

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

Education Committee
November 18, 2008

[CONFIRMATION]

The Committee on Education met at 8:30 a.m. on Tuesday, November 18, 2008, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on a gubernatorial appointment. Senators present: Ron Raikes, Chairperson; Greg Adams; Bill Avery; Carroll Burling; Gwen Howard; and Joel Johnson. Senators absent: Gail Kopplin, Vice Chairperson; and Brad Ashford. []

SENATOR RAIKES: (Recorder malfunction)...Lands and Funds. So she is unable to be here today, but she is planning to call in. So shortly, we hope, we'll hear from her through a phone conversation. Very quickly, let me introduce the members of the committee. To my far right is Tammy Barry, our committee's legal counsel; Senator Brad Ashford from Omaha is not here at the moment, may soon be; Senator Gwen Howard from Omaha; Senator Carroll Burling from Kenesaw; Matt Blomstedt is our research analyst; Ron Raikes, District 25; Senator Gail Kopplin, the committee's vice chair is not here at the moment, may soon be; Senator Greg Adams from York; Senator Joel Johnson, Kearney, not here yet; and Senator Bill Avery from Lincoln is here; Kris Valentin is our committee clerk. So as soon as DeMarus calls, we'll proceed with the confirmation hearing. Again, we don't have...or do we have opponent, neutral...we do, okay. So we'll have our usual discussion. There's the phone ringing, so maybe...DeMarus, good morning. [CONFIRMATION]

DeMARUS CARLSON: Yes. [CONFIRMATION]

SENATOR RAIKES: This is Ron Raikes with the Education Committee.
[CONFIRMATION]

DeMARUS CARLSON: Good morning. [CONFIRMATION]

SENATOR RAIKES: Welcome and thank you for taking time to converse with us this morning. Could you begin the conversation by telling us a little bit about yourself and your role so far with the Board of Educational Lands and Funds and why you are willing to continue that service? [CONFIRMATION]

DeMARUS CARLSON: (Exhibit 1) Okay. Well, first of all as you know, I am DeMarus Carlson. I have lived in Crofton for 49 years. So we, my husband and I...my husband is a veterinarian by profession and we have a business here in Crofton. And we have land that we own and manage and managed to keep in the family for over 100 years. So I was first appointed to the Educational Lands and Funds Board by Governor Kay Orr. And I served on that board until I announced I was running for the Legislature and statute says you have to resign immediately, don't go past go. And so I was then retired. And then, I'm trying to think which year, the representative from this district resigned. And so they called and asked if I would be willing to fill that then-expired term. So I did

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that, and that was under Governor Johanns. And now Governor Heineman has appointed me to a full term. So I think it's unfortunate that more people haven't been involved in serving on the board or understanding the way it conducts business because I think there has been many times that the board has been criticized for things that were not at fault. We do business like the private sector as far as (inaudible). But on the other hand there are many things because of statute that we are limited to or ways that we have to conduct our business. So it's a little different which side of the table you sit on, how you see the board operation and how effectively it performs. But anyway, I have enjoyed serving on the board and an educational experience as well as a very challenging position to try to make correct decisions and to operate it in a fiduciary-responsible way that we're obligated to do. So... [CONFIRMATION]

SENATOR RAIKES: Okay. Please, continue if you'd like. [CONFIRMATION]

DeMARUS CARLSON: No. Being as you can't see my reaction, I guess maybe I should just say, "okay", and then you'll know I have finished. (Laughter) [CONFIRMATION]

SENATOR RAIKES: Okay. Well, that works for me. Thank you for those comments. Do we have questions from committee members? We do. Let's start with Senator Bill Avery. [CONFIRMATION]

SENATOR AVERY: Good morning, Ms. Carlson. [CONFIRMATION]

DeMARUS CARLSON: Good morning. [CONFIRMATION]

SENATOR AVERY: This is Bill Avery from District 28 here in Lincoln. [CONFIRMATION]

DeMARUS CARLSON: Yes, and you have come to our board and sat in on one of our sessions. [CONFIRMATION]

SENATOR AVERY: That is correct. [CONFIRMATION]

DeMARUS CARLSON: Yes. [CONFIRMATION]

SENATOR AVERY: I have an interest in the statute that deals with the divestiture of land. [CONFIRMATION]

DeMARUS CARLSON: Yes. [CONFIRMATION]

SENATOR AVERY: Could you explain that to me and comment briefly on the progress that the board has made in meeting the requirements of that statute? [CONFIRMATION]

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DeMARUS CARLSON: Well, that isn't a easy topic to discuss in a short period. But as you know, I was not on the board at the time that the Legislature passed that statute. I do know that at the time the Legislature and the board agreed that Mr. Kaplan's assessments and time table was in the plan to dispose of lands was to pacify both sides. To implement from the board's standpoint, first of all, we had to identify maybe what parcels weren't enhancing the trust. And when you take, in effect, 3,500 properties, that's a big job. So it wasn't done in three or four weeks. Furthermore, problems to get fair market values, tax information, etcetera, had to go in another cycle for which delayed again being able to offer these lands for sale. And so consequently ten years down the road, the Legislature is questioning us because we still have a portfolio of land assets that doesn't meet the sell down requirement. We have sold all lands that was identified by the priority land sales, things that didn't enhance the portfolio. We have sold that when we had people who raised their hand and were interested in having put to public auction for sale. The other thing that has transpired when you figure everything on percentages is that fact that land values have increased astronomically in those ten years. And so even though we sold a lot of acres of land, the trust portfolio continues to increase in valuation. And so if the fault picture says that we're not selling. Now, there were people who complained that they wanted to buy something but they couldn't buy it. Well, there's a lot of good land that no one ever is tempted that was going to be sold. It was land that was less performing and isolated tracts, etcetera. But keep in mind that when a section of land in the Sandhills is totally surrounded by private ranches or a private ranch, we have some lessees that hold multiple section leases because their own land surrounds it all. A lot of it isn't fenced. A lot of it isn't with accessible roads. And so we ask people to raise their hand. Well, those people surrounding that might obviously be the potential buyer, they'd rather lease it than purchase it. And so consequently even though it's on the priority land sale, you can't go out and force people to buy something that is publicly offered for lease. So, anyway, and that's sort of a quick discuss about where we are. We are selling lands. We have land auctions every year. Any time somebody comes to us and says I'm interested in buying it, then we have a set procedure the way to go about offering it. We can't just pick and choose who our lessees are nor who purchasers are. We have to offer it publicly, it has to be a competitive bid. And so the process isn't as simple as the private sector. When someone comes to me and wants to sell their farm--I am a real estate agent--and I can list as the sale, determine the price, go out and find a buyer. The BELF operations does not and cannot operate in that fashion. We have set guidelines that we have to follow. So, okay? [CONFIRMATION]

SENATOR AVERY: Okay. [CONFIRMATION]

SENATOR RAIKES: Okay. Senator Adams has a question. [CONFIRMATION]

SENATOR ADAMS: Good morning, DeMarus. This is Senator Adams from the 24th District. [CONFIRMATION]

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DeMARCUS CARLSON: Yes. [CONFIRMATION]

SENATOR ADAMS: During your introductory comments you indicated that there had been criticisms leveled at the board and maybe one of those you've just addressed. I'd be curious, what other criticisms have you heard? And I would follow that up with another question, what kind of changes do you see that might be necessary for you folks to do your job even better? [CONFIRMATION]

DeMARCUS CARLSON: Well, those are both questions that could get rather lengthy to express correctly and clearly. But criticism of the board, well, it may be criticism that isn't founded but first of all, the public has somewhat of an adversity to government in general. It's easy to criticize. And there are a lot of people that feel the private sector can manage and handle land better than the government. So there's an inherent opportunity to criticize government and BELF, the board, comfortably because the public and even somewhat (inaudible) see the role and the issue from a different vantage point and have different opinions. Specific criticism of the board, truly we don't get people that come to our meeting and protest and say, you know, we're not doing this right, that this is fair. We don't get that. But even at times newspaper articles will be slanted or nonfactual or biased when they report situations. And that causes some of the public, again, to be confused about the role. And again, offered derogatory comments about, you know, the state entities, the board. So most of the time, I know most of the time any and all issues are usually agreeably resolved by the field people across the state. And we have ten field employees that work directly with the lessees, and they are available almost 24/7 to take calls, to hear of any problem that develops from the lessee. And so consequently any problems or, you know, criticism is normal. But that does happen because of misunderstanding of how the trust operates. So now, for the future, how do I see? Did you mean just selling down some land or did you mean in the way the direction that the board proceeds? [CONFIRMATION]

SENATOR ADAMS: Actually in effect, I think that you've answered my question, both in your answer to Senator Avery and the one that you've just given me. I appreciate that. Thank you. [CONFIRMATION]

DeMARCUS CARLSON: Okay. [CONFIRMATION]

SENATOR RAIKES: Do we have other...Senator Howard has a question.
[CONFIRMATION]

SENATOR HOWARD: Thank you, Mr. Chairman. I'm wondering two things actually. I'm wondering where--and I apologize for not knowing this--I'm wondering where Crawford (sic) is located? [CONFIRMATION]

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DeMARUS CARLSON: Well, Crofton is 55 miles north of Norfolk. We are five miles west of Highway 81, it runs north and south. We are in Knox County. We are Nebraska's north post and first line of defense if there were an invasion from South Dakota (laughter) because Lewis and Clark Lake. The first dam on the Missouri River is practically the entire northern border of Knox County. And the Western Dam actually Missouri River range (inaudible). [CONFIRMATION]

SENATOR HOWARD: Well, that does help me to have a picture of that and I have been up there. I thought that sounded familiar. But I see you bank in South Dakota, so you're not too anxious about the invasion from them. (Laughter) [CONFIRMATION]

DeMARUS CARLSON: No. But in case, we're here. [CONFIRMATION]

SENATOR HOWARD: The other question I had was in listening to kind of your history of what you've worked on, you said you had run for the Legislature. [CONFIRMATION]

DeMARUS CARLSON: I ran for the Legislature in '92. I won the primary in the process. The Legislature had dissolved District 21, Norfolk, Madison County, and we had a little court case. And fortunately the court found that they had to restore a legislative district to Madison County. It fit in the perfect perimeters of population, etcetera. So somebody had to have the hatchet, and they came up and took Senator Elroy Hefner's District 18 and dissolved it. And so that happened during the summer in special session, and we did not get an injunction from the court. And so consequently, even though we won the primary, we had no place to run in the general election. And that was the way it turned out. [CONFIRMATION]

SENATOR HOWARD: Well, that's really interesting. I hadn't known that piece of history, but thank you for sharing that with me. [CONFIRMATION]

DeMARUS CARLSON: Well, there was a lot of gerrymandering that went along that little escapade, and so history has just happened. [CONFIRMATION]

SENATOR HOWARD: Well, thank you. [CONFIRMATION]

DeMARUS CARLSON: Um-hum. [CONFIRMATION]

SENATOR RAIKES: Are there other questions for DeMarus? Just one quickly, DeMarus. You've recently selected a new executive director to replace the retiring Jay Gildersleeve. Can you comment a little bit on that selection and what you expect of the new leadership you have? [CONFIRMATION]

DeMARUS CARLSON: Well, I did serve as chairman of the search committee and we were pleasantly surprised to receive over 50 applications for the position, of which more

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than half of them were licensed attorneys. And we did advertise when we advertised that, although it wasn't a requirement, that legal background would be helpful. And so we interviewed, we selected five finalists. And as you know or I'm certain you probably know additionally that Dick Endacott from the firm there in Lincoln was selected. And of course Jay Gildersleeve has served as legal counsel of the board for almost 30 years. And he has a wealth of knowledge and history of the organization that will clearly be missed because, you know, when you take a time period of that amount, there's been a tremendous amount of changes in all facets of life, but certainly in land values, land operations, stewardship, etcetera. There have been enormous changes. And Jay's knowledge of trust land is outstanding. He has served as the legal advisor for the Western States Board, of which our board is a member of. And so Jay has pledged that he is available any time to help and Richard Endacott is very appreciative of the cooperation, the coordination of things as we move from now to the first of January when he officially becomes the new director and then Jay will retire. (Inaudible) it's all at the end of January at a point, that is, the transmission is smoothly completed. But anyhow I believe that we have a unanimous approval on Mr. Endacott's selection. And he's very knowledgeable in a board area relating to land management, stewardship. And so we look forward to having an excellent director and very cooperative board/director relationship. So... [CONFIRMATION]

SENATOR RAIKES: Okay. Are there any other questions for DeMarus? I don't see any, so thank you for... [CONFIRMATION]

DeMARUS CARLSON: Question. Have you done interviews...I mean, this is the first time that I have passed through the process by phone. Do you often have to do this exercise in this manner? [CONFIRMATION]

SENATOR RAIKES: This is not the first time. We obviously would prefer to have the person appear here, and you did that last time as I remember. [CONFIRMATION]

DeMARUS CARLSON: Right. [CONFIRMATION]

SENATOR RAIKES: But we understand that you were not able to do that this time, so we can and are willing to accommodate. [CONFIRMATION]

DeMARUS CARLSON: I see. Well, I apologize for being unable to be there this morning. Under normal circumstances...well, one, I know I would prefer it that way. But I didn't get home from Wisconsin until late yesterday, and tonight I am having to go to Arizona. So this worked out. And thank you for accommodating my... [CONFIRMATION]

SENATOR RAIKES: Well, you're most welcome and thank you taking the time, and also especially thank you for your willingness to continue your service with the board. [CONFIRMATION]

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DeMARUS CARLSON: Well, thank you and I hope you all have a productive session here in the short time that you're convening yet in 2008, so. [CONFIRMATION]

SENATOR RAIKES: Okay. All right. Thank you and good morning. [CONFIRMATION]

DeMARUS CARLSON: Thank you. [CONFIRMATION]

SENATOR RAIKES: Are there proponents for the DeMarus Carlson appointment? Opponents? Neutral testimony? I don't see any, so that will close the confirmation hearing for DeMarus Carlson. Thank you. [CONFIRMATION]

Chairperson

Committee Clerk