

Transcript Prepared By the Clerk of the Legislature  
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Business and Labor Committee  
May 21, 2009

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The Committee on Business and Labor met at 1:00 p.m. on Thursday, May 21, 2009, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on gubernatorial appointments. Senators present: Steve Lathrop, Chairperson; Brenda Council, Vice Chairperson; Tom Carlson; Amanda McGill; Ken Schilz; Norman Wallman; and Tom White. Senators absent: None. []

SENATOR LATHROP: All right. Welcome, Mr. Lindahl. We're here today on the, what is it, the 21st day of May for the confirmation hearing of Loren Lindahl to the CIR. And it's a reappointment, right? []

LOREN LINDAHL: Yes, it is. []

SENATOR LATHROP: Okay. Well, introduce yourself and... []

LOREN LINDAHL: I'm Loren Lindahl. I'm an attorney in Wahoo, Nebraska. Been in active practice of law since 1973. Was county attorney for 16 years. That's where I ran into Steve a few times. After having been in the private, excuse me, in the practice of being county attorney, then I was also at the same time in private practice. After my last term decided not to run anymore. Solely into private practice, handled estate planning, business transactions, real estate transactions. Do not do any criminal law or family law situations, stay away from those completely and sleep better at night. I have served on, obviously, like any small town attorney, I've served on numerous bodies. I've been city attorney for the city of Wahoo for...since 1977. I've served on the Wahoo Board of Education, active in my church, been on the CIR. This is my....actually my third go around. I was appointed to replace Rod Anderson who resigned and took a position, I believe, with the Social Security Administration. So I filled...and I don't know if it was one year or two years of his term and then was reappointed by Governor Johanns and now I've been reappointed by Governor Heineman. []

SENATOR LATHROP: Terrific. We may have you just because... []

LOREN LINDAHL: Yeah, Brenda, of course, I served with Brenda on the commission when she was on the commission a few years ago. []

SENATOR LATHROP: Did you guys get along because she isn't here and maybe we ought to...? (Laughter) []

LOREN LINDAHL: Well, we can certainly say a few things about her. (Laughter) But I presume this is being recorded so we better be careful. []

SENATOR LATHROP: It is being recorded so you have to be measured with your

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remarks. You know, there are some people on the committee that have not...are not familiar with the CIR and maybe you can tell us what you do there, and then we'll see if anybody on the committee has any questions. []

LOREN LINDAHL: Okay. I guess you have to go back to Nebraska Constitution, Nebraska law, to the effect that public employees cannot strike. So the compromise then was the Commission of Industrial Relations, which gave public employees a forum that they could turn to to resolve disputes involving wages, hours, working conditions. And so, it's somewhat like a court, but it's, obviously after...after a couple years ago, or previously a couple years ago, we were called judges. But after that, we were called...or now we're certainly called commissioners. Anyway, it is treated like a court in the respect that if the employees and the employer are at impasse as to wages, hours, or working conditions, either side can present a petition to the Commission of Industrial Relations just as in a court of law where one...where there's a dispute between the parties and one party files a complaint. Here a petition is filed with the Commission of Industrial Relations, the other side has an opportunity to respond to that petition, and then we go through the pretrial, etcetera, and set it down eventually for trial, if in the meantime if the parties don't resolve their dispute. At the trial, we hear evidence from both sides. Then based upon that evidence, and the law as it exists, we make a decision. That decision can then be appealed on the record to the Court of Appeals or the Nebraska Supreme Court. There are five of... []

SENATOR LATHROP: We see...yeah, go ahead. []

LOREN LINDAHL: There are five of us. Three of us are assigned to a panel to hear the cases. Only one of the three actually hears the case, but the other two then on the three-judge or commission panel then will help in rendering the decision that is made. []

SENATOR LATHROP: Okay. And as a practical matter, it's...the CIR is necessary because public employees cannot strike. []

LOREN LINDAHL: That is my understanding that public employees in the state of Nebraska cannot strike. So this is... []

SENATOR LATHROP: Right. And the idea is a practical matter, we cannot...and the reason I ask this, I've seen some, maybe a newspaper article about doing away with the CIR, we can't. If we're not going to let employees strike, then we have to have a forum like the CIR, am I right? []

LOREN LINDAHL: Well, there has to be a balance then. So if one aspect...if you're going to do away with the CIR, then obviously there's going to be a push from the other side to level the playing field, whatever that is. You know, I do not know, that's your decision in the future. []

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SENATOR LATHROP: Okay. But ultimately, it's...the CIR exists as a substitute for employees striking. []

LOREN LINDAHL: Correct. []

SENATOR LATHROP: Okay. I think that's good background because people on the committee, it's good to have somebody here during the confirmation, give us a little background. Senator Wallman. []

SENATOR WALLMAN: Thank you, Chairman Lathrop. Do you also deal with contract language, say with teachers, scope of practice issues, do you deal with that in contracts? []

LOREN LINDAHL: The only issue that has come before us recently involving contracts had to do with deviation. And our standards and the standards that have been, I guess approved by the Nebraska Supreme Court, is that we look at prevalence as far as the deviation. Now when I'm talking about deviation, that the employer, the school district, can deviate from the salary schedule to hire a particular teacher because of a particular need. []

SENATOR WALLMAN: Special need, yeah. []

LOREN LINDAHL: And we wrestled with that issue. The Supreme Court did make a decision. What I suspect has happened is that because of the Supreme Court decision, the union and the employers are being more cognizant of that clause and they are negotiating that clause a little more carefully than in the cases that had previously been brought to us. []

SENATOR WALLMAN: Thank you. []

SENATOR LATHROP: Senator Carlson. []

SENATOR CARLSON: Senator Lathrop. Mr. Lindahl, I see you served on a school board. []

LOREN LINDAHL: Yes. []

SENATOR CARLSON: I have too, so that makes it a little easier for me to understand this whole process. And it would probably come about through an impasse on negotiations, so then either group... []

LOREN LINDAHL: Can appeal. []

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---

SENATOR CARLSON: ...can appeal. But for the teachers to appeal, it's got to be a group or an association. It can't be an individual teacher. Somebody's got to represent them in negotiations. []

LOREN LINDAHL: An individual can, but as a practical matter it's not going to happen because of the time and expense involved. []

SENATOR CARLSON: And so it may be the teachers association that appeals, or would it be the school board? []

LOREN LINDAHL: Yes, either side. []

SENATOR CARLSON: Yeah, but it would be the school board. []

LOREN LINDAHL: Yes. []

SENATOR CARLSON: Not the school. Not the administration, it would be the school. []

LOREN LINDAHL: Yeah, yeah. I mean, obviously, the school board runs the school. The school board will make the decision as to whether or not to appeal an impasse. []

SENATOR CARLSON: And I think it...the school lends itself a little easier to this. What about employees within this building? They don't have an association, I don't think. []

LOREN LINDAHL: There is a state statute which covers the state employees and we are hearing several of those cases at the present time. []

SENATOR CARLSON: But would...from within this building would that come as individuals or as a group? []

LOREN LINDAHL: They're coming as a group. []

SENATOR CARLSON: Okay. Thank you. []

LOREN LINDAHL: All right. And that's, like I said, there are several of those cases that are in front of us at the present time. Those are the ones that the state statutes provide for a special master who will hear the evidence, actually be the trial judge, so to speak. And then if either party wishes to appeal from the special master, they do that to the Commission of Industrial Relations. And then we have decided as of...recently, that we sit as a court of appeals, determine whether or not the special master, you know, made a decision based upon the statutes and the evidence and then we either affirm or...well, we really don't have much choice. If the special master followed the law and the

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evidence, we affirm. And that needs to be done by July 1 and that's because of the state's budgetary requirements. []

SENATOR CARLSON: Thank you. []

SENATOR LATHROP: The only other thing is you have the distinction of having practiced law with Curt Bromm forever. (Laughter) As long as both of you have been practicing law. []

LOREN LINDAHL: (Laughter) Well, I think he has one or two years more than I do but that's the only difference. []

SENATOR LATHROP: Okay. Good. Loren, I appreciate you're coming in. []

LOREN LINDAHL: He's been a great partner. []

SENATOR LATHROP: Yeah, he's a wonderful guy. We enjoy when he's down here and I always enjoy seeing him. I think that's it unless there's any questions. Okay. Thanks. []

LOREN LINDAHL: Thank you very much. Appreciate it. []

SENATOR LATHROP: You're very welcome. I think we will, maybe we will just go straight into Exec. []

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Chairperson

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Committee Clerk