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Transcriber's Office

Floor Debate
June 04, 2013

[LB34 LB90 LB93A LB93 LB97 LB211A LB211 LB224 LB269A LB269 LB298 LB326
LB331 LB363 LB363A LB366A LB366 LB429A LB429 LB479 LB483 LB483A LB507A
LB507 LB517A LB517 LB530A LB530 LB545 LB556 LB556A LB568A LB568 LB579
LB579A LB583 LB583A LR171 LR356 LR357 LR358 LR385 LR386]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the eighty-ninth day of the One Hundred Third Legislature, First Session. Our chaplain for today is Senator Nelson.

SENATOR NELSON: (Prayer offered.)

SPEAKER ADAMS: I call to order the eighty-ninth day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

CLERK: I have a quorum present, Mr. President.

SPEAKER ADAMS: Are there any corrections for the Journal?

CLERK: (Read corrections, Legislative Journal page 1741.)

SPEAKER ADAMS: Are there any messages, reports, or announcements?

CLERK: Mr. President, communication from the Governor, addressed to the Clerk. (Read re LB93, LB93A, LB97, LB211, LB211A, LB269, LB269A, LB298, LB326, LB331, LB363, LB363A, LB366, LB366A, LB429, LB429A, LB479, LB483, LB483A, LB507, LB507A, LB517, LB517A, LB530, LB530A, LB556, LB556A, LB579, LB579A, LB583, LB583A, LB34 and LB545.) That's all that I have, Mr. President. (Legislative Journal page 1741.) [LB93 LB93A LB97 LB211 LB211A LB269 LB269A LB298 LB326 LB331 LB363 LB363A LB366 LB366A LB429 LB429A LB479 LB483 LB483A LB507 LB507A LB517 LB517A LB530 LB530A LB556 LB556A LB579 LB579A LB583 LB583A LB34 LB545]

SPEAKER ADAMS: We'll now proceed to the first item on the agenda, Final Reading. Members, return to their seats in preparation of Final Reading. Mr. Clerk, the first bill is LB90. [LB90]

ASSISTANT CLERK: (Read LB90 on Final Reading.) [LB90]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB90 pass? All those in favor vote aye; all those opposed

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vote nay. Record, Mr. Clerk. [LB90]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1742.) The vote is 41 ayes, 7 nays, 1 present and not voting, 0 excused and not voting, Mr. President. [LB90]

SPEAKER ADAMS: LB90 passes. We'll now proceed to LB224. [LB90 LB224]

ASSISTANT CLERK: (Read LB224 on Final Reading.) [LB224]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB224 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB224]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1742-1743.) The vote is 49 ayes, 0 nays, Mr. President. [LB224]

SPEAKER ADAMS: LB224 passes. We'll now proceed to LB568. [LB224 LB568]

ASSISTANT CLERK: (Read LB568 on Final Reading.) [LB568]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB568 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB568]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1743.) The vote is 49 ayes, 0 nays on the passage of the bill, Mr. President. [LB568]

SPEAKER ADAMS: LB568 passes with the emergency clause attached. We'll now proceed to LB568A. [LB568 LB568A]

ASSISTANT CLERK: (Read LB568A on Final Reading.) [LB568A]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB568A pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB568A]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1744.) The vote is 49 ayes, 0 nays, Mr. President, on the passage of the A bill. [LB568A]

SPEAKER ADAMS: LB568A passes with the emergency clause attached. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB90, LB224, LB568, LB568A. Mr. Clerk, next item on the agenda. [LB90 LB224 LB568 LB568A]

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ASSISTANT CLERK: Mr. President, next item, LR171, which is introduced by Senator Dubas. It is a resolution that the Legislature supports the development and designation of the continuous Chief Standing Bear Trail from Nebraska to Oklahoma. The resolution was introduced on May 7. It was referred to the Natural Resources Committee for hearing. That committee reports the resolution to the Legislature for further consideration. [LR171]

SPEAKER ADAMS: Senator Dubas, you're recognized as the introducer of the resolution. [LR171]

SENATOR DUBAS: Thank you very much, Mr. Speaker. Good morning, colleagues. Not very long ago I learned about the efforts that were being undertaken to develop and designate a trail from Nebraska to Oklahoma which would commemorate, recognize, and educate the public at large about the story of Chief Standing Bear and his Ponca Tribe. I offered at that time to help in any way that I could to raise that level of awareness about their efforts and was, at a later time, asked by the Indian Commission if I would introduce a legislative resolution. And before you, this resolution seeks the Legislature's support for the development and designation of a continuous Chief Standing Bear Trail from Nebraska to Oklahoma and recognizes the story of Nebraska's original Native American inhabitants. This story, and so many others like it, are vital to the understanding of the history of Nebraska and how we interacted with our state's first and truest Native citizens. In 1877, the Ponca Tribe, which lived around the Niobrara River Valley in northeastern Nebraska, were forcibly removed from their homeland as more European settlers moved into this new state. Chief Standing Bear and other tribal leaders thought that they were being sent to the Omaha Reservation, but soon found out they would be traveling 600 miles to what is now Oklahoma in an area just south of the now present-day location of Ponca City, Oklahoma. The tribe bore a harsh and difficult trip by foot and then arrived with no ability to raise any food and endured a cruel winter of starvation and disease. One third of the tribe died, including Chief Standing Bear's only son. It was the son's and father's deepest desire to return home to their traditional burial grounds so a small band of tribal members began the long trek back home. They made it to the Omaha Reservation where word of their arrival made it back to the Bureau of Indian Affairs. Brigadier General George Crook had them arrested for leaving the Indian territory. But General Crook did have sympathy for the chief and his people and gave them an opportunity for rest before they were initially planning on sending them back. But he also told the story of Chief Standing Bear to Thomas Tibbles, who was the editor of the Omaha Daily Herald, who wrote a story about the chief's troubles. Local attorney John Webster offered his services pro bono and was joined by Union Pacific attorney, Andrew Poppleton, to defend Chief Standing Bear. The chief sued the United States government for a writ of habeas corpus in what is now known as a landmark civil rights case. As the trial drew to a close, Judge Dundy allowed the chief to make a speech on his own behalf. He raised his right hand and said, "That

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hand is not the color of yours, but if I prick it, the blood will flow, and I shall feel pain. The blood is of the same color as yours. God made me, and I am a man." The judge later ruled that the Indian is a person within the meaning of the law and entitled to the rights saying: The rights of expatriation is natural, inherent, and unalienable right and extends to the Indian as well as to the more fortunate white race. Chief Standing Bear and his people were able to permanently return to the Niobrara Valley in northeast Nebraska where he lived the remainder of his life. The United States government now recognizes the Ponca people as both the Ponca Tribes of Indians of Oklahoma and the Ponca Tribe of Nebraska. Chief Standing Bear's journey to Oklahoma and return to Nebraska with the trial that followed illustrates our not so proud history when it comes to our treatment of the true Native citizens of this state and country. As the resolution states, it is essential to raise the level of awareness of historical events and the lives of our original Native American inhabitants of Nebraska. In order to promote justice and equality in the United States legal system, the trail would help increase that knowledge and awareness. This resolution will not solve the ongoing challenges of our Native American population. The awful conditions as a result of alcohol sales at Whiteclay to the very real problems faced in our foster care system by Native children as they are placed outside of their culture are only the tip of the iceberg as Native Americans strive to protect, preserve, and revitalize their very proud culture. Those who don't learn from history are doomed to repeat it, and that is why a resolution recognizing the work that will culminate in the Chief Standing Bear Trail will be another important part of that historical story we must teach to current and future generations. Change comes slowly and too often painfully. But every effort such as this one will facilitate positive changes. And this is not about the actual construction of a trail. This is about, you know, the Indian Commission as well as others involved in this are in the very preliminary stages of researching where that trial went, looking through files and maps, etcetera. This will be more of a virtual trail creation that through the use of the Internet and other tools such as that that people will be able to see where that trail started, where it went through. It will enable many of the communities through Nebraska to maybe take advantage of...if that trail is in their locale to make that historical notation in their community and maybe in some ways develop some type of recognition for the trail. It's the hopes that the same type of recognition will be developed in Kansas, as well as Oklahoma, so that the entire length of this trail will be recognized for not only the extreme difficulties and harsh realities, but also this historic landmark civil rights case for our Native Americans. So I really hope the Legislature will recognize the importance of this resolution and give it your full support. Thank you, Mr. President. [LR171]

SENATOR KRIST PRESIDING

SENATOR KRIST: Thank you, Senator Dubas. Those wishing to speak: Senator Coash, Schumacher, Carlson, and Avery. Senator Coash, you are recognized. [LR171]

SENATOR COASH: Thank you, Mr. President. Good morning, colleagues. I stand here

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as your Chair of State-Tribal Relations. And among other things, the duties of the Chair are to keep the Legislature and the Governor's Office informed of issues that affect Native Americans, to advocate and study issues that affect Native Americans in our state. And I believe that what Senator Dubas has brought us in LR171 is an appropriate resolution, and I do urge the body's support. Senator Dubas has outlined very well the history of this trail. And she said something that I was going to say, which is that we have to remember to learn from our history or we repeat it. The history of this trail is intertwined with the history of our state. And it is important for this Legislature, I believe, to recognize that history. Throughout Nebraska's history and our nation's history, we've had groups of marginalized populations. And not understanding the past of those populations is a big factor in their continued marginalization. So what we have in front of us is an opportunity and an opportunity I believe we should take advantage of. We have to take advantage of opportunities to teach our children and to pass down to other generations our history. As Senator Dubas illustrated, this is more than just a trail. This is not just a trail from one place in our state to a different place in another state. What this resolution represents is a recognition of our past, a goal to move forward, and it really recognizes how we prioritize in our state education and how we recognize and take pride in our history. And I'm not asking anyone to apologize for things. What I am asking is that we don't forget things. And for that reason, colleagues, I would urge your support and the adoption of LR171. Thank you, Mr. President. [LR171]

SENATOR KRIST: Thank you, Senator Coash. Senator Schumacher, you are recognized. [LR171]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I'd like to thank Senator Dubas for bringing this particular resolution, LR171, because it does demonstrate the evolution of society; the evolution of our sense of what's right and wrong; the evolution of the imposition of our system of property rights, and of social organization. So thank you, Senator Dubas. I also rise this morning, a bit of a sidebar, to thank those of you yesterday who signed the resolution that stated we recognize we will be needing to make a deficit appropriation to the State Auditor's Office as soon as we can next year. I've circulated this morning a chart provided to me by the State Auditor's Office which reflects Program 506, which is, basically, his office personnel, to indicate how much of a cut was imposed upon the Auditor's Office and that it is very much needed that we hold up to our signatures yesterday. There were 34 of them on the resolution. Several of you also indicated you'd support the resolution even though you did not have a chance to sign it or did not sign at the time we first talked. So this is an important office. It's one of the things that we have to rely on for detecting when we have a problem in a branch or in an administrative agency or in a local subdivision of government. And it is very important that he not have to cut what he thinks will be otherwise three people and curtail a lot of the discretionary auditing that is proven to have been so useful to the Legislature over the last few years. So I call this to your attention for this little chart. What we did was a real cut in our capacity and that if we

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don't want that to happen we need to, as soon as possible, make a deficit appropriation consistent with the signatures obtained yesterday. It's my understanding that procedurally that particular resolution is going to be referred to committee and processed normally. But there's sufficient signatures on there to indicate an overwhelming support in the Legislature for having the Auditor continue to do the work that he is doing and continuing to bring to us information necessary for us to exercise the responsibility of governance that we have. Thank you. [LR171]

SENATOR KRIST: Thank you, Senator Schumacher. Senator Carlson, you are recognized. [LR171]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I appreciate Senator Dubas and her effort through LR171. We do acknowledge the courage of Chief Standing Bear. And today our decision is not about money. There is no A bill. Our decision is about helping preserve the true story about the conviction and commitment of Chief Standing Bear. The Natural Resources Committee recognized the significance of his life and voted unanimously 8 to 0 to advance the resolution. We ask for your support of LR171. Thank you. [LR171]

SENATOR KRIST: Thank you, Senator Carlson. Senator Avery, you are recognized. [LR171]

SENATOR AVERY: Thank you, Mr. President. I rise to endorse this proposal. It is entirely appropriate that we recognize Chief Standing Bear in this manner. He is, of course, one of the most honored citizens of this state. A bust of his likeness is in our Hall of Fame. He is an enduring symbol of fundamental human rights, establishing the humanity of all of us early on when that was in question in our statutes. So we are proud of this Nebraska citizen and we should express our pride at every opportunity. As Chair of the Government, Military and Veterans Affairs Committee, we often deal with issues coming before the Indian Affairs Commission. And it is our honor to get behind this resolution. So I applaud Senator Dubas for this resolution, and I urge your support for it. Thank you, Mr. President. [LR171]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Thank you, Senator Avery. Senator Wallman, you're recognized. [LR171]

SENATOR WALLMAN: Thank you, Mr. President. Thank you, Senator Dubas. One of my good friends is a Native American from Oklahoma, and he is proud of Nebraska because we actually treated the Native Americans better than the state of Oklahoma. So the Trail of Tears goes through part of my district and he can tell you stories about this and Standing Bear and the attorney that stood up with him from Omaha. There was

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some people that knew things weren't right and gave a talk at the Homestead National Monument and a person from Oklahoma was right behind me. He said the Homestead Act we could not apply. We were just called savages. And so this is a nice thing we should do. And thank you again, Senator Dubas. Thank you, Mr. President. [LR171]

SPEAKER ADAMS: Thank you, Senator Wallman. Senator Krist, you're recognized. [LR171]

SENATOR KRIST: Thank you, Mr. President and fellow senators, and good morning, Nebraska. Thank you, Senator Dubas, for bringing this forward. It is important. And I would also like to add my seconds to Senator Schumacher's efforts to reemphasize the LR that will carry itself forward into next year and address the deficit request that will come from the State Auditor. I have witnessed the power of the Auditor's pen, both as a member of the Performance Audit Committee--could I have a gavel, please. Okay, I won't--both as a member of the Performance Audit Committee and as a member of LR37 when data was requested and in the timeliness of his office in terms of the efficiency in which they operate. And that will be affected given the wholesale cuts that were made. When Senator Chambers brought the effort forward to try to override the veto, I think there were some key members, understandably so, who were absent during that vote. And we need to pay particular attention in the interim period, talk to the Auditor, look at the issues involved, and the human beings that will be affected in his office. There is no reason why a deficit request can't be addressed early on in the session and handled efficiently and effectively when we come back into session. Once again, I urge the support of LR171. It is historic and thank you, Senator Dubas, for bringing it forward again. Thank you, Mr. President. [LR171]

SPEAKER ADAMS: Thank you, Senator Krist. Senator Haar, you're recognized. [LR171]

SENATOR HAAR: Mr. President, members of the body, I'd like to, obviously, rise in support of LR171 and thank Senator Dubas. It's hard not to tear up when you hear those words again of Standing Bear. Reading the book brings all the details to it, but simple truths are often expressed in just a few words and this is such a great example. Thank you, Senator Dubas. [LR171]

SPEAKER ADAMS: There are no other lights on. Senator Dubas, you're recognized to close. Senator Dubas waives her opportunity to close. Members, the question before the body is the adoption of LR171. All those in favor vote aye; all those opposed vote nay. There has been a request for a record vote, Mr. Clerk. Record. [LR171]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1744-1745.) The vote is 46 ayes, 0 nays, Mr. President, on the adoption of the resolution. [LR171]

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SPEAKER ADAMS: The resolution is adopted. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR356, LR357, LR358, and LR171. Members, we are going to stand at ease for a few moments.
[LR171 LR356 LR357 LR358]

EASE

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Mr. Clerk, items for the record.

ASSISTANT CLERK: Thank you, Mr. President. The bills that were read on Final Reading this morning were presented to the Governor at 10:31 a.m. (Re LB90, LB224, LB568, LB568A). New resolutions: LR385 by Senator Hansen and LR386 by Senator Davis. Those will be laid over. (Legislative Journal pages 1745-1747.) [LB90 LB224 LB568 LB568A LR385 LR386]

Finally, a priority motion. Senator Ashford would move to adjourn until Wednesday, June 5, 2013, at 10:00 a.m.

SENATOR GLOOR: (Visitors introduced.) Members, you've heard the motion to adjourn until 10:00 tomorrow morning. Those in favor say aye. Those opposed say nay. We stand adjourned.