KEN WINSTON: Thank you. [LB921]

SENATOR AGUILAR: Next proponent. [LB921]

ROBERT BYRNES: (Exhibit 3) Good afternoon, Senator Aguilar, members of the Government Affairs Committee. My name is Robert Byrnes, spelled B-y-r-n-e-s. I come from Oakland, Nebraska. I'm here representing today Nebraska Renewable Energy Systems which is my company, and nonprofit Nebraska Renewable Energy Association. I strongly support LB921 with great enthusiasm and I encourage you to support LB921 and return the focus of Nebraska's energy policy back to reducing our dependence on imported energy sources through conservation and utilization of our own resources to meet our energy needs and goals. I have handed out information regarding my testimony. Start with a couple of annual reports from the NEO as well as the last 1992 energy policy that was done in the state, energy policy recommendations that were done and I'll be referencing those throughout the testimony. As a small business person actively engaged in the development of renewable resources within Nebraska, I find myself alone with little support. However, I guarantee the dog-eared corkboard I have dragged around all over Nebraska showing all of the various renewable installations across the state represents more information than anyone in state government can produce. The complete lack of networking across the state also drove the formation of the nonprofit Nebraska Renewable Energy Association in its goal of networking, education, and awareness for citizens. Nebraskans have clearly voiced their support of a more renewable portfolio in our state yet nothing is on the boards. The proposed

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

duties of the director of the new office very accurately capture what needs to be done in this state, and I am grateful to all of the senators who have signed onto this important bill so that we can chart a new course for our energy policy. We need an agency that will do the heavy lifting and engage the people of Nebraska to communicate our energy goals. While there are certainly outstanding individuals within the current organization and much good work has been done, the Nebraska Energy Office has shifted focus significantly over the past 20 years and our NEO is actually one of the very few remaining state energy offices that still finds itself reporting to a governor. To illustrate this change in focus, the 48-page annual report from 1988 which clearly outlines Nebraska's energy inputs and defines the ratio of energy imports from each category compares sharply with the 11-page annual report from 2005 that does not even contain the word "imported". While the 1988 report opens with Nebraska's primary energy goal is to reduce its dependence on imported resources to meet its energy needs. Nebraska was clearly on the cutting edge at that time and the 1988 report clearly documents the potential global impacts from consumption of old carbon energy sources as well, and as you know, Nebraska led the way with carbon sequestration research which was the forerunner of the carbon trading market that we're seeing develop currently. The 2005 report does not include the word "carbon, carbon dioxide, greenhouse gas, climate change, global warming" or even the word "global". It is my contention that the good ship NEO seems to have eased up into dry dock and no new course has been set. While I realize that there are many myths surrounding renewable energy and I talk to a lot of citizens on a daily basis in this regard, I have also heard many reports from citizens who got very negative feedback from the NEO in regards to their inquiries about these energy sources. I myself was discouraged by the NEO from putting up my first wind turbine almost four years ago. Another friend who tried to make a go of a renewable energy design and installation business in Lincoln called the NEO last fall. He was told there were no renewable energy business listings, web links, or marketing for such companies through the NEO or their Web site because "those things don't work here in Nebraska." While the business struggles on, this business person has since left the state for "greener pastures." Last I checked the wind still blew, we are number six in the nation, and the sun was still shining, number nine. When an informal round table of renewable energy stakeholders was held in Aurora last year, there were some surreal moments during the course of the meeting where I half expected some music from the Twilight Zone to break in from the loud speakers. This occurred while discussing NEO and Nebraska energy policy. The first occurred when a significant portion of the room acknowledged that they had no idea Nebraska had an energy office. The reactions were disbelief and shock upon learning of the existence of the office and/or its missions and that included members of the rural electric lobby, hearing this for the first time at that meeting. When the highly organized Iowa office of energy independence was compared to the random array of agencies that comprise the Nebraska infrastructure, it was immediately clear that the best kept energy secret in Nebraska was not going to be cut out for the task at hand, never mind lead the way in charting the state's energy future. Once that comparison was made, the image has never gone away and Senator Dubas

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

has provided those two comparative charts. It can be clearly seen by the most cursory of examinations that Nebraska severely lags in all areas of renewable energy development outside of ethanol. With an ever decreasing share of Nebraska ownership in ethanol plants and limited utilization here in the state, Nebraska spent a lot of time last year in the unenviable position of having the highest gas prices in the nation, yes, even higher than California. While the ethanol industry has been a tremendous boon for the state due to the visionary leadership of its board, we certainly have left some money on the table there. Outside of our gains in ethanol, the overall situation with renewables is in need of an upgrade and is not solely the fault of NEO because our very energy policy recommendations themselves are 16 years old, and there are some pages from that report included in my submission. This document encourages the use of alternative automobile fuels like propane and is clearly outdated. The fact that the Nebraska energy playbook is over 16 years old is one of the better responses to the question I so often hear from citizens regarding renewable energy development in our state who ask what is wrong in Nebraska. This lack of goal setting and follow through can be seen in our standing with an impending federal standard for inclusion of renewable energy on the grid. Although Nebraska has signed onto the 25 X '25 goal, we are far short of being on track to meet these goals. In fact, with current 1 percent renewable on the grid in 2008 and nothing on the boards through 2009, we are seemingly in idle. What is the plan to deal with looming carbon taxes that will affect 60 percent of our grid using coal? With ethanol growth slowing and the budding biodiesel industry gasping from 50 cents a pound soybean oil, what is our plan? Senator McGill's attempt last session to begin discussion on a very modest statewide renewable portfolio standard, RPS, was greeted with jabs from the Nebraska Power Association calling it a hidden tax. Well, if that is the case, then what are the state's goals? What are the benchmarks and again what is the plan? We need LB921 and the first order of business by the new director needs to be to produce a draft of an updated energy policy which will be submitted to the proposed council in the first 90 days of hire, in my view. And I think, Senator Friend, that goes back to your question regarding how do we turn the knob, how do we know where to turn the knob? I think an up-to-date comprehensive energy policy would provide that guidance to the agency, whatever that is. It would not be fair to come to Lincoln and only point fingers at this or that agency as having gone astray. The citizens of Nebraska have their fair share in this situation as well. Energy is not a priority for Nebraskans is about the best I've heard it summarized. The reasons are varied but this too was foreseen by the 1988 report where it says, when it comes to matters of energy management, security, many Americans seem to have forgotten a time only 15 years ago when oil was in short supply and prices were staggering, and that was 35 cents a gallon. Memories of the oil supply disruptions and shortages the nation experienced have quickly faded in the light of current low energy prices and readily available energy supplies. As citizens, we must all get involved with this topic on some level, whether it is sealing up a draft, conserving traditional energy sources or producing or consuming renewable energy. We must set the example for the next generation so as to give them a better energy outlook than the one we currently have. While government policy will

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

help guide and direct some activities by citizens, it is up to Nebraskans to just say "no" to imported energy sources when they can and utilize our own vast natural resources present within the state. We need to work with our neighboring states who have embraced such initiatives, like Minnesota, Iowa, Wisconsin, and others through the creation of an office of energy independence. It is no coincidence that these same states have also set goals through tools like an RPS are leading the way into the new energy economy. Nebraska needs to utilize these successful models and work with our neighbors through the Midwestern Governors Association and other organizations where ideas can be shared and utilized to benefit Nebraska. Our failure to participate in such opportunities is yet another indicator that energy is not important to Nebraskans. I am here to tell you that without change on a national scale, our energy future is certainly bleak. Failure to prepare for supply disruptions and price spikes could have devastating effects on a Nebraska economy that relies on cheap energy inputs. The time is now to enact LB921 and get our energy policy in tune with our future. Finally, the 1988 report outlines what needs to be done. Quote, now when--this is 1988--when supplies are abundant and prices are low, we must do all we can to identify options and develop policies and programs that will help Nebraska deal with an uncertain energy future. I would dare to say that these words ring truer today than they did so many years ago. And I strongly encourage the committee to support LB921 and advance it to the floor. And with that, I'll take any questions. [LB921]

SENATOR ROBERT: Thank you, Mr. Byrnes. Are there any questions for Mr. Byrnes from the committee? I have one. How many states or where do we rank in terms of...it's been 16 years since we last came up with a energy policy. What are your comments on that? You know, in terms of how many states have waited that long or longer to your knowledge. [LB921]

ROBERT BYRNES: I think the updated...the energy policy recommendations to the Governor that were dated '91, published '92, were our last look at this and it was that plan, so to speak. Most states, the vast majority or I would probably say 50 percent of the states have embraced a policy in the form of an RPS, which is a renewable portfolio standard. That standard typically sends benchmarks, goals, and dates. So for example, by 2015 we'll have 10 percent renewables within our energy. So this is kind of a form of...the RPS is a form of an updated energy policy and over half of the states do have one of those in place. [LB921]

SENATOR ROBERT: And we do not? [LB921]

ROBERT BYRNES: We do not. [LB921]

SENATOR ROBERT: But the federal government has an RPS of (inaudible)? [LB921]

ROBERT BYRNES: The federal government...it's looming, it's coming. It didn't make it

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

out this year. There are strong feelings it's just like carbon taxes. It's just a matter of time. [LB921]

SENATOR ROBERT: Okay. Thank you. Any other questions? Seeing none, thank you. [LB921]

ROBERT BYRNES: Thank you for your time. [LB921]

SENATOR ROBERT: Next proponent, please. Good afternoon. [LB921]

TODD SNELLER: (Exhibit 4) Good afternoon. Members of the committee, my name is Todd Sneller, S-n-e-l-l-e-r. I currently serve as the administrator of the Nebraska Ethanol Board and I'm appearing today in support of LB921 on behalf of the Nebraska Ethanol Board. Rather than repeat much of the excellent testimony presented today, I'd like to focus a little bit on historical context and use the ethanol example as one to support LB921 and the rationale for advancing that type of plan and being proactive in our energy planning for the future. As many of you may be aware of, we look back at the ethanol experience, the Nebraska Legislature in 1971 felt it was the public purpose of the state to work directly with a number of people, communities, businesses in the agricultural sector to try to develop a plan for the commercial production of ethanol and use that product in the state. Over the ensuing 35 years, what we've seen is a series of successes in large part because the Nebraska Legislature has crafted a public policy that allowed a framework in which we could advance the commercial interests of ethanol development in the state in concert with the private sector and communities across the state. Our success today is really unprecedented. Nebraska ranks second. We have, in terms of ethanol production today, more than 1.3 billion gallons of ethanol production. A year from now we'll have about 2.3 billion gallons a year of ethanol production. There are 20 plants operating in the state, another seven under construction, and 25 additional communities currently trying to recruit ethanol plants to their respective communities. We have a \$5 billion business as a result of this legislative public policy. Over 2,600 people are directly or indirectly employed by that industry in the state. This is in large part because the Legislature had the vision on many occasions to piggyback on federal policy that called for improvements in either domestic renewable fuels or cleaner burning fuels. Ethanol filled the role in both those cases on many occasions. As a result today, we've seen a novel concept evolve into a viable industry in the state and one that suites our state's economic interests quite well. I'm here in support of this policy today because I think it's again time for the state to take a more proactive approach, and the reason for that is that while we've done an extraordinary job in capturing opportunities in the ethanol arena and will continue to do that in the future, the first chapter of that is coming to a close in that the federal law that was enacted in December of 2007 will require that after we reach 15 billion gallons of grain-based ethanol, which we will reach within the next three years, we then have a challenge nationally to establish a production capacity of 21 billion gallons of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

cellulose-based ethanol in advanced biofuels. It can come from a lot of the natural feedstocks that occur in the state of Nebraska and the other states. And it's that opportunity that I think is presented to the Nebraska Legislature today and there's an opportunity to embrace a public policy that allows us to continue the work that we've done in the grain ethanol sector. That's been a policy that served the state well and I would suggest to you that if we take a look down the road for the next 14 years, we have a tremendous opportunity to again capitalize on an economic and energy development opportunity that's perhaps unprecedented in the state. So I ask that you look at that opportunity as presented in LB921 as one of the mechanisms that starts us down that path that reflects a proactive policy and takes a look at what our opportunities are for capturing that as a state. The map that was handed around to you comes as a bit of a shock to me because for 32 years I've been actively working with communities and companies to try to establish grain ethanol plants in Nebraska. If we took a look at this map today and plotted the dry mill and wet mill ethanol plants that are currently processing grained ethanol today, we'd have a state full of dots. If we take a look at the opportunities for cellulosic research and commercial deployment of those technologies in a commercial environment, we see a wasteland on this map when you look at the state of Nebraska. And the reason is we've simply not kept up with the same public policy, the proactive public policy, that has allowed us to enjoy the success we have in the grain-based ethanol production arena. We have that opportunity today if we look forward and capitalize on this opportunity through a framework that encourages and incentivizes that same opportunity in cellulose and biofuels. We take a look today on the competitive environment, and I spend many hours each week trying to compete for this business activity, and we've been told explicitly by these companies that in order to get on the map here that Nebraska today is not competitive. We simply have not crafted a public policy framework. We've not crafted the same type of incentives and research initiatives that our neighboring states have. So I submit to you today that we are at an important juncture in terms of state energy policy. We can look back at our success and rest on those laurels or we can look forward and build on that success that we've had today and look forward to this opportunity in the future over the next 14 years to continue to capture some of that economic activity. I want to close with the clip by clarifying a perception I feel sometimes before the legislative committees that I testify in front of, and that's that over the years the concept of ethanol has been viewed purely as an agricultural phenomena. And I would suggest to you as we take a look at the financial institutions, the research institutions, the engineering firms in Nebraska that have capitalized in an enormous way by providing goods and services to this sector in Nebraska. It's very clear that this is not just an agricultural phenomena. This is an economic catalysts that cuts across many different stratus in terms...or states economy, many different professions that employs workers from a variety of different professional and skilled workers and trades arenas in the state. And I commend the fact that you have looked forward in the past to this opportunity and we've captured that and I ask that you look at the opportunity before us today and create a mechanism that allows us to start work on being proactive and competitive in this arena that has been presented

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

to us through public policy. Thank you. [LB921]

SENATOR ROBERT: Mr. Sneller, I consider you to be an expert in this field of government policy making. In your personal opinion, to what extent if we moved this agency out of the Office of the Governor and changed our...or created more up-to-date policy, to what extent would the affect be the same as it had been on the ethanol industry in the past 20 years, 30 years? How efficiently and how fast would that move? [LB921]

TODD SNELLER: In a large part, I believe, that will depend on the direction you provide. But let me give an example that was alluded to earlier and that's the difference between being an advocacy agency and clearly in the statute that guides the Nebraska Ethanol Board, we are directed by this body to be an advocacy agency to work to recruit and develop and try to facilitate commercial deployment of these technologies in ethanol development as a whole. With that guidance by this body that we've taken the opportunity to appear before you many times. Other state agencies oftentimes testify in a neutral position. I don't believe that we can be an effective advocate by testifying in a neutral position so I'm here today to support this bill. As we look forward as I work within state government, one of my greatest frustrations is some of the inefficiencies that we face within government because we don't have this kind of coordinated effort that cuts across different sectors. I will not name other state agencies because I maintain professional working relationships, but I can tell you that there are many times that the activities of the advocacy agencies, like the Ethanol Boards, to recruit and foster development that's been the clear public policy of the state is subordinated--and I believe unintentionally but it is--by some of the regulatory activities of other state agencies. Now we try to go behind closed doors and we have the occasional wrestling match to see if we can work that out. But the fact is that there is not that same very clear guidance to the regulatory agencies about how to implement state public policies in a way that works and protects the environment, protects water resources, protects communities, but also continues to foster a business environment. We simply don't have that in our energy policy today. So I believe LB921 takes a step in that direction in terms of coordinating that activity and putting the parties that are representing the state of Nebraska and representing the public policies that you craft for those agencies together on the same page working in concert to try to achieve successfully we've seen in the ethanol arena. [LB921]

SENATOR ROBERT: Okay. Thank you. [LB921]

SENATOR AGUILAR: Further questions? Yes, Senator Pahls. [LB921]

SENATOR PAHLS: Thank you. I'm going to pick up what you were thinking. Some agencies actually stand in the way of economic development or...is that what I'm hearing from you? You told me... [LB921]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

TODD SNELLER: That is my perception, yes, and I don't believe that it's in any way, shape or form as an effort to subordinate that activity intentionally. I believe what they are taking a look at oftentimes is regulatory decisions that are made in a regulatory rather than a legal lawmaking arena, a legislative arena, and the interpretation of those is sometimes different from one area of the state to another. And the adverse consequences that oftentimes will result in million dollar decisions that are put forth by the regulatory agency that will deter investment, that will deter development of these energy agencies. And I believe that to the extent that we do a better job of coordinating the activities of the state that we can minimize those adverse consequences. [LB921]

SENATOR PAHLS: I appreciate it. I do agree with you to some degree. [LB921]

TODD SNELLER: As a state employee, I try to take pride in being a state employee and I must say that from time to time I'm extraordinarily frustrated at our inability to move forward on the same page in some of our energy policy and energy development areas simply because we don't have the coordinated effort that I think we need to have if we're going to be successful. [LB921]

SENATOR PAHLS: Thank you. We are in agreement. [LB921]

SENATOR AGUILAR: Further questions? [LB921]

TODD SNELLER: Thank you for your time. [LB921]

SENATOR AGUILAR: Seeing none, thank you for your testimony today. Next proponent. Welcome. [LB921]

DAVE HALLBERG: Thank you, Mr. Chairman and members of the committee. I appreciate the time to be here. I'll be brief. My name is David E. Hallberg, H-a-l-l-b-e-r-g. I'm president, CEO of Prime Biosolutions in Omaha, Nebraska. I've been privileged to serve as a member of the Nebraska Ethanol Board since 1998, but I'm here today in my capacity as an inventor of low carbon fuels technology and a businessman. Just a brief background to give you some perspective on why I wanted to make some comments today. I was born and raised in South Dakota and after the 1973 war in the middle east went there for an extended period of time, after which I came back to Washington, D.C., and got my master's in international relations at Johns Hopkins School for Advanced International Studies. In the late '70s, I served as a congressional aid in the U.S. House and Senate and drafted a lot of the underpinning...helped to draft a lot of the underpinning legislation of the industry that's in place today. In 1981, I was the founder and CEO of the Renewable Fuels Association in Washington, which is today the nations largest trade association. And from that perspective of the last 30 years, I think it's fair to say that we now have an enormous watershed opportunity facing us in terms of the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

biofuels industry as a whole, nationwide, and especially here in Nebraska. The Energy Independence and Security Act of 2007 is noted in Senator Dubas' legislation. I think we've all heard very smart people, like Warren Buffet, talk about the incredible hemorrhage of dollars that leaves our nation every day, today in excess of \$1 billion a day for imported oil, much of which goes to our enemies. And in fact, that was a lot of the catalyst for the reason why the President signed the legislation that was enacted in December of last year. I think it was the cartoon character Pogo who said, we are faced with insurmountable opportunities, and I think it's very true for this industry. The opportunities are enormous. As others have mentioned here, the legislation sets in place some requirements for minimum usage of biofuels that begin this year of 9 billion gallons a year, and in 2022 go to 36 billion gallons a year, which is about 20 percent of all the liquid motor fuels that are burned in this country. It's an enormous challenge and it's an enormous opportunity. But to put in perspective what we face, as you all read last week, Exxon reported a annual profit of \$40 billion--that's a profit. One percent of that total is \$400 million dollars. Many companies spill more than 1 percent, and I think it puts in perspective the challenge that we have in terms of those who would not like to have some of these resources realized and opportunities realized just as a natural piece of business. The second challenge the industry has is not just the vested interest that would like it not to succeed, but it is the difficulties of translating new technologies and new end uses into the goals that we've set. Low carbon fuels will be the industry's next frontier. There's no doubt, whether you believe there's climate change problems, whether you need to get off the imported oil barrel. And what this legislation requires is expanded production with new technologies that will reduce the input or eliminate the input of fossil fuels and reduced carbon footprint. To do that there is going to have to be enormous amounts of private sector capital put in place and there will be lots of mistakes made and I can speak to that personally. We also are going to have to expand the distribution and end use of these fuels by way of blender pumps, flexible fuel vehicles, etcetera. I think the implementation of this legislation in the state of Nebraska, which has been a leader for so many years since I first started in Washington, D.C., is the key first step for us to mobilize in this state all the various crosscutting jurisdictions that it will take to realize these ambitious goals. Thank you for your time. [LB921]

SENATOR AGUILAR: Thank you. Questions for Mr. Hallberg? Seeing none, thank you for your testimony and thank you for your service. Next proponent. Are there any opponents? [LB921]

LORAN SCHMIT: Mr. Chairman, I'd like to testify in support. (Inaudible) supporters? [LB921]

SENATOR AGUILAR: Proponent, come up. Welcome. [LB921]

LORAN SCHMIT: (Exhibits 5&6) Mr. Chairman, members of the Government Committee, my name is Loran Schmit and I appreciate being invited to attend here

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

today. I want to provide for you a letter from Dwayne Braun who is the general manager of the U.S. bioethanol plant in Central City, and I have a letter that he has submitted to be presented to the committee. My name is Loran Schmit, L-o-r-a-n S-c-h-m-i-t. I'm from Bellwood, Nebraska. I'm a registered lobbyist for ethanol producers but I appear today on my own behalf. You've heard many persons testify this afternoon. I agree with much of what has been said, probably most of it. I want to say that we already have three entities in the state dedicated to the development of production and conservation of energy. The Nebraska Ethanol Board created in 1971, the Nebraska Energy Office created in 1973, and the Governor's Ethanol Coalition created during Governor Nelson's term of office. Each of those entities have performed a role and I believe has performed well. It may be time to move another step forward, as Senator Dubas has attempted, with LB921. The Federal Energy Independence Act will provide opportunities for the state to participate in development of new sources of energy. It will also give us the opportunity to make better use of existing forms of energy through conservation methods not yet discovered. Although Nebraska is not a large producer of oil and gas, those sources of energy should also be included in our plans. Nebraska is a large producer of ethanol. One of the bioproducts of ethanol production is carbon dioxide. We should learn how to capture that carbon dioxide and use it to enhance our oil production. The newly created Nebraska Office of Energy Independence could serve as a collection agency for information which could be available to members of the public much as the ethanol board now operates, but on a larger scale. One of my concerns, as I review the bill, is that the council not be so large or its members so numerous that it is unable to act. I believe the reason the ethanol board has functioned successfully is that its representation is broad enough to bring diversity, but small enough to require productivity. The staff, even smaller, must produce or explain why. I would suggest that the original council members be individuals directly involved with energy production, including the appropriate state government agency personnel. Nebraska has been fortunate for many years. Our governors and legislators have played leadership roles in development of alternative sources of energy. Governor Heineman and the present Legislature continue that tradition. The creation of a new agency should not be taken lightly and it may take some time to put together the pieces of the puzzle. Senator Dubas has made a good start. She has indicated a willingness to work with all interested parties. I believe we should accept her invitation and proceed. I will be glad to answer any questions. [LB921]

SENATOR AGUILAR: Questions for Senator Schmit? Seeing none, thank you for coming today. [LB921]

LORAN SCHMIT: (Exhibit 7) I'll resist the temptation to comment on some of the earlier comments that were made, Senator. I just want to say that...is Mr. Charlie Wilson here? If not, I have at his request brought a copy of the bill and he has made some suggested amendments to the bill in the document, and with your permission, Mr. Chairman, I will leave that with you also. [LB921]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

SENATOR AGUILAR: That's fine. [LB921]

LORAN SCHMIT: Thank you. [LB921]

SENATOR AGUILAR: Thank you. Thank you for your testimony. Are there any other proponents of the bill? All right. Now I think we're ready for opponents. Welcome. [LB921]

LARRY BARE: Senator Aguilar, members of the Government Committee, for the purpose of the record, my name is Larry Bare, B-a-r-e. I'm chief of staff for Governor Dave Heineman. I'm here today to testify in opposition to LB921. I have no quarrel with the intent of how the bill is designed, what it is trying to achieve. I have a problem with how it intends to do it. I do not support making it a noncode agency. I believe it should be accountable to an elected official, the Governor of the state of Nebraska. If the committee is so inclined as to not move forward with this bill, the Governor is prepared to make this a standalone agency, not a part of his department, with its own full-time director, as a code agency with cabinet-level status. I think that would be a much more efficient and effective means of accomplishing what Senator Dubas and a number of the people here today say they want to accomplish. You will always have attention between an independent agency and a code agency. I will tell you that I believe a code agency can be more effective. That's my position and it's been a longstanding position. That is the position of the Governor, and I'd be happy to answer any questions. [LB921]

SENATOR AGUILAR: Senator Pahls. [LB921]

SENATOR PAHLS: Larry, I'm glad to know that you come forth to this proposal. The concern that I have is sometimes is...and I'm not necessarily saying all agencies, but sometimes I have a frustration when I'm talking to bureaucracy. It seems like it's not that creative bent. It's always we're so concerned about--and rightly so--rules and regulations, but I think sometimes they're so involved into that that they cannot get past that. You're telling me an agency or an organization or part of the organization would not...that would not be...you're saying this is a fresh spirit, is what you're telling me? [LB921]

LARRY BARE: Well, I'm saying that I suffer from knowing the background. I was here in 1973. I know how the agency got created. I know how it evolved. I served as the acting director of the Energy Office in one of my previous lives. So I understand how it's operated and I understand how it became part of the Governor's Office. We're prepared to give it the additional focus and stature and status of a separate agency rather than a division of an agency. If it's important that it be called the Office of Energy Independence, we can probably even do that. Yes, I understand the frustration with bureaucrats, as they're often referred to. Some of those bureaucrats are implementing

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

the environmental protection standards that this body felt were important to have. Some of them are enforcing the revenue statutes that this body felt were important to have and many of them take criticism for enforcing those requirements that this body felt it was important to have. Now, there is a way to do that and a way not to do that, but I will tell you that having an elected official who can help cut through some of that bureaucracy is oftentimes helpful versus having an independent agency that has no elected official to help cut through some of that bureaucracy. [LB921]

SENATOR PAHLS: Can I just follow up? [LB921]

SENATOR AGUILAR: Follow up. [LB921]

SENATOR PAHLS: And I understand where you come from and I hear, but I also...although I've not been around as long as you have, but sometimes the interpretation from what we pass when it gets caught up in there is not the same. [LB921]

LARRY BARE: I understand. We struggle with that everyday. We attempt to be responsive. We attempt to interpret as best we can and any issue like that is going to be open to different interpretation. Well, I'll leave it there. [LB921]

SENATOR PAHLS: Okay. Thank you. [LB921]

SENATOR AGUILAR: Senator Friend. [LB921]

SENATOR FRIEND: Thank you, Mr. Chairman. Larry, I don't know if in five years I've become very efficient at reading fiscal notes, but what I'm not very efficient at is reading into the idea of budget changes based on an approach or an idea that is presented without a fiscal note associated with it. The budgeting process right now for the Fiscal Office is as such. I mean, we can look at the buckets in appropriations and we can figure out exactly what they need. What you're proposing...what Senator Dubas has proposed would change that concept, I mean, the budgeting process will change. Is that fair? Is that a fair... [LB921]

LARRY BARE: As I understand the bill, it would take what is now a division of the Governor's Office, Agency 7, the Energy Office, and make it a separate, independent, noncode agency. You would take the appropriation to that entity and move it out into a new agency, probably with a new agency number. [LB921]

SENATOR FRIEND: That's my understanding too, but the responsibility for the budget falls where? I mean, if it's not a code agency anymore, who's...I mean, the Legislature pretty much says, here's what they got last year, they get their own... [LB921]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

LARRY BARE: Each agency would submit their own budget request, the Governor would review it, include it or not include it in his...I'm mean there's dozens of noncode agencies. Todd Sneller is a noncode agency. Game and Parks is a noncode agency. Accountability and Disclosure...I mean, I can go through the whole list if you want me to. They operate independently. They are responsible to their board. Their board will, I assume, approve the development of a budget request and any other legislative proposals and they would go forward as any noncode agency does now. [LB921]

SENATOR FRIEND: Which has led me to the final question. Then do you run the risk in a noncode agency of having initiatives that may not have the...do you run the risk of having a noncode agency at the beginning of a budgeting session having all of these ideas and then not being able to implement them because you're at the mercy of a lot more moving parts as opposed to maybe the Governor's Office saying this is what we're going to need to implement the plan Larry was talking about with the Government, Military and Veterans Affairs Committee. [LB921]

LARRY BARE: The Governor is better able to coordinate at least the code agencies in terms of supporting whatever initiative it is that he chooses or she chooses to support. So if cellulosic ethanol is going to be a priority and we need to coordinate the activities of the Department of Environmental Control, Health and Human Services, Department of Economic Development, agriculture, that's pretty easily done. If you need those people sitting together at cabinet meetings, that's pretty easily done. If, as an example, I see the board that she is creating an example of where you don't need a law to do that. When we face drought, we created the Drought Task Force overnight. We got the agencies that we needed around the table the next day and the Governor gave direction as to what he wanted done. I love what I do and I love doing it in this state because you can do that and you can do it very easily and it's not just code agencies. I believe if the Governor called Todd Sneller and wanted him at that meeting, I think Todd would be there. [LB921]

SENATOR AGUILAR: Further questions? Senator Rogert. [LB921]

SENATOR ROBERT: Hi, Larry. Can you answer...I want to engage in a little dialogue. Is Ms. Hill going to come up and testify behind you? [LB921]

LARRY BARE: No. [LB921]

SENATOR ROBERT: Okay. Well, I want to comment just on further your answer to Senator Friend and I think maybe one of the reasons this bill has been brought forward is you said that the Governor is better able to facilitate the direction of the whatever cause he chooses to support. I think that is possibly the point here is that over the past 15 years our executive branch hasn't chosen to support the development of bioenergy as much as they have...such as, you know, in terms of the Ethanol Board has done

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

more being on their own and having experts in the field to push those types of things forward, in my opinion. Can you tell me what the director of the Nebraska Energy Office does? [LB921]

LARRY BARE: The director of the Nebraska Energy Office right now is Lauren Hill. [LB921]

SENATOR ROBERT: Right. [LB921]

LARRY BARE: And Lauren splits her duties between Policy Research Office and the oversight of the Energy Office. What I indicated is we're prepared to have Lauren focus on Policy Research and would appoint a new director who would be full time in the Energy Office. That person would devote their time organizing, running that office and accomplishing the objectives. The purposes of the new Office of Energy Independence are basically the same ones that are already in there for the Department of Energy with a few...with the Energy Office with a few minor additions. That's what the director of the Energy Office would do. And again, we are prepared to move it out of being an office within the Governor's Office to status as a code agency, just like the Department of Economic Development or the Department of Environmental Control or the Agriculture Department and a cabinet-level director who would attend and participate in the Governor's cabinet. [LB921]

SENATOR AGUILAR: Do you think in your opinion, Larry, that this move would have happened without Senator Dubas' bill being introduced? [LB921]

LARRY BARE: The issue of energy is a developing and growing issue and we all recognize that. We were working on and looking at some alternatives for the creation of an office that might include some other agencies, although reorganization attempts that infringe on existing territorial rights sometimes involve more effort than they're worth in terms of the accomplishment. I don't find the kinds of barriers and walls in Nebraska state government that a lot of people think are there. They really aren't. I work well with noncode agencies. Well, I think I work well with noncode agencies, not all noncode agencies might agree with that. I think I work pretty well with code agencies. And so we can bring together the needed resources. As Senator Dubas' bill causes us to look at it again, yes. I don't know how Lauren has done what she has done for as long as she has done it because she's doing three people's work. But this isn't about Lauren. This is about a structure that makes sense and we're prepared to propose that structure that makes sense. [LB921]

SENATOR AGUILAR: Very good. In my humble opinion, I think no matter what the committee decides to do, this is a win-win for Nebraska and then the energy future of Nebraska. Further questions for Larry? Seeing none, thank you, Larry, for being here. [LB921]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

LARRY BARE: Thank you. [LB921]

SENATOR AGUILAR: Are there any other opponents? Welcome, Jay. [LB921]

JAY HOLMQUIST: Mr. Chairman, members of the committee, my name is Jay Holmquist, that's J-a-y H-o-l-m-q-u-i-s-t. I'm the general manager of the Nebraska Rural Electric Association and I'm also appearing today on behalf of the Nebraska Power Association which represents all the states electrical utilities. We're testifying in opposition to LB921, but I have to admit up front it's a tough bill to testify in opposition to. Certainly the goal of energy independence is a laudable one. Our concerns...and I also want to congratulate or thank Senator Dubas for bringing this issue to the committee. I think she wants to elevate the profile of energy as an issue and that's a good thing. That's something that frankly is needed in the state. We just object to her proposal on two basic grounds. One is to change to a noncode agency we think is inappropriate. I think energy as you-all realize is becoming a more and more important issue and it's, I think, essential to have the Governor's Office engaged in any discussions on energy policy. And then specifically the makeup of the energy council we think needs some more work. I have spoken with Senator Dubas about our concerns and she's very willing to work with us on coming up with a proposal that we can accept, and certainly Larry Bare's suggestion in his testimony about making the Energy Office a separate agency has some merit. I hope it's something that you will explore. It's certainly something that we're interested in talking to the Governor's administration about. But that would conclude my testimony. [LB921]

SENATOR AGUILAR: Thank you, Mr. Holmquist. Questions for Jay? Senator Adams. [LB921]

SENATOR ADAMS: When Larry was up and explained the Governor's position or the executive branch position on making this a noncode agency, I could clearly understand his rationale. You just said that one of your...the organizations that you represent also would not like to see it move. But I really didn't pick up the rationale. It wasn't as solid and obvious as the Governor's Office. [LB921]

JAY HOLMQUIST: Sorry, I didn't want to repeat what Larry said, but basically our concerns are pretty much the same. And based on my personal experience as well, before I worked for the Nebraska Rural Electric Association I was an attorney for the Nebraska Natural Resources Commission, and for about half of my nine years with the Natural Resources Commission, they were an independent commission. There were efforts, repeated efforts, while I worked there to make it a code agency which we fought tooth and nail. We eventually lost that fight when Bob Kerry was Governor and became a code agency. I think we quickly learned that it was a positive thing that...you know, Larry talked about bringing issues up, say, related to ethanol in the cabinet setting

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

where you have all the agency directors together talking about issues. And I think, you know, it's important to have the Governor's Office, his staff, and other agencies all working together towards a goal. I think if you have an independent agency, they can sometimes go out into left field, be cowboys on their own and maybe not really be very productive. [LB921]

SENATOR ADAMS: Okay. Thank you. [LB921]

SENATOR AGUILAR: Further questions? Senator Pahls. [LB921]

SENATOR PAHLS: Jay, am I to take from your testimony something needs to be done? [LB921]

JAY HOLMQUIST: Yes. [LB921]

SENATOR PAHLS: So you're saying either we look at what the Governor or his administration is proposing or what Senator Dubas, but something needs to be done. [LB921]

JAY HOLMQUIST: I think it's important to do something to raise the profile of energy as an issue in this state, yes. [LB921]

SENATOR PAHLS: Okay. Thank you. [LB921]

SENATOR AGUILAR: Further questions? Seeing none, thank you, Jay [LB921]

JAY HOLMQUIST: Thank you very much for your time. [LB921]

SENATOR AGUILAR: Next opponent. [LB921]

DUANE GANGWISH: Good afternoon, Chairman Aguilar and members of the committee. My name is Duane Gangwish, that's D-u-a-n-e G-a-n-g-w-i-s-h. I serve as vice president of Environmental Affairs for the Nebraska Cattlemen in representing today to provide a modest opposition to LB921. The Nebraska Cattlemen members have a significant invested interest to Nebraska's energy policy and specifically as it pertains to renewable energy we're the primary consumer of the corn coproducts from grain-based ethanol. And we consider it a very valuable product to both the beef and the dairy industries in Nebraska. Although maybe our friends in pork and poultry industry don't share our enthusiasm regarding this issue all the time, they too have a vested interest. Secondly, ag producers of all segments are the principle owners of the land in which the sun shines and the wind blows and therefore giving them standing in the discussions regarding renewable energies. There are discussions also regarding the methane capture as another source of renewable energy which also directly involves

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

Nebraska livestock producers. Nebraska Cattlemen sincerely appreciate Senator Dubas' efforts and we have conversed with her over this matter and we draw...in her attempt, to draw much needed attention to the deliberate pursuit of a broad and sound energy policy and we support this with great enthusiasm. However, the Nebraska Cattlemen Board of Directors met last week and discussed the bill at length and are opposed to the bill primarily over the concern that by merely creating a different office with a new name does not necessarily advance the development of sound public policy regarding energy. Citizens in concert with the Legislature have been very active in the development of water policy through the involvement of many state agencies, local units of government, task forces, commodity organization, and private entities. And though tumultuous and ongoing, this effort has involved diverse interest without the creation, if you will, an Office of Water Policy. Nebraska Cattlemen appreciates the portion of the bill that includes a person actively involved in agriculture and we pledge to stay at the table and engage in the process. We cannot, however, support the structure proposed in LB921 and urge the committee not to advance the bill as written. And we will be involved and we pledge that to both Senator Dubas and we do that to you also. Thank you for the opportunity and I'd be happy to answer any questions. [LB921]

SENATOR AGUILAR: Questions? I have one. Your statement was probably--correct me if I'm wrong--prepared before Larry Bare's testimony. So were you guys comfortable with the way that things were going with the Energy Department prior to the introduction of Senator Dubas' bill? [LB921]

DUANE GANGWISH: Our statement was prepared independent, Senator Aguilar, of Mr. Bare's testimony and I would say, yes...I'm sorry. Our board did not discuss the current Energy Office's activities or their performances to date. It's purely a matter of just by creating a new and different way to address the same thing they were not interested in. However, in reference to Mr. Bare's testimony, we'd be very supportive of their proposals. [LB921]

SENATOR AGUILAR: Good. Thank you. [LB921]

SENATOR PAHLS: Then I would like to ask you a question. Do you think that something needs to happen, whether it's Senator Dubas' proposal with changes or the Governor's proposal? Something needs to happen, is that what I'm hearing from you? [LB921]

DUANE GANGWISH: Most definitely, Senator. I serve on Nebraska's 25 X '25 Committee that was mentioned earlier in testimony and as a part of that, we're having the national summit this year is going to be in Omaha. So Nebraska is a leader in those things. Nebraska Cattlemen has been involved in these renewable energy issues and we will continue to be and yes, something needs to be done. [LB921]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 06, 2008

SENATOR PAHLS: Okay. Thank you. [LB921]

SENATOR AGUILAR: Further questions? Seeing none, thank you. [LB921]

DUANE GANGWISH: Thank you. [LB921]

SENATOR AGUILAR: Any other opponents? Is there any neutral testimony? All kinds. [LB921]

JIM MILLER: (Exhibit 8) Good afternoon. I am Jim Miller, J-i-m M-i-l-l-e-r, a soybean and hog producer from Belden, Nebraska, and I serve as a director on the Nebraska Soybean Association. I am here today to testify neutral on LB921. Our organization is expressing support of the Nebraska Legislature for taking a proactive approach to adopt the Nebraska Energy Independence Act. The biodiesel industry has had some great successes in the growth of the industry the last few years and we want to continue to build on those successes. Any steps we can take as a state to achieve energy independence is a win for all. One section of LB921 that creates the Nebraska Energy Council, an advisory board charged with overseeing the Nebraska Office of Energy Independence, raises some concerns with our industry. As described in the text of the bill, the makeup of the council will include one representative of a commodity organization. We would like to offer a recommendation that the language be amended to include a representative from the oil seed commodity industry. We also suggest to expand the council to include a representative producing fuel for the diesel pool. It appears the ethanol industry will be well represented on the council and we want to be certain that the diesel and biodiesel industry has a place as well. Nationally the biodiesel industry continues to grow. Perhaps not at the rapid pace of the ethanol industry, but we are making strides and are an important player in the overall national independence goal. According to the National Biodiesel Board, our current biodiesel infrastructure capacity can produce roughly 2 billion gallons. Total usage in 2007 was estimated to be roughly 500 million gallons with that number expected to grow in 2008. A survey conducted by the Nebraska Soybean Board shows roughly 60 percent of Nebraska soybean producers use biodiesel on their operation. Biodiesel is a cleaner burning alternative fuel that can be made from any fat or oil, such as soybean oil. It can be used in any diesel engine with few or no modifications. It significantly reduces emissions and offers similar performance to petroleum diesel while providing superior lubricity. For every one unit of energy it takes to make biodiesel, 3.2 units are gained. Across the U.S. there are about 1,200 retail pumps that carry biodiesel blends. In closing, adopting a Nebraska Energy Independence Act is a great step forward for the 20,000 Nebraska soybean producers which have been the backbone of the biodiesel industry. We want to be sure the biodiesel industry has representation as we move forward in achieving America's energy and environmental goals. Thank you. [LB921]

SENATOR AGUILAR: Any questions from the committee? Seeing none, thank you.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 06, 2008

[LB921]

JIM MILLER: Thank you. [LB921]

SENATOR AGUILAR: Are there any other neutral testimony? [LB921]

TIM TEXEL: Senator Aguilar, members of the committee, my name is Tim Texel, T-i-m, last name is T-e-x-e-l, and I am the executive director and general counsel for the Nebraska Power Review Board and we're the state agency with primary jurisdiction over Nebraska's electric power suppliers. My board authorized me to testify today in a neutral capacity to offer a suggestion or perhaps a request in LB921. And our issue pertains to the Power Review Board membership on the new proposed Nebraska Energy Council. The council created by the bill would include one member of the Power Review Board to be appointed by the Governor. The board very much appreciates Senator Dubas including the board as part of the proposed Nebraska Energy Council, but my board considered this and would like to request that the board's representative be modified slightly. Instead of the Governor appointing one Power Review Board member, my board would ask that the committee and Senator Dubas consider making the board's executive director the Power Review Board's representative. The issue with appointing a Power Review Board member, my board feels is that my members are part time, per diem state officials. Essentially they would be, by their appointment on the Power Review Board, serving on two boards or councils and they're somewhat concerned about that burden and they have outside jobs that they need to worry about also. As a full-time staff employee, they don't feel that that would be a burden on the Power Review Board's executive director, which would be myself and I wouldn't face those same types of issues, of course. The board would point out that appointing a board's executive director or an entity's executive director is already in the bill once with the Ethanol Board. That executive director serves on the Energy Council in this bill also. So I wanted to point that out, so that is the one thing my board wanted to point out and that's all the testimony I had. Be glad to answer any questions. [LB921]

SENATOR AGUILAR: Thank you. Questions from the committee? Seeing none, thank you. [LB921]

TIM TEXEL: Thank you. [LB921]

SENATOR AGUILAR: Further neutral testimony. Welcome. [LB921]

MARY CAMPBELL: Chairman Aguilar, members of the Government Committee, my name is Mary Campbell, C-a-m-p-b-e-l-l, today appearing in a neutral capacity on behalf of the Industrial Energy Users of Nebraska, a relatively new group of very large processors and all kinds of industrial plants in the state, not just strictly ag processing, but that is a predominate type of member. As of yesterday, my instructions on this bill

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

were simply to monitor but in listening to the very good discussion all afternoon I feel compelled to come forward and at least make you aware that while we're talking in all these grand terms about what is good policy and good structure for energy in this state, there are users and these are users of 500 therms plus a day. In most cases in these plants, the biggest input cost is their energy and the whole purpose for this groups existence is to try to ensure that there will be alternatives, alternative fuels available to them at competitive prices. And so we watch all sorts of legislation that might impact on their ability to remain in this state, keep those plants going effectively and efficiently. And so while they're saying numerous here and monitor, they're very, very interested in good policy like this that can help their businesses. So appreciate that. [LB921]

SENATOR AGUILAR: That's kind of a positive-neutral. [LB921]

MARY CAMPBELL: Yeah. [LB921]

SENATOR AGUILAR: Questions from the committee? [LB921]

MARY CAMPBELL: Thank you. [LB921]

SENATOR AGUILAR: Thank you. Further neutral testimony? Seeing none, Senator Dubas, would you choose to close? [LB921]

SENATOR DUBAS: Yes, please. [LB921]

SENATOR AGUILAR: Welcome back. [LB921]

SENATOR DUBAS: Thank you again, committee members for paying such close attention and asking such great questions and I appreciate all of the testimony that was brought forward this afternoon. It was good for me to hear the same things. I'd just like to maybe try to clarify some of the questions that were asked this afternoon. When we talk about a noncode agency, it means that that council will oversee the Office of Energy Independence and so that's where accountability will be. It will be through that council and by creating this agency, hopefully we give the Energy Office the license to actually do their job. There was a question about what other states are doing or how long they have...it's taken them to maybe establish policy or direction. Most states are doing something. The Midwest Governors Energy Summit met last fall and their focus was on energy issues in the Midwest. And those various governors took a very strong stand and drafted a platform specifically targeted towards energy, energy development, conservation, and policy. I'm not 100 percent certain if our Governor or any representative from the Governor's Office was at this summit. There was also, as I said, that policy or platform was signed and I haven't gotten an exact answer yet as far as whether we've signed onto it or onto any portion of it. Governor Doyle is the chair of that particular group and he's asked the governors to appoint their top energy advisors to a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

steering committee that will identify opportunities for states to work together, and so I'm not sure where we're at as far as that. In 1991, there was a comprehensive energy plan, but it was not ever put into legislation. And as I looked through that energy plan today, it's just as relevant and just as applicable today as it was in '91. In fact, as I was reading through it I thought, well, all we have to do is change a few dates in here and few little technical issues and we would have our comprehensive energy plan so a lot of the groundwork has been done. A noncode agency...I think the reason we would be better served by a noncode agency is because it allows people such as Mr. Sneller from the Ethanol Board to come and talk to us and to advocate for the policy and to actually be up-front and actively involved in policy development and implementation. To my knowledge, there are 51 noncode agencies, and I know we have a whole variety of them that come and testify before us at our various committees. This legislation was born out of a perceived need on my part and a obvious level of frustration on the parts of a lot of people that I talked to. I've spent a great deal of time talking to most everybody that testified today and others and I appreciate the points and the things that they brought up to me. I also made a point of telling people, you know, I wanted them at the table, but right now it doesn't seem like we have a table for them to come to. I think it's important that we work on creating that and I think from the testimony you heard today if you heard it the same way I did, there is an agreement that there is a need and that's a need that we need to address as a legislative body. I will have to say I would agree with Mr. Bare when he said if the Governor wanted to do this, he could. In fact, I think he already would have if he really wanted to, but he's decided up until now not to do this until today. That was the first that I had heard of that proposal today. I met with the Governor last fall, talked to him not specifically about this bill, but about the need for a comprehensive approach to energy policy and how could we best do that as a state, so the Governor was aware of my feelings at that time. I've had several conversations with Mr. Bare since I introduced my bill or I dropped my bill, and I also visited with Lauren Hill this morning and had a great conversation and she was very accommodating and answering my questions. But as I said, until Mr. Bare testified this afternoon, this was the first that I had heard of this suggestion. I've said with every one of my conversations to any of these people and others, I am very willing to work with you. I am very willing to cooperate with you. It's not about how we get there, it's the fact that we need to get there and I feel very strongly about that. I guess in closing, I'd like to make one final comment. I believe that the federal Energy Act laid out a vision, a plan for our nation to invest in renewable energy and I think we need that same vision as a state. If we don't know where we're going, how will we know when we get there? Nebraska can be a leader and citizens will reap the benefits of that vision and leadership. I strongly urge you to consider the economic development that could occur if Nebraska could develop a coordinated effort on energy policy and I hope that we can move this issue to the floor for full debate. Thank you. [LB921]

SENATOR AGUILAR: Any follow-up questions for the senator? Senator Adams.
[LB921]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

SENATOR ADAMS: Senator Dubas, thank you for bringing this to our attention and I agree with you, it needs to be the focus. I also...as I was listening to all of the testimony I thought to myself, I almost feel like today wasn't today because unfortunately Senator Schimek brought this long list of boards and commissions with her in testimony on her bill and then you had to come right after that. And before we ever got started, I caught myself saying do we need another board or commission to add to this list? So now I have to, after listening to all the testimony, I have to ask you the obvious and I'm not meaning to paint you into a corner at all because your conclusion has been very effective. You touched on really all of the things that I wanted to ask about. The Governor has made an offer and granted right now is the first time that you hear of it. Are you willing to consider that or do you want to move forward with a separate agency? How would you respond to that? [LB921]

SENATOR DUBAS: Well, I still feel very strongly about the bill in the fashion that I presented it, but I'm not willing to shut any doors. I just don't think that's the way to work. And again, it's where do we want to get to and what's the best way to get us there? And so I'm definitely open to dialogue continuing to pursue this. You know, this is a bill that I've worked on. I started working on this almost the day after we adjourned last session and I didn't know it was something I was going to work on. It just was something that kept evolving as I talked to people over the interim and I realized this is an important personal issue. It was an issue I campaigned on also, and so I've just carried it forward into my legislative career. And I understand the importance of working with all entities and it's the importance of getting to where we want to get. So while I still think this is...what I'm proposing is what we need to do, I would never shut the door on further discussion. [LB921]

SENATOR ADAMS: Thank you. [LB921]

SENATOR AGUILAR: Senator Pahls. [LB921]

SENATOR PAHLS: Senator Dubas, by listening to you--and I respect those words--it shows to me that you're looking to solve a problem and whatever direction we go, it looks like it's a win-win because you have raised an issue and you've gotten people's attention. So I want to thank you for that because I know how hard it is to work on a bill. You know, but I think that the doors have been opened. Thank you. [LB921]

SENATOR AGUILAR: Further questions? Seeing none, thank you Senator Dubas. [LB921]

SENATOR DUBAS: Thank you. [LB921]

SENATOR AGUILAR: And that closes the hearing on LB921. We'll give it a moment and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

a chance for the room to clear out and we will be ready to open on LB871. We're now ready to open on LB871. [LB921]

SENATOR AVERY: Thank you, Mr. Chair. My name is Bill Avery, spelled A-v-e-r-y. I represent District 28 here in Lincoln. LB871 is a simple bill, but it will not appear simple after the testimony, I'm sure. What it does is simply change the name of the Commission on Mexican-Americans to the Commission on Hispanic-Americans. I believe it's important for the commission's name to reflect and represent the individuals it serves. In fact, the name Hispanic would be more in line with the commission's own mission statement, which reads in part I quote, "to serve in Nebraska Government as a voice for Hispanics by assisting in all aspects of the needs of Latinos in Nebraska. Through both advocacy and referrals, the commission aims to create the opportunity for all Hispanic residents of the state to participate in the good life of Nebraska." I'd be the first to admit that converting to the term "Hispanic" will not be met with universal approval. But I would also point out that it's not a radical proposal, but we all know the first rule. One of the cardinal rules of politics is often summed up in the phrase "we've always done it this way and we've never done it that way." The proposal that I have here to change the name to Hispanic-American Commission is consistent with ordinary dictionary definitions of Hispanic, meaning Spanish-speaking persons of Latin-American birth or descent who live in the United States. In fact, a 2000 presidential tracking poll by Hispanic Trends Incorporated, a national polling firm, asked registered voters which term they preferred, Hispanic or Latino, and the result was that a majority preferred the term Hispanic. They interviewed 1,200 Latino registered voters, 65 percent preferred Hispanic, 30 percent chose to identify themselves as Latino, and when you broke it down by region, the results were similar. What is important to me is that if the Mexican-American Commission serves Hispanics and Latinos, then the name should reflect that reality. I looked up the distribution of people of Hispanic origin in this state and found that 73 percent are Mexican or of Mexican origin, 11.4 percent are Central American and South American, 1.7 percent Puerto Rican, .6 percent Dominican, .4 percent Cuban, 8.6 percent other Hispanic. This is something other states have done a long time ago and it seems to me that this is something we ought to do here in Nebraska. It's not of great consequence, but it seems to me that if the commission is going to serve Columbians and people from the Dominican and people from Panama and other parts of Latin America, their name ought to reflect what it is they do. I suppose if you wanted to make the term reflect the absolute reality, we'd probably have to come up with a term or a name, Columbian-Dominican-Cuban-Mexican-Puerto Rican-and other, etcetera, commission. Well, that doesn't seem to make much sense. Hispanic is a more inclusive word, more inclusive term that reflects the inclusive work of the commission. Thank you, Mr. Chair. [LB871]

SENATOR AGUILAR: Thank you. Questions for Senator Avery? I'll take the first shot. Senator Avery, when you came up with this concept, this idea, did you have any conversation with the commission? And if yes, what was their reaction to this proposal?

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 06, 2008

[LB871]

SENATOR AVERY: I talked to the chair of the commission and the reaction was that while she couldn't speak for the whole commission, she didn't have a problem with it, she is Panamanian. We then later contacted the commission itself and met with them. We did not get a favorable response from the commission itself and I'm sure that they will testify. [LB871]

SENATOR AGUILAR: Thank you. Further questions? Seeing none, thank you. [LB871]

SENATOR AVERY: Thank you. [LB871]

SENATOR AGUILAR: First proponent. Welcome. [LB871]

JOSE SOTO: (Exhibit 1) Senator Aguilar, thank you very much, members of the committee. I'm Jose Soto, J-o-s-e S-o-t-o, and I appreciate the opportunity to provide testimony in support of LB871. I take this opportunity to thank the Senator from my legislative district, Mr. Bill Avery, for introducing LB871. I also thank the esteemed members of this committee for your consideration of this proposal to revise the name of the Mexican-American Commission. Hopefully you will lend your support to this modest effort to have the commission's name better reflect the diversity of its constituency. I want to first clarify that I'm here in my stead as a private citizen, not as a representative of any group, institution, or entity. And also, it's important to establish for the record that I am on personal leave from my place of employment. As a 30-year resident of Nebraska, I've witnessed the rapid and significant changes in the state's demographics in particularly in the Hispanic/Latino sector of the population. Over the past 15 to 20 years, that growth has been fourfold from about 35,000 in 1990 to about 140,000 in 2008. In Crete, for example, the Hispanic/Latino population has grown over 2,000 percent in that period. Another example of that growth, communities like Lexington have over 50 percent, 60 percent of the population is Hispanic/Latino. In these regards, it's noteworthy that Nebraska's Hispanic/Latino population now represents the full diversity that characterizes the Hispanic/Latino community. Specifically we are descendents of Mexicans, Cubans, Puerto Ricans, Salvadorans, Guatemalans, Colombians, Venezuelans. Well, you get the picture in that we represent the roughly 30 heritages and countries of origin that are grouped as Hispanic/Latino. In that regard, it's important to set out that there is not universal agreement on what term is preferred. There are surveys out there that kind of sets a trend toward the use of Hispanic, and a lot of the surveys indicate that a lot of folks don't have a preference, they will respond to both. But where there is a preference, the Hispanic seems to sit quite well with folks. It sits quite well with me. I would point out just as a matter of reference that the Mexican-American Commission historically and currently uses the terms "Hispanic" and "Latino" interchangeably in its discussions, events, and official documents. So it is not something that, again, folks find a way to deal with. I think it's important as this conversation

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

continues that we look at examples of how organizations progress from maybe having a very focused and limited constituency or mission to something a little more inclusive and ample. The Chicano Awareness Center has been a cornerstone of service, activism, and refuge for Hispanic/Latinos in South Omaha for 35 years, and they recently saw fit to adopt a name that better reflected the community it currently serves and represents. Hispanic/Latino leaders in Omaha and within the newly christened Latino Center for the Midlands recognized the narrow and exclusive focus of its former name, the Chicano Awareness Center, and they did something about it. I believe that the Commission on Mexican-Americans should follow suit. Several leaders of the Latino Center in Omaha contacted me and they agree and they do have expressed some support for the name change proposed in LB871. On its face, the name change seems to be of limited importance to some individuals. However, I firmly believe that it will have some far-reaching implications. First, it speaks volumes to the commission's perceived and professed mission to serve as the voice for Nebraska's Hispanics, and also to provide an opportunity for all Hispanic residents of the state to participate in the good life. Second, I believe the change will provide the impetus that the commission needs to enhance its posture as a unifying force for Hispanics/Latinos in Nebraska. Finally, a more inclusive name will more accurately reflect and include the entirety of the commission's Hispanic/Latino constituency. The name change proposed in LB871 allows the commission to accrue these positive implications. I recognize that change is somewhat difficult and most often slow to come. Be that as it may, now I feel is the time for Nebraska to fall in line with other states that have similar publicly-funded commissions. And some examples, Idaho, Hispanic Affairs Commission; Indiana, Hispanic/Latino Affairs; Iowa, Latino Affairs; Kansas, Hispanic Affairs; Maryland, Hispanic Affairs; Michigan, Spanish Speaking Affairs; Minnesota, Chicano/Latino Affairs; New Hampshire, Latino Affairs; Ohio, Hispanic/Latino Affairs; Oregon, Hispanic Affairs; Pennsylvania, Latino Affairs; Washington, D.C., Latino Affairs; and Connecticut, Latino and Puerto Rican Affairs. The mood and trend throughout the country is for organizations, particularly those that are publicly funded, to adopt names that reflect a mission and responsibility beyond the narrow scope suggested by titles like the "Chicano Center" or the "Mexican American Commission." While I understand and respect the historical relevance of such names, it is difficult to justify any resistance to adopting a name that acknowledges, accommodates, and is responsive to the changes within the Hispanic/Latino population in Nebraska. As a publicly-funded state agency, it seems to me the commission would welcome the opportunity to dispense with what appears to be a semblance of favoritism and exclusion that is suggested by its current name. The Indian Commission of Nebraska has seen fit to do so, as has the Women's Commission. I doubt that any reasonable person would argue or suggest that we should have the Santee Sioux Commission or the German Women's Commission as entities created by state statute and funded by tax dollars and have them advocate for those narrow and specific constituencies. I've made a footnote and I think it's important to state that obviously it would be a wholly defensible for a privately-funded entity to name, structure, and promote itself in a manner which reflects its preference, allegiance, and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

singular purpose to an exclusive constituency based on whatever criteria they determine appropriate. Once public funds are involved, however, I believe there is an expectation and an obligation that entities reflect and promote inclusion and equitable representation in name, structure, and deed. Please know that I support the concept of a state-funded advocacy agency to represent the interests of Hispanics/Latinos in Nebraska. The commission's role and mission are as valid and needed now as it was when it was created in 1972. What I, and many others, cannot support is the existence of a state-funded operation that, by design or by default, may exclude the participation of Hispanic/Latinos who are not of Mexican ancestry. Another footnote is that over the past 30 years, many Hispanic/Latino individuals have commented to me that they have not and will not access the commission because they believe it is just for Mexican Americans. For the first several years I lived in Lincoln, I was under a similar impression. Interestingly, even some recent arrivals from Mexico have indicated to me that they do not relate to the commission because they are Mexican, not Mexican American. In reality, I think it is important to take a look at the name and what it reflects and what it projects to the public. In reality, I'm asking nothing more than a selection of a name for the commission that makes it look like, sound like, and act like the agency it aspires to be--a voice for all Hispanics/Latinos in Nebraska. The logic is simple. All Mexican Americans are Hispanic/Latino, not all Hispanic/Latinos are Mexican American. I respectfully thank you for your support and I would encourage you to advance and enact LB871. It's a matter of logic, common sense, equity, and doing it because it's the right thing to do. I think arguments against that really defy logic, common sense, and principles of equity. Again, thank you and I'd be very pleased to answer any questions you might have. [LB871]

SENATOR AGUILAR: Questions for Mr. Soto? Seeing none, thank you. Are there further proponents? Are there any opponents? Welcome. [LB871]

CECILIA OLIVAREZ HUERTA: (Exhibit 2) Thank you, Senator Aguilar and members of the committee. My name is Cecilia Olivarez Huerta, that's C-e-c-i-l-i-a O-l-i-v-a-r-e-z H-u-e-r-t-a, and I'm the executive director of the Mexican American Commission and I am here today to offer testimony in opposition to LB871. First of all, let me explain that the commissioners have been in discussions about a name change for several months. A decision, although not unanimous, was made in favor of changing the name. We have attempted over the years to, as Mr. Soto said, incorporate the terms "Latino" and "Hispanics" into the work that we do so that it is understood that we serve anyone who comes to our doors and needs assistance on issues. Opposition comes to this bill because of the recommended change to "Hispanic". A majority of our community--local and statewide--dislike this label, which was coined by the federal government to create a group name for us. Statistics from the U.S. Census...and I must say that mine are from the census of 2000 and not the most recent ones that Senator Avery had said, but Hispanics and Latinos at that time were 5.5 percent of Nebraska's total population. Of the 5.5 percent, 4.2 were Mexican or Mexican-American, .1 percent were Puerto Rican,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

.1 percent were Cuban, and 1.2 percent were other Hispanics/Latinos. In a survey conducted on January 17, 2008, by the National Institute for Latino Policy, 689 Latino/Hispanic leaders from across the nation responded to a question how they identified themselves: 50 percent prefer the term Latino or Latina; 14 percent prefer Hispanic; 17 percent use Hispanic or Latino interchangeably; 15 percent prefer their own ethnicity; and 3 percent prefer American. Other states with similar commissions or agencies have also changed their names. Some use Latino/Hispanic together or interchangeably; others have been chosen to retain part of the original name with the addition of Hispanic/Latino. For instance, the Minnesota Chicano Latino Affairs Council and the Connecticut Latino and Puerto Rican Affairs Commission. If the name of the Mexican American Commission should change, we would prefer using the Commission on Latino Affairs or consider using the MAC, M-A-C, acronym as part of the title. Any questions? [LB871]

SENATOR AGUILAR: Thank you. Are there questions for Cecilia? Seeing none, thank you for your testimony today. [LB871]

CECILIA OLIVAREZ HUERTA: Thank you. [LB871]

SENATOR AGUILAR: Further opponents. Welcome. [LB871]

BLANCA RAMIREZ-SALAZAR: (Exhibit 3) Hello. Good afternoon. My name is Blanca Ramirez-Salazar and I'll spell that for the record, that's B-l-a-n-c-a R-a-m-i-r-e-z-S-a-l-a-z-a-r, and I'm here on behalf of myself. I'd like to thank you all for giving us this opportunity to dialogue about what terms would be most appropriate to be used with our population. So I'd like to thank you, Chairman Ray Aguilar, for leading this discussion with the senators here. The issue of how to be inclusive is certainly not new in the general community and is not new to those of us who identify ourselves as Hispanic/Latino. In dialoguing about this proposed name change, it is important to consider the change in demographics of Hispanic/Latinos, which includes Mexican and non-Mexicans in Nebraska. I ask that you also consider giving the appropriate recognition of the original leaders who persevered to establish the Mexican American Commission. The current proposed name change of the Commission of Hispanic Americans does not do that. And with regards to some of the discussion in terms of the Hispanic and the studies that have been conducted, it's interesting to note that the Hispanic Pew Center for Research, as well as the other Latino organizations, once they conduct that research, there's already a bias because once they're asking, well, which term would you prefer to use? Is it Hispanic or Latino? It's just the simple fact that the organization in its name has Hispanic or Latino is a bias. So people tend to select Latino if it's a Latino organization that has conducted the study or if it's, for example, the Hispanic Pew Research Center, then they will tend to select the term Hispanic. So there's already a bias in those studies as well. I would like to share with you how I identify myself. I am a naturalized U.S. citizen, born in Mexico and I've lived in the state

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

of Nebraska in this area for about 30 years as well, and when people ask me whether I am Hispanic or Latina or Chicana or Mexican-American, then I usually will tell them, well, it really doesn't make a difference if it's Hispanic or Latina, although I prefer Latina. But I don't identify myself as a Mexican-American just for the fact that I was born in Mexico. So I am Mexican and I do agree that we need to be more inclusive. And so in terms of Latino and Hispanic, it really doesn't make a difference. However, for this testimony, I'll use the terms Hispanic/Latino interchangeably. I must admit that I have benefited personally from the roads which were paved and all the struggles of the individuals here in the state of Nebraska who consider themselves Chicano or Mexican-Americans, and who have paved those roads to help create an agency like the Mexican American Commission so I do want to give them that respect. And so therefore, I am opposed to the current suggested name which diminishes the work that they have done and their tireless work to have our state government establish such an agency in 1972. I would suggest that we keep the term "Mexican American" in the title which represents a sense of historical pride for the Chicano/Mexican-American activists. In my research, I was able to locate 21 other state agencies. I'm sure there are others and this is part of the packet, the last page, so you can look at that list, with a similar purpose to the Mexican American Commission and their respective state. And it's interesting to note that in New Mexico, right now they are having the discussion, not of the name change but to establish a state agency such as this. So you'd think that in New Mexico with the 43 percent population of Hispanics and compared to the total population in New Mexico that they would already have one, but they don't. So they are just currently discussing that at this point. What's good to note about, you know, the differences in the states is that in the state of Nebraska, we don't have certainly the number of nonprofit organizations and advocacy organizations that can serve as the needs of the Hispanic/Latino community. So that's why in Nebraska, it's good to know that we already have this agency at the state level established, considering that we have now the center in Omaha, Latino Center of the Midlands, and then there's one in Lincoln and there may be a couple of others in the state. So there are very few throughout the state in comparison to New Mexico. I thank you for your continued support of this Mexican American Commission to serve as a voice and a vehicle for Hispanic/Latinos in the state of Nebraska. On this list, the first one that's there is a Connecticut Latino and Puerto Rican Affairs Commission, and that's been named a couple of times in previous testimony. That one was established in 1995. This morning I had a conversation with Werner Oyanadel, who's a principal legislative analyst from that organization. And so I asked him, well, how is it that you ended up with a name that included Puerto Rican in there. And so his response was with regards to two items, and that was...certainly it was Puerto Rican legislators who had pushed for that term to be included in there because they were the ones who were paving those roads for the future generations. And then the second item that they indicated is with regards to the population and the numbers that the Puerto Rican community has in that state. So I asked you to look at the state of Nebraska and I know that you've already been given some other numbers with regards to that. But certainly we're not in Minnesota or

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

Connecticut. But similar to those states, Nebraska's Hispanic/Latino population has diversified since the 1990 census, where people from Central and South America are establishing their homes here. And with regards to numbers, in 2000 it reached 5.5 percent of the state's total population, and then I looked at the 2006 American Community survey and it's gone up to 7.3 percent. So there has been a significant change, and you ask, well, where is that change occurring? And then even within the Latino/Hispanic community, what are the changes that are occurring there? What you don't have there and what I'll share with you is that I looked at that and from 1990 to 2006, Mexicans made up--in 1990--80 percent of the Hispanic/Latino population; 2000, it went down and was 75 percent. So that showed that there was some other growth in other areas, other populations, and 78 percent in 2006. So it's kind of gone up and down a little bit, but certainly the most significant number of Hispanic/Latinos is within the Mexican American community. Possibly down the road, this bill can be reintroduced with a suggestion for a name change that adds Hispanic or Latino to its current name. That would be my recommendation. As I mentioned, I am Mexican. I don't necessarily identify with Mexican-Americans. I believe in the cause. I believe in the Chicano cause and what it stood for at that time and today. So I do think that we need to give that level of respect to those individuals and keep Mexican American in the title, but include either Hispanic or Latino in that. So currently I am opposed to the way that it's introduced. And I'd be happy to answer any questions. [LB871]

SENATOR AGUILAR: Thank you. Questions for Blanca? Seeing none, thank you. [LB871]

BLANCA RAMIREZ-SALAZAR: Thank you. [LB871]

SENATOR AGUILAR: Further opponents? Welcome. [LB871]

RICHARD ARELLANO: My name is Richard Arellano, A-r-e-l-l-a-n-o. I'm the commander of the Mexican American Veterans in Omaha. We also have a chapter in Grand Island. We used to have one in North Platte and one in Kearney, but as the time went and people perished, (inaudible) people didn't want to take care of it. The Mexican American Veteran's organization was started, originated in North Platte, Nebraska, by a friend of mine by the name of John Martinez who was a sports writer for the newspaper in North Platte. He also passed away. When this started, it started just as a reunion to the veterans that had been in the wars of the second World War II and Korea. It was quite a task to try and get these people together after so many years that passed between the war and the date of the reunion that was coming up but it was done. The name that they put up was from the beet fields to the battle fields because so many Mexicans worked on the beet fields, and from there World War II started and they went into the war. As this reunion went on, we had a speaker from Omaha by the name of James Carmona (phonetic) that was a two-star general. After the reunion went on, we had another meeting and they decided that we hadn't done enough yet. Although we

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

had carried the rifles and the flags of the United States in defense of the country, they decided that we should help out the community. So we started out by having people that were in need, sometimes they couldn't pay their light bill or somebody died, they need a little money for the funeral or somebody was in bad health and they needed money for their bills, little things like that. We helped clean up South Omaha. We helped fire victims, victims that had accidents. We've helped people with their funerals. We also helped with the stand down of the veterans. I don't know if you people are familiar with that. The stand down is where they help all the homeless veterans. Generally sometime the first part of December, they feed them, they cloth them. The VA hospital is involved with that a lot that saved the Americans are involved with that, and it's quite a task but they help them out. From cleaning their teeth to their toenails to their shave, whatever, clothes, food, they help them out. So we've been involved with that. We also do a lot of parades. I've also been involved with about 15 years ago into the prison in talking to the prisoners that are veterans that are in there. Some are nonveterans, but they still come in there and help out a little bit. So we've been involved with that. A lot of parades, Cinco de Mayo, done a lot of that. We've been here in this building with the teachers from Mexico for the Mexican American Commission. So we try to spread ourselves out and help wherever we can. The Mexican American Veteran's has got members from New York, Florida, a few in Colorado, Kansas, Missouri, Texas, California. Those are the few that I can remember right, and everybody seems to know what the Mexican-American (inaudible) are when it comes to different things that we need. We're also a nonprofit organization, so we help other people in any small way that we can. We haven't got a lot of money, but we try to do what we can with what we have. I've never seen a Latin flag. We have a Mexican-American flag, that's why I brought this cap so you could see it here, this design here. We have that. I have never seen a Latin flag so it's kind of hard for me to think of being a Latino. They want to put a label on me. At one time they used to call it Chicanos, Spanish, Latinos. To me, I'm a Mexican. My brother, my dad was from Mexico. Actually he was a captain with Poncho Villa, if any of you people are familiar with Poncho Villa. He was a captain with them. I had five brothers, four of us were in the war. We've had the reunions that we had here, the last one we had was the Mexican from Mexico originally, raised in California by name of Rascon. He's a Medal of Honor out of Vietnam. The first one we had was another medal of honor winner. He's also a Mexican. He was Roy Benavidez, also out of Vietnam. And we had another one by the name of Lucian Adams, he's also a Mexican out of San Antonio, Texas. So to me to change this name to Latino, it just don't sound right to me and I hope you people consider it and that's all I have to say. Thank you. Thank you for your time. [LB871]

SENATOR AGUILAR: Thank you. Are there any questions for Mr. Arellano? Seeing none, thank you. Next opponent. Welcome. [LB871]

LAWRENCE W. BRADLEY: Thank you. My name is Lawrence W. Bradley from Omaha, Nebraska. I live at 6068 Country Club Oaks Place, and that would be Omaha, Nebraska

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

68152. My name is spelled L-a-w-r-e-n-c-e W. B-r-a-d-l-e-y. I'm here in opposition today as a representative of the American G.I. Forum. Now if many of you...if some of you even know who I am, you know that I have a propensity to be a civil rights activists. My last name is Bradley, but I'm a commander of a Mexican-American Veteran's Association, an organization that looks after Mexican-American veterans. Well, I'm half Irish, I'm half Mexican, raised by Native Americans in the black neighborhoods of Omaha. So I, you know, been used to the crossroads and the multiculturalism of Nebraska. A little bit of history about the Mexican American Commission as it was told to me, and I've recently been elected commander of the American G.I. Forum in south Omaha, the Omaha chapter. But some of the top brass, the elders that were former commanders, former state commanders, former national commanders have told me about the painstaking times that they had to go through, but they petitioned and lobbied the Nebraska Unicameral. They've talked to the top...and it's a nonpartisan, but let's not get ourselves in some respects, they talked to the top republicans and they talked to the top democrats, and they pulled together this bill to make the Mexican American Commission a reality. And one of the things I'm looking at, you know, in opposition to this bill because people that know me would think, Bradley, why are you opposing this bill? In a sense, well, perhaps we can find a compromise, at least retain the Mexican American portion of it because looking at why now. Why is this bill introduced now? And there is some...let's not kid ourselves, there's an atmosphere out there that there's a lot of anti-immigration fears, there's anti-immigration bills that are being proposed this session more than ever. And I wonder if this would be a move, you know, to decentralize the power that the Mexican American Commission would have in itself to look out for, not just the Mexican-American, but all Latinos, all Hispanics. So we have to look at that and wonder if that's something that might be an underlying reason for this bill. I also wanted to caution the people of Nebraska, and I try to say this just saying it to be, you know, down the middle as possible, that perhaps there's a type of McCarthyism that is reflective of what's going on in the state of Nebraska and what we're seeing in the people. And I say this because perhaps where there was bills that were designed to stem or whatever for, you know, anti-immigration, now we're seeing that these bills are stemming and flowing over to places like the Mexican American Commission that people have been totally illegal and have been here for generations. There's nothing illegal about, you know, the Mexican-Americans that have been here and have fought and died for this country. So if you can understand why I'm linking this or just saying that's a possibility, this McCarthyism that is being...you know, and next thing you know, we'll see bills that are trying to authorize all levels of law enforcement in the state of Nebraska to round up a certain sector of people and put them in concentration camps. So you see where this is heading and that's why we've got to be very cautious and I urge this committee to be very cautious and exhaust all...you know, discuss it at length. I mean, if you've had your mind made up, I'm trying to persuade you to...you know, if there's a compromise in whatever acronym that you perhaps will rename this, if you do. But try to retain the Mexican American Commission. And that's all I have to say. [LB871]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

SENATOR AGUILAR: (Exhibit 4) Thank you. I think I can safely say that whatever the final determination is, it will consist of a compromise somewhere. And at the end of day, in deference to the way you explained it, I think it will be a significant way to unify the whole community, rather than to separate it up and make a stronger coalition throughout the state of Nebraska, not a weaker one. Further questions? Thank you. Next proponent...opponent. I'm sorry, getting late. Seeing none, is there any neutral testimony? While he's coming up, I'd like to read into the record a letter of opposition from Marty Ramirez. Welcome. [LB871]

SWERIANO FRANCO: I'll finish filling the form out after I finish up. My name is Sweriano Franco and for those of you who don't know how to speak Spanish, my non-Spanish-speaking friends always refer to me as "Sam." I want to tell you that I am the original author and proponent of the Mexican American Commission. It was sent back... [LB871]

SENATOR AGUILAR: "Sam," could I ask you to spell your name for us, please? [LB871]

SWERIANO FRANCO: Excuse me? F-r-a-n-c-o. Anyhow, I'm the original proponent and author of the original bill that established the Mexican American Commission. I worked with Senator Carpenter, Senator Elrod, Senator Mahoney, and Senator Chambers originally to get the bill set up. I carried it around and I should also tell you that I had originally presented the bill to Governor Tiemann. Governor Tiemann told me to go ahead and write him a letter. I wrote him a letter and I got a response back from Larry Johns (phonetic), who at that time was his chief of staff, and told me he says I've talked to Governor, we don't need this. I pursued it anyhow and afterwards when I did get...Senator Carpenter said he would introduce the legislation, then the Governor actually elected to go ahead and set up the commission by executive order. It moved on then into the legislative session the following year and at that time, of course, the legislation was introduced and adopted. It established the name of the Mexican American Commission. Let me tell you that I am more concerned with cause and effect than I am with what it is that you call people, what it is that you do. As I said, my name is Sweriano. None of you could say it so I tell you to call me "Sam," and I had a four-star general that I worked for that was in the Navy that said he couldn't say Sweriano. He said, now what is your name? And he said he went home and he said he come back the next day and says, Mrs. Stump said that I better find you a name because, you know, you get in a hurry and you're going to get upset and you're not going to know what to call him. So every since...thanks to Admiral Felix B. Stump who was the head of all forces Pacific at the time was the guy that gave me that name. So having said that, I said, you know, back then at the time when we established this, school dropout rates in schools was in excess of 50 percent. A lot of people that applied for different jobs and different businesses and industries were told you're not qualified yet. They would turn around and go ahead and hire people with lesser qualification. I heard the gentleman in

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 06, 2008

the back that talked about veterans. Well, let me just tell you, I come from a family of five boys and all of us are vets. We have combat vets in the family with purple hearts. And so, you know, that all of course, you know, mutates itself in the understanding that we quite frankly as a family and as a people have never given up on a promise nor the promise of this country. I don't care really what...and I'm not here to go ahead and to take issue with any of the people, proponents or opponents of this legislation. I'm more interested in wanting to see this Legislature and this state government be more responsive without having to daily spew all of the vitriol and...I'm just telling you there's such venomous doggone commentary that everyday comes out. And most of it seems to be coming out from politicians. I would submit to you that maybe if somebody would tone this thing down and begin to go ahead and seek solutions and to have been able to go ahead and to curb the dropout rate for Hispanic, Mexican, whatever. I know that all of us all aware from Patagonia all the way to the Canadian border, we're all Latinos, Mexicans, Puerto Ricans, Colombians, Venezuelans, you name it, we're all within...we fit within that category. I'm more interested in wanting to see the Legislature address specific issues that are going to (inaudible) existing identifiable problems within the community. What you elect to call it, fine. We're Mexicans. We come about with this thing with the Mexican name because at the time back in the late '60s, predominantly all of us that were here, the largest percentage of the people that were here were Mexican and Mexican-American. I'm a first generation born in this country, son of immigrant Mexican, Latino, Hispanic, whatever you want to call it. But even in spite of that, we all put on the uniform and went out and served this country. I don't take issue with those things. All I'm really saying is that whatever you would like to do, do it with the understanding that you are seeking to do something that is seeking to do better by the people that you're attempting to represent. Absent that, I would tell you I don't have any other comment to offer, and thank you, Senator Avery, for your interest in wanting to go ahead and to do this. [LB871]

SENATOR AGUILAR: Swerino, thank you. [LB871]

SWERIANO FRANCO: Sweriano. [LB871]

SENATOR AGUILAR: Sweriano. My apologies. Any questions? Thank you. Any other neutral testimony? Seeing none, Senator Avery, would you like to close? Senator Avery waives closing. That closes the hearing on LB871. We're now ready to open on LR223. [LB871]

SENATOR AVERY: (Exhibits 1&2) Thank you, Mr. Chair. I apologize for running around and being absent for a portion of this hearing but I had other bills. I do have something that I would like to distribute if the page would come forward. My name is Bill Avery, for the record, A-v-e-r-y. I represent District 28 here in Lincoln. I am introducing a resolution that would express the desire and support of the Nebraska Legislature for placing Chief Standing Bear on the reverse of the redesigned Sacagawea dollar coin. The U.S.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

Treasury and the U.S. Mint are currently in the process of selecting designs for the reverse of this new coin that will depict images in commemoration of Native Americans and important contributions made by Indian tribes and individual Native Americans to the development and history of the country. This year marks the 100th anniversary of Chief Standing Bear's death. The role that Chief Standing Bear played in advancing civil rights in this country deserves respect, appreciation, and I think recognition. Chief Standing Bear was born to the Ponca Tribe in Nebraska around 1834. You probably all know of the story about his place in American history, but let me just briefly review it. In January 1879, Chief Standing Bear and a group of about 30 Native Americans left Indian territory in Oklahoma where they had been forced to go, leaving their ancestral lands around the mouth of the Niobrara. They left Oklahoma to return to Nebraska to honor the wish of his dying son to be buried on Ponca ancestral land along the Niobrara. Chief Standing Bear was subsequently imprisoned at Fort Omaha, which resulted in the trial of Standing Bear v. Crook. The trial of Standing Bear v. Crook produced a landmark decision in civil rights law, and a decision that profoundly affected the development of the history of Indian-white relations in this country. The case was a catalyst for far-reaching changes in federal policy affecting thousands of Native Americans throughout the United States. It established--and this is really the key--it established the proposition that an Indian is a person in the eyes of the law, and then the meaning of American law thereafter, this was the case. Standing Bear addressed the court and he made a very, very important statement, one that you find in almost all your history books. He said, speaking to the court, "this hand is not the color of yours, but if I pierce it, I shall feel pain. If you pierce your hand, you also feel pain. The blood that will flow from mine will be the same color as yours. God made us both." The state of Nebraska has honored the legacy of Chief Standing Bear on a number of occasions. In February of 1980, Chief Standing Bear was honored by the dedication of his bust in the Nebraska Hall of Fame. Nebraska declared May 12 of '05 to be Chief Standing Bear Day. An image depicting Chief Standing Bear was a finalist in the redesigned 2006 Nebraska quarter. If it were not for the determination of Chief Standing Bear and for his achievements, some important legal principles of the United States may not have been changed, certainly not changed for some time. His legacy deserves national recognition. This resolution is introduced to put this Legislature on record, encouraging the U.S. Department of the Treasury and the U.S. Mint to select Chief Standing Bear as one the Native Americans to be depicted on the reverse of the redesigned coin. Thank you, sir. [LR223]

SENATOR AGUILAR: Questions for Senator Avery? Seeing none, thank you. [LR223]

SENATOR AVERY: Thank you. [LR223]

SENATOR AGUILAR: We welcome any proponents of the legislation... [LR223]

SENATOR AVERY: I may not stay for closing. I have another hearing. [LR223]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

SENATOR AGUILAR: Very good. We weren't going to let you anyway. [LR223]

SENATOR AVERY: Oh, could I introduce one more thing? This is a note from Doris Marxshausen of Seward. Her husband did some of the murals in the upstairs in the north quarter. She intended to be here, but because of weather she could not make it. She intends to submit a letter in support of this legislation, probably... [LR223]

SENATOR AGUILAR: We'll keep the record open for that. [LR223]

SENATOR AVERY: Okay. Thank you. [LR223]

SENATOR AGUILAR: Welcome. [LR223]

LARRY WRIGHT, JR.: Hello. My name is Larry Wright, Jr., W-r-i-g-h-t. I'm the chairman of the Ponca Tribe of Nebraska. And I was chairman of the Ponca Tribe of Nebraska. I'm pleased to be here this afternoon. Thank you for the opportunity to testify in support of Legislative Resolution 223. I would like to say a special thank you to Senator Avery before he leaves for introducing this resolution and Senator Dierks for being a cosponsor. As First Nebraskans, Chief Standing Bear, and our people love Nebraska and the areas of our traditional homelands before there were any geopolitical boundaries, such as state lines and reservations. To that end, Chief Standing Bear and our relatives who are willing to endure more hardships, the unknown return to Nebraska after being forcibly removed to Oklahoma territory. Chief Standing Bear typifies the sacrifices that were made by Indian people to honor their families and their followers and to stand up for their rights, to face the unknown, and to do what's right according to our beliefs. There's a sense of irony for me today that I'm allowed to testify here before this committee in support of this resolution that would honor Chief Standing Bear and the Ponca people. In the trial and the subsequent decision that stated Chief Standing Bear and all natives were persons within the meaning of the law, Chief Standing Bear was not allowed to speak in court. The words that Senator Avery quoted were in fact said after court was adjourned and Judge Dundy gave him the opportunity to speak to those that were present, and for us to be where we are today says something to that end. Also ironic as Senator Avery noted, this year is the 100th anniversary of Chief Standing Bear's death and yet again we find ourselves defending our rights in court today. The words he said are still poignant today and I won't repeat what Senator Avery said there. But in that line of thinking, we are more alike than we are different. The Ponca word for this "Aythay wangeetha" which means we're all related. I'm honored that you're considering LR223 as Chief Standing Bear typifies what it means to be a Nebraskan and in keeping with the model quality before the law. It is a positive example of a leader of Nebraskan for all the nation to see and learn we're more than just a sidebar in a textbook to borrow, a term from my background as well. I think this is a story that all of the country needs to know. Too many times people today still know

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

about the military accomplishments of native leaders and they don't look at the other accomplishments of native leaders. And I think this is one that our tribe, our people, the state of Nebraska can be proud of as somebody who did so much to come home to Nebraska. Again, I thank the committee for this opportunity to testify in support of Legislative Resolution 223 and encourage the committee to support this resolution. Thank you. I'll be glad to answer any questions. [LR223]

SENATOR AGUILAR: Thank you for your testimony. Are there any questions for the Chairman? Seeing none, thank you. Further proponents? Welcome, Judi. [LR223]

JUDI GAIASHKIBOS: Thank you. Good afternoon, Mr. Chairman and members of the committee. As often happens, the best are left for last, and as you can see, many times we don't have a large audience and the press isn't here to hear all of this good testimony. But nonetheless, I worked hard to create my testimony. So I know you're all in a hurry, but I'm going to ask you to bear with me and let me speak about this wonderful resolution that Senator Avery has introduced on behalf of Chief Standing Bear. Today I testify not as an individual, not as Judi gaiashkibos, and that's J-u-d-i-g-a-i-a-s-h-k-i-b-o-s. I think I spelled that right and... [LR223]

SENATOR AGUILAR: I knew you were going to have to spell it. [LR223]

JUDI GAIASHKIBOS: Yes. I am testifying in my official capacity as the executive director of the Nebraska Commission on Indian Affairs, not as an enrolled member in the Ponca Tribe. And I come here on behalf of our state agency with support from all of the tribes in Nebraska--the Omaha, the Ponca, the Santee, and the Winnebago--to support Senator Avery's testimony. It was a year ago in March that Opera Omaha presented Wakonda's Dream, and this was an opera created to celebrate the story of Ponca Chief Standing Bear. So as I was anticipating today's hearing, I thought about that time last year and all of the great people that weighed in on the impact of that opera. And today not only do we have Senator Avery's supporting Standing Bear being on the dollar of the Treasury, but we also have Congressman Fortenberry supporting this legislation at the federal level, the Congressional delegation of Nebraska and Oklahoma, and Governor Heineman has also sent a letter of support. And I am actively lobbying the National Congress of American Indians to support Chief Standing Bear to be one of the seven native people on this coin. Today in Nebraska and throughout America, sovereign tribes are challenged by the politics of fear, and sadly there are many untruths presented by the media concerning the Ponca people today, descendents of Chief Standing Bear. And I'm sorry that the media is not here today to hear some of those truths, but I think this coin will afford us that opportunity. So as I went back and looked at my booklet that was given to us last year at the opera, I found some quotes in there that I would like to share with you, and one is from someone that you well know, Harold Andersen from the Omaha World-Herald columnist and retired CEO. And Mr. Andersen, who doesn't always support some aspects of sovereignty, did

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

weigh-in in support of the opera and he stated, and I quote, "regrettably the efforts of General George Crook, Thomas Henry Tibbles, John L. Webster, and A.G. Poppleton in the groundbreaking decision of Judge Elmer S. Dundy did not result in Dundy's holding having widespread legal effect. It wasn't until 1948 that the last two states to grant Indians the right to vote--Arizona and New Mexico--did so after lengthy court decisions." Isn't that amazing? Truths that probably a lot of Nebraskans and Americans don't know, that we weren't citizens until 1924. So the road to assure all American Indians of equal justice under the law prove to be a long one, says Mr. Andersen. The Standing Bear trial deserves to be remembered as a historic example of early progress along the long road. I say, we have made progress, but not enough progress. So what is the question, the "what ifs" that I read about in the JournalStar this morning concerning our national campaign and election? I quote John Wilson, director of Curatorial Affairs from the Joslyn Art Museum, who also wrote about Wakonda's Dream, and his question was, what is it about Indians? What is it that has caused Europeans to think of them in awe and wonder since the 15th century? American Indians are not alone in wondering what makes them what they are, wondering if they are more pure by living as stereotype than trying to break away and find one's own way. The characters in this opera asking these questions, Standing Bear was no Bodmer Indian, no George de Forest Brush Indian. He's a human being with the same ethnic issues many of us have compounded by his indigenous heritage. That combined European interest in flora, fauna, geology, geography, and indigenous people all together, all wonderful, all awesome, enough to cause Maximilian of Wied to travel to some of the most uncomfortable places on earth--Nebraska and the plains--all in the name of science. That may be the source of the problem that Standing Bear had to address. Standing Bear had to point out that Indians weren't flora and fauna and aren't flora and fauna. They weren't just another Bodmer illustration, and today I'm here as an Indian person and as a proud member of the Ponca Tribe and not merely as flora and fauna. American Indians are often ignored in studies and misportrayed in the media, and often not even on the radar screen when they talk about issues. And today in the audience, there aren't too many left. I had to go up to my office because I have some guests here today in the audience, a young lady who's interviewing me about the impact of the boarding schools on Indian people. She came all the way with her father today from Columbus, from St. Isidore's Catholic School, Nicole Pauley and her father. So I went up and said, come on down, this could be something good for you to learn about history and what we have to deal with in Nebraska so they're in the audience today. And as I said before, we're often ignored and today you heard about Standing Bear's walk back here, and today it's a cold, cold blizzard day. And there aren't many people here that came out to testify, and I wonder how many of us would be willing to walk all the way from Oklahoma back to our homelands to keep a promise as Standing Bear did. I doubt that there would be many here that would do that. But as I was preparing for Nicole's coming today, and she's going to tape me for her ten-minute video for the American history competition that she's in, I was doing some research and reading and I came upon something that I'd like to share with you and kind of put this into a historical context. Just months before

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

this historic trial in May of 1879, on October 6, 1879, Captain Richard H. Pratt, a veteran of the Indian wars, opened the first federal Indian boarding school in Carlisle, Pennsylvania. His motto at the Carlisle Indian Industrial School was "to kill the Indian and save the man." Here in Nebraska, the Genoa Indian School was open for that same mission and my mother attended that Indian school. Thank goodness they didn't succeed and we're still here as proud Indian people. Carlisle was modeled on a prison school Pratt had created earlier for Indian prisoners of war in Florida and was run with military precision at Genoa and throughout America. Today we can and we should do better for our Indian children. I believe today that this coin will give Ponca people today the opportunity to tell the truth, to set to rest some of the fears, the politics of fear that we've heard today in some of the hearings. To answer these questions, we will have that opportunity if that coin exchanges hands and to engage all of us in a dialogue that embraces this lasting legacy and celebrates the country's first citizens. Therefore, I urge the committee to move this legislation to the floor for enactment. And with that, I say Wi'Bthu Ho and I would be happy to answer any questions that you might have. [LR223]

SENATOR AGUILAR: Thank you, Judi. Are there questions for Judi? [LR223]

JUDI GAIASHKIBOS: Come on, one question. [LR223]

SENATOR AGUILAR: I just have one. Correct me if I'm wrong, isn't it Standing Bear's bust that's up on the floor of the Rotunda that was... [LR223]

JUDI GAIASHKIBOS: It is up in the foyer, um-hum. And then there's a mural on the 14th floor. [LR223]

SENATOR AGUILAR: That's what I was thinking. [LR223]

JUDI GAIASHKIBOS: That was the...of those eight murals, that's the only one that depicts a real historic act. The others are depictions of service. [LR223]

SENATOR AGUILAR: And I'd be more than happy to sign on in cosponsor of that resolution. [LR223]

JUDI GAIASHKIBOS: Thank you, Senator Aguilar. [LR223]

SENATOR AGUILAR: Thank you. Senator Friend. [LR223]

SENATOR FRIEND: Judi, how can I ask a question about something when I am not struggling with it, I don't have any...I mean, I like it. I mean, you're trying to pull questions out of us and... [LR223]

JUDI GAIASHKIBOS: Well, not necessarily questions, just affirmations or appreciated...

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

[LR223]

SENATOR FRIEND: It was very good information and at this point of the day it was stuff that we needed, I think. [LR223]

JUDI GAIASHKIBOS: Thank you. [LR223]

SENATOR FRIEND: Thanks. [LR223]

SENATOR AGUILAR: Senator Lautenbaugh. [LR223]

SENATOR LAUTENBAUGH: I have eight-year-old twins--thank you for coming by the way--that go to Standing Bear Elementary in Omaha. [LR223]

JUDI GAIASHKIBOS: Oh, wonderful. [LR223]

SENATOR LAUTENBAUGH: So I'll be happy to tell them that I supported this as well. [LR223]

JUDI GAIASHKIBOS: That's great. Thank you, Senator Lautenbaugh. [LR223]

SENATOR LAUTENBAUGH: So once again, no questions, that's not a bad thing. [LR223]

JUDI GAIASHKIBOS: Okay. Welcome to have you on. I've never testified before you at a hearing, so it's my honor. Thank you. [LR223]

SENATOR LAUTENBAUGH: Thank you. [LR223]

SENATOR AGUILAR: Any other proponents? Are there any opponents? Neutral? Going once. That closes the hearing on LR223. Thank you. [LR223]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 06, 2008

Disposition of Bills:

LB824 - Held in committee.

LB871 - Held in committee.

LB921 - Held in committee.

LR223 - Advanced to General File.

Chairperson

Committee Clerk