

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

Business and Labor Committee
May 18, 2015

[CONFIRMATION]

The Committee on Business and Labor met at 12:00 p.m. on Monday, May 18, 2015, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on a gubernatorial appointment. Senators present: Burke Harr, Chairperson; Dave Bloomfield, Vice Chairperson; Ernie Chambers; Sue Crawford; Jerry Johnson; and John McCollister. Senators absent: Laura Ebke.

SENATOR HARR: Thank you for coming. Welcome to the Business and Labor Committee. We have a quorum here. So we'll have some come in and out as this goes on. This lunch period we have a 20-minute break for lunch. [CONFIRMATION]

SENATOR BLOOMFIELD: Which won't start for another ten minutes. (Laugh)
[CONFIRMATION]

SENATOR HARR: Oh really? Is it still going on in there? [CONFIRMATION]

SENATOR BLOOMFIELD: Yeah, yeah. [CONFIRMATION]

SENATOR HARR: Okay. So we have Senator McCollister from Omaha...well, why don't you guys introduce yourselves. [CONFIRMATION]

SENATOR McCOLLISTER: John McCollister, Omaha, Nebraska. [CONFIRMATION]

WILLIAM G. BLAKE: Senator, nice to meet you. [CONFIRMATION]

SENATOR BLOOMFIELD: Dave Bloomfield, Hoskins, Nebraska. [CONFIRMATION]

SENATOR JOHNSON: Jerry Johnson, Wahoo. [CONFIRMATION]

SENATOR HARR: And I'm Burke Harr from Omaha. You've been through this before.
[CONFIRMATION]

WILLIAM G. BLAKE: I have. [CONFIRMATION]

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

Business and Labor Committee
May 18, 2015

SENATOR HARR: It's a pretty simple concept, idea. Why don't you tell us a little bit about yourself. [CONFIRMATION]

WILLIAM G. BLAKE: Of course, my name is William G. Blake. I'm glad to be here and have a chance to talk to the members of the committee. So thank you for this opportunity. It's nice to meet all of you. I am an attorney from Lincoln. I've been an attorney for 40 years. I spent nine years in the Lincoln City Attorney's Office and then went into private practice. I've been doing that for 31 years now. I'm a member of...a partner in the Baylor Evnen law firm in Lincoln, 1248 "O" Street. I was a member of the Commission of Industrial Relations for 14.5 years. And then my term expired and Governor Heineman appointed someone else to replace me. And now Governor Ricketts has decided to appoint me to another term for five years, subject to confirmation, of course. [CONFIRMATION]

SENATOR HARR: Excellent. Can you spell your last name? [CONFIRMATION]

WILLIAM G. BLAKE: B-l-a-k-e. [CONFIRMATION]

SENATOR HARR: Okay. Anyone have questions for Mr. Blake? Senator Johnson. [CONFIRMATION]

SENATOR JOHNSON: Thank you. Thanks for being willing to come back on. How many years were you off then? [CONFIRMATION]

WILLIAM G. BLAKE: Just a year, a year and about a month. [CONFIRMATION]

SENATOR JOHNSON: Oh, okay. So you still have all the recollections of what went on in the past. I was just curious what the gap was there in your time serving. [CONFIRMATION]

WILLIAM G. BLAKE: I can't tell you what has gone on with the commission in the year that I have been gone. I haven't had any particular reason to stay totally current on it. But I know that the law really hasn't changed and the cases really haven't changed that much. The issues of course are the same. The law is the same. I was presiding officer of the commission for about the last three, maybe four years. So I was very familiar with every case at that time. And I can tell you, do I remember everything? Probably not, but I have a pretty good recollection of our proceedings and what the case law was that the commission had developed and the Supreme Court cases. [CONFIRMATION]

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

Business and Labor Committee
May 18, 2015

SENATOR JOHNSON: So you were on the commission when the Legislature did a lot of rework on it here a few years ago. [CONFIRMATION]

WILLIAM G. BLAKE: Yes, I was. [CONFIRMATION]

SENATOR JOHNSON: Yeah. Thank you. [CONFIRMATION]

SENATOR HARR: Any other questions? Senator McCollister. [CONFIRMATION]

SENATOR McCOLLISTER: Yeah, thank you, Mr. Chairman, and thank you for your willingness to serve, sir. The statute that occurred, Senator Johnson referred to, in what ways did the statute change? [CONFIRMATION]

WILLIAM G. BLAKE: Well, the biggest thing that it did was for a lot of the CIR cases, it required a three-member panel. And when I left a year ago, there still had not been a three-member panel hearing determination by the commission. We had several cases that could have been done that way, but they all settled before the hearing. And I think that was really one of the primary intentions of the Legislature at that time was to find a way to get these things settled without almost a court determination or an arbitration by the commission. And I think that was a very positive change. It did promote settlements, and I know it still is promoting settlements. [CONFIRMATION]

SENATOR McCOLLISTER: It initiated a three-member panel. How did the system work before? [CONFIRMATION]

WILLIAM G. BLAKE: Well, the presiding officer would get the case. And as that presider, I would look at the case and decide what three members out of five to put on the panel. And that was...the only criteria was to try to even out the workload. There was, you know, no political agenda ever involved in that. It was just even out the workload. And then three members were supposed to make the decision. There was a hearing officer. And that hearing officer would be the one to actually sit in the hearing room and take the evidence and act almost as a judge to determine what evidence should be heard. Another thing that it changed was the evidence that's allowed, to take the commission away from the strict rules of evidence and more the relaxed...what normal people would rely upon in making their decisions. [CONFIRMATION]

SENATOR McCOLLISTER: Yeah, how many members of the commission are there?
[CONFIRMATION]

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

Business and Labor Committee
May 18, 2015

WILLIAM G. BLAKE: Five. [CONFIRMATION]

SENATOR McCOLLISTER: Five. So you say it dropped down to three? [CONFIRMATION]

WILLIAM G. BLAKE: Well, three people would be on the panel. [CONFIRMATION]

SENATOR McCOLLISTER: Okay. [CONFIRMATION]

WILLIAM G. BLAKE: Any commissioner could always make the motion to--and once they did it, it was automatic--to turn it in to all five and sit en banc to hear it. So if you thought that it was controversial enough, that all five members should hear it, you could make that request or a party could make that request to have all five. It was pretty uncommon to have all five, but it did happen from time to time. [CONFIRMATION]

SENATOR McCOLLISTER: Even though you haven't served for a year or so, does the commission meet on a regular basis? [CONFIRMATION]

WILLIAM G. BLAKE: Semiregular. They try to meet once a month. It might be every six weeks. It depends a little bit on the workload. Sometimes the workload is so small, the cases are not controversial. At times the commission has had a workload where it's maybe two or three cases dealing with certifying a representative of a new union. And those are generally not controversial. And so sometimes there's just no reason for the whole commission to meet and it might be every two months. But they try to meet on a pretty regular basis just because they all need to do that to talk issues over and know what's going on. [CONFIRMATION]

SENATOR McCOLLISTER: It's my understanding that when the new statute came into effect, it attached an hourly rate to health benefits and some of the other benefits. Is that a correct interpretation of what occurred? [CONFIRMATION]

WILLIAM G. BLAKE: An hourly rate to benefits, I'd have to go back and read it. I don't know that...part of the issue with that new statute is that we never were in a position when I was there to actually administer it. We never had any cases before where we needed to administer it. [CONFIRMATION]

SENATOR McCOLLISTER: If my understanding is correct, that's still the case. Are there any cases? [CONFIRMATION]

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

Business and Labor Committee
May 18, 2015

WILLIAM G. BLAKE: I wouldn't be surprised. I think that's what the Legislature wanted. It's, I don't know, apparently working very well that way. [CONFIRMATION]

SENATOR McCOLLISTER: Thank you, Mr. Chairman. [CONFIRMATION]

SENATOR HARR: Thank you, Senator McCollister. Any other questions? Senator Crawford. [CONFIRMATION]

SENATOR CRAWFORD: Thank you. I just wondered if you would tell us, and I apologize if I missed it because I came in late, I know above and beyond your commitment to public service, what brings you back to the commission? Like what do you feel you bring to the commission that you want to make sure that we have on the commission by your serving? [CONFIRMATION]

WILLIAM G. BLAKE: Well, I was on the commission for 14.5 years. And there were some, I guess I'll say, controversies that led to a change in the commission membership. And the four...one of our very experienced commissioners will be replaced. And that's what I've been appointed to do, subject of course to confirmation. The other four members are very good practicing attorneys, but they are not all that experienced with the commission. And I think that's something that...one reason for my appointment is because of that experience. And that's the main thing I think I can bring to the commission that might be somewhat of a unique qualification. [CONFIRMATION]

SENATOR CRAWFORD: Thank you. Thank you, and I appreciate your willingness to come back and serve. If you had to sum up the, I guess, obligation or the purpose of the commission, like fundamentally what's critical that this commission accomplishes? How would you sum that up, procedure, duty? [CONFIRMATION]

WILLIAM G. BLAKE: Well, the commission is kind of an arbitrator since public employment positions are critical to the functioning of the state and all of its subdivisions. We need to be able for public employees to have a forum where their wages and benefits can be fairly determined and do it in such a way that it's fair to the state, fair to the employees, and not subject to the general rules of unions where management and labor can be at loggerheads and have strikes. Public employees are too critical to the functioning of the state. So we're, the commission is there to take care of that in a quick, fairly quick manner. [CONFIRMATION]

SENATOR CRAWFORD: Thank you. Thank you. [CONFIRMATION]

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

Business and Labor Committee
May 18, 2015

SENATOR HARR: Any other questions? Senator Chambers. [CONFIRMATION]

SENATOR CHAMBERS: Did you have a question? [CONFIRMATION]

SENATOR JOHNSON: Go ahead. I've had my one. (Laugh) [CONFIRMATION]

SENATOR CHAMBERS: Mr. Blake, I doubt that he's going to ask the question I'm going to ask. Are you a philosopher? Do you consider yourself a philosopher? [CONFIRMATION]

SENATOR JOHNSON: That would not have been my question. [CONFIRMATION]

WILLIAM G. BLAKE: You know, I'm somewhat reluctant to bite on that, but sure. [CONFIRMATION]

SENATOR CHAMBERS: You are. And are you any kind of a poet? [CONFIRMATION]

WILLIAM G. BLAKE: I'm not that poet. [CONFIRMATION]

SENATOR CHAMBERS: Which poet? [CONFIRMATION]

WILLIAM G. BLAKE: (Laugh) Some of my poems I probably couldn't repeat. [CONFIRMATION]

SENATOR CHAMBERS: So you're not getting to your great, great, great, great, great, great-grandfather. [CONFIRMATION]

WILLIAM G. BLAKE: Yeah, yeah. As far as I know, there's no relation. [CONFIRMATION]

SENATOR CHAMBERS: Oh, don't be so sure of that because you look a lot like him. I thought you reminded me of somebody when I saw you. I've been around a long time, son. But he was a philosopher...but he was known as a metaphysical poet. And one of my favorite couplets from him was: A robin redbreast in a cage puts all heaven in a rage. You need to find out about your relative. Next time you come here again I want you to be able to have a conversation with me because all this mundane stuff, I allow my colleagues to handle. (Laughter) They understand that better than I do, but sometimes I'm up here. [CONFIRMATION]

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

Business and Labor Committee
May 18, 2015

WILLIAM G. BLAKE: You know, I've never played off of that name, but I should. Thank you.
[CONFIRMATION]

SENATOR CHAMBERS: But make sure you're dealing with somebody who will be familiar with the man. [CONFIRMATION]

WILLIAM G. BLAKE: Yeah, yeah. [CONFIRMATION]

SENATOR CHAMBERS: Okay. [CONFIRMATION]

SENATOR HARR: Senator Johnson. [CONFIRMATION]

SENATOR JOHNSON: That would not have been my question. (Laughter) One of the members--and you might have went off the CIR--did he go off because of term limit, or is there a stipulation because he became a mayor? [CONFIRMATION]

WILLIAM G. BLAKE: Oh, his term expired. [CONFIRMATION]

SENATOR JOHNSON: Okay. [CONFIRMATION]

WILLIAM G. BLAKE: And he decided that becoming mayor would just...that's too much of a load for him to do both. [CONFIRMATION]

SENATOR JOHNSON: Would that have been considered a conflict? [CONFIRMATION]

WILLIAM G. BLAKE: Well, it certainly would be a conflict if there was... [CONFIRMATION]

SENATOR JOHNSON: In house. [CONFIRMATION]

WILLIAM G. BLAKE: ...the city of Wahoo or probably any subdivision in Saunders County.
[CONFIRMATION]

SENATOR JOHNSON: Yeah. I was just curious. Thank you. [CONFIRMATION]

SENATOR HARR: I have just have a couple. How many hours a month does this take to be a CIR? [CONFIRMATION]

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

Business and Labor Committee
May 18, 2015

WILLIAM G. BLAKE: For the commissioners... [CONFIRMATION]

SENATOR HARR: Yeah, a commissioner. [CONFIRMATION]

WILLIAM G. BLAKE: ...typically when I went on it was explained that it would probably take about two...the equivalent of two full days per month. And that's fairly accurate.
[CONFIRMATION]

SENATOR HARR: Okay. [CONFIRMATION]

WILLIAM G. BLAKE: For the presiding officer, maybe four. [CONFIRMATION]

SENATOR HARR: Okay. Do you have any recommendations? We're doing an interim study on CIR. Would you have any recommendations of areas we should look at or concerns?
[CONFIRMATION]

WILLIAM G. BLAKE: Well, funding for every agency is always a concern, for the agency and for the Legislature. That's just...and that's probably something that will never be solved. A lot of the concerns were dealt with a couple of years ago by the Legislature. And I think before anybody could make a recommendation, a knowledgeable recommendation to the committee as to what might be done, we need to let that play out a few more years and have a few hearings under our belt before we can...before we really know what needs to be done. We had a very...I don't know if it was critical, but we had a serious situation then that needed to be taken care of. And an awful lot of work went into that by an awful lot of knowledgeable people.
[CONFIRMATION]

SENATOR HARR: All right. Well...Senator McCollister. [CONFIRMATION]

SENATOR McCOLLISTER: Are you compensated for this role? [CONFIRMATION]

WILLIAM G. BLAKE: Yes. [CONFIRMATION]

SENATOR McCOLLISTER: Tell me how much and how does it work. [CONFIRMATION]

WILLIAM G. BLAKE: I honestly don't remember how much. It was increased probably five, six years ago, maybe a little longer. But my recollection is that it used to be I think \$390 a day, and

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

Business and Labor Committee
May 18, 2015

it was increased. I believe now it's probably \$575. I think it's about \$91 an hour what it amounts to. [CONFIRMATION]

SENATOR McCOLLISTER: So you get paid by... [CONFIRMATION]

WILLIAM G. BLAKE: A full day for the CIR is considered to be six billable hours because as attorneys that's just the general rate. You might put eight hours into a day, but you bill for about six. [CONFIRMATION]

SENATOR McCOLLISTER: So the hourly rate would be about what? [CONFIRMATION]

WILLIAM G. BLAKE: It was less \$100 per hour. [CONFIRMATION]

SENATOR McCOLLISTER: Maybe the Legislature should consider some pay system like that. [CONFIRMATION]

SENATOR CHAMBERS: I could retire after (inaudible)...(laughter). [CONFIRMATION]

SENATOR McCOLLISTER: I take back the question. [CONFIRMATION]

WILLIAM G. BLAKE: The public does not pay its senators enough. I think we all know that. [CONFIRMATION]

SENATOR McCOLLISTER: You said the right thing. [CONFIRMATION]

SENATOR HARR: Well, thank you. I appreciate it. Thank you for the tutorial. Appreciate your time here today. [CONFIRMATION]

WILLIAM G. BLAKE: Okay, okay. Mr. Chair, members, thank you. [CONFIRMATION]

SENATOR CHAMBERS: Next time, I want a rhyme. (Laughter) [CONFIRMATION]

SENATOR HARR: Are there any other proponents for Mr. Blake? Opponents? Seeing none, that closes the confirmation hearing on Mr. Blake. [CONFIRMATION]