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Floor Debate  
March 21, 2014

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[LB144 LB259 LB276 LB371A LB371 LB383A LB474 LB546 LB559 LB674 LB699  
LB701 LB799 LB810 LB916 LB967A LB1072 LR512 LR513]

SENATOR KRIST PRESIDING

SENATOR KRIST: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the forty-seventh day of the One Hundred Third Legislature, Second Session. Our chaplain for today is Pastor Darin Corder of Bennet Community Church in Bennet, Nebraska, Senator Wallman's district. Pastor is also the Chaplain at the Hospice Community Care in Lincoln, Nebraska. Please rise.

PASTOR CORDER: (Prayer offered.)

SENATOR KRIST: Thank you, Pastor Corder. I call to order the forty-seventh day of the One Hundred Third Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

SENATOR KRIST: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR KRIST: Are there any messages, reports, or announcements?

CLERK: Bills read on Final Reading yesterday morning, Mr. President, were presented to the Governor at 8:00 p.m. last evening (re LB144, LB259, LB371, LB371A, LB474, and LB546). I have the report of registered lobbyists for the Journal, as required by state law, and a series of reports have been received in the Clerk's Office, available on the legislative Web site. That's all that I have, Mr. President. (Legislative Journal pages 991-992.) [LB144 LB259 LB371 LB371A LB474 LB546]

SENATOR KRIST: Thank you, Mr. Clerk. Before we proceed, I have a couple of announcements. (Visitors introduced.) Let's proceed to the first item on the agenda.

CLERK: Mr. President, I have a confirmation report from the Agriculture Committee involving the appointment of Mark Fahleson to the Nebraska State Fair Board. (Legislative Journal page 628.)

SENATOR KRIST: Senator Schilz, as the Chair of Ag, please indulge us.

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Good morning. LB1236, enacted in 2002, renamed the State Board of Agriculture as the

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Nebraska State Fair Board and specified an 11-member State Fair Board. As amended by LB1116 in 2008, the qualifications of voting membership on the board is currently as follows. Seven members are drawn from among leaders of county fair organizers who are nominated and selected by the district as provided in the constitution of the State Fair Board; and four members appointed by the Governor, three of whom represent the business community of the state and selected by Congressional district and one member selected to represent the business community of the State Fair host community. The Agriculture Committee report before you concerns the question of confirming the Governor's appointment of Mark Fahleson to the State Fair Board. The appointment would succeed Tam Allan, who exhausted his eligibility to serve. Mr. Fahleson appeared before the committee for his confirmation hearing. There's no statutory qualification other than the appointees satisfy the requirements of being representative of and having connections to the business community of the state and residing in the 1st Congressional District. His professional experience includes serving as a judicial clerk for Nebraska Supreme Court Justice Nick Caporale, adjunct professor in the employment law with UNL Law College, as a partner in the Rembolt Ludtke Law Firm, as well as serving on as chief of staff and legislative director to former Congressman Jon Christensen. In 1997, Fahleson joined the law firm of Rembolt Ludtke in Lincoln and is a partner there since 2001. He also served as city attorney for the cities of Waverly, Ashland, and deputy city attorney for the city of Fairbury. He provided with his application a list of legal professional association memberships, awards, and accomplishments. I would add that Mr. Fahleson grew up on a farm near Davey and exhibited livestock at the State Fair several times. It is not in dispute that he is very proud of the fair and has made a point to attend each fair, including since its move to Grand Island. Mr. Fahleson is most known, probably most known for his Republican Party political associations and candidate-advising activities. Party affiliation or past political activity is not a qualification, but neither is it a disqualification. However, it is this portion of Mr. Fahleson's resume that has contributed to the committee report before us which is to recommend against the confirmation of this appointee. This is not a unanimous recommendation of the committee. The vote was 5 to 3 to report the committee's recommendation in this form, and I for one dissented from the committee's recommendation. It was envisioned when the Legislature revised the State Fair Board's membership some time ago to include four persons appointed by the Governor that these members would have ability to bring business community support for and participation in the State Fair. Additionally, the appointed membership provided opportunity to bring persons with professional training and skill to the Fair Board. The fair has been fortunate to have the services of Tam Allan as the District 1 representative who brought to the Fair Board his expertise as an attorney and an unmatched energy, commitment, and skill to bring life to every successful vision for the State Fair. The question that has split the committee and the one that is before you is whether Mr. Fahleson would be an asset to the Fair Board and contribute to its successful governance. As Chairman of the Agriculture Committee, it is my duty to report that the motion is to adopt the committee report recommending that Mr. Fahleson's appointment

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to the State Fair Board not be confirmed. I've distributed a guide as to the effect of voting on this matter. And if your intent is to not approve this appointment then you should vote yes on the motion to adopt the committee report. If your intention is to approve the appointment, notwithstanding the committee's recommendation, then you should vote red or no on the motion. Mr. Fahleson's appointment is rejected if there is either 25 or more yes votes on the motion or less than 25 no votes. If 25 or more vote no, then the decision is to not to adopt the committee report and Mr. Fahleson would be confirmed to his appointment. And I would just tell you that this is an interesting situation we find ourselves in. The committee did report 5 to 3 to not recommend. I was one of those that voted...I was one of the three that voted to support Mr. Fahleson. So as we move forward here today, I think it's important to remember, and I'll continue to remind folks, that if you decide that Mr. Fahleson's credentials are okay for the State Fair Board then you will want to vote red to have him stay and be appointed and confirmed to the State Fair Board. Thank you, Mr. President.

SENATOR KRIST: Thank you, Senator Schilz. You have heard the report. Those wishing to speak: Senator Johnson, Hansen, and Avery. Senator Johnson, you're recognized.

SENATOR JOHNSON: Thank you. Thank you, Mr. President, and good morning, colleagues. I was one of the five and I want to talk a little bit about the process that the committee went through. The day that the candidate was interviewed, we went into Exec Session. We "execed" on some bills, but we were not going to "exec" on the nomination. But a question came up in that Exec Session about support for the nominee. There appeared to be a fair amount of opposition and so the committee asked Chairman Schilz to contact the Governor, explain the situation, and asked if he wanted to proceed with the nomination or if he wanted to pull the nomination. One week went by. We again "execed" on a bill. Then a committee member asked if we could vote on the State Fair Board nomination. Chairman Schilz then reported on his conversation with the Governor. That conversation took place about 30 minutes after the committee requested the Chairman to bring it to the Governor. The Governor stated that he wanted to move ahead with the vote on the nomination. A motion was made not to approve the nominee to the State Fair Board. The motion was seconded and I was the next person in the queue for roll call vote. To be real honest, I was not quite prepared to vote that day but as I looked at the way things might be stacking up, I voted in favor of the motion, which opposed the nomination. My reason for doing that, or not to approve: When the Governor was asked the question about moving forward, he said, no, let's move forward. I saw that as the Governor maybe being too close, having too close an affiliation with the nominee in relationship of the party chairman, and I felt maybe the Governor was continuing to push his agenda or his legacy wanting the nominee to stay in the race. Since then I have visited with the nominee and he stated that he went to the Governor and asked for this appointment. At the time it appears he was the only candidate. I do know since then that there...if this would be upheld and this nominee is

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not approved that there is another qualified person willing to step up and be nominated. That is the reason I voted the way I did that day. I have no qualms about the qualification of the candidate. My concern was, again, the outreach of the Governor and pushing forward with his agenda. Vote the way you feel you need to. I will say this. I have no qualms with the qualifications of this candidate, but I will also say there is another candidate that I think probably most of you will recognize if that name comes up that would be willing to stand for nomination. Thank you, Mr. President.

SENATOR KRIST: Thank you, Senator Johnson. Those wishing to speak: Hansen, Avery, Gloor, Hadley, Schilz, Janssen, and Larson. Senator Hansen, you're recognized.

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I was one of the dissenting votes on this negative motion that came up during the Ag Committee. The motion was to not accept. I thought the motion should be to accept and then vote it down. But anyway, we ended up with this kind of convoluted way to confirm a person. I think Mark Fahleson would be a credible person on the State Fair Board. There's an extremely wide variety of people on that Fair Board right now. Some are appointed by the Governor. Most of them are appointed by the...or not appointed but they're suggested for confirmation from the various sectors of the ag sector, which is great. This position is to represent District 1 in the business and ag community, and there's, you know, there's a lot of crossover between the business and ag community in District 1. There's got to be because there's a lot of agricultural land, agricultural business, small business, banking business that's being done by business people, too, that have a background in ag. Mark Fahleson showed cattle at the State Fair for ten years, took his kids to the State Fair until it moved to Lincoln (sic). I want to remind people that about seven years ago, six years ago, this body voted to move the State Fair to Grand Island and mainly the vote was to get rid of the State Fair in Lincoln because there was other eyes on that land and it had not been maintained very well. Grand Island wanted it. Kearney at one time wanted it. There were some other options there. But of the senators here now, only Senator Karpisek and I voted against that bill and now we have a constituent that lives in District 1 that wants to serve on the Fair Board and get more people from Lincoln to the fair, and I thought that was great. During this confirmation, when Mr. Fahleson was in the room, there wasn't a question asked of him by the committee. So it looked like it might be a good confirmation, and that was fine. Last night we got a little partisan and I wrote down some of the quotes that was said on the floor and now we're weighing in talking about redistricting, we're weighing into partisan water. Well, this is the here and now. We can do away with that partisan debate that I've heard before. It's not eight years down the road; it's today. I think Mark Fahleson is a good candidate. You know, we need to stick to the...I think we need to stick to the qualifications of this candidate. I think he'd be a good candidate. He was the only one that came forth, before he was...the confirmation hearing. He was the only candidate. He went to the Governor and said, I'd like to serve on the State Fair Board. He's not the head of a political party now. Last night we said, you know, you could be part of this

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task force if you weren't head of a political party less than two years ago, so Mark Fahleson qualifies very close to that. Another quote from last night is, we could do better. We can do better than the political partisanship here. Senator Johnson mentioned that there was another candidate. I went out and looked for a candidate and I think this is the...I know it's the candidate that I went out and looked for. Governor picked Mark Fahleson. During the time period...he picked Mark Fahleson during the time period that was...that he was eligible to be a candidate or to be confirmed on the State Fair Board. He was the only one in the whole District 1 that went...that...

SENATOR KRIST: One minute.

SENATOR HANSEN: ...and seeked out a position on the State Fair Board. I think that's...that shows that he had...he certainly had some interest in it anyway. People of Lincoln do not go very well to the State Fair in Grand Island. We need somebody that has a connection to business, has a connection to ag on the State Fair Board and I think Mark Fahleson would be the one to do that. Now that we have the motion that Senator Schilz talked to, we're going to have to vote red to confirm Mark Fahleson. So thank you, Mr. President.

SENATOR KRIST: Thank you, Senator Hansen. Senator Avery, you're recognized.

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. I intend to support Mr. Fahleson's nomination, so I will be voting no on this report, and I think I ought to explain why. I don't do this with a great deal of enthusiasm, but, like many in here, I probably have plenty of reason to be upset with Mr. Fahleson. I was on the receiving end of some pretty nasty, negative mailings that were produced under his watch. But that is not sufficient reason to oppose his confirmation. He is a constituent of mine and I believe that, unless I have some good reason that would involve his qualifications for this position, then I owe it to him, to the other people in my district, and to fairness and nonpartisanship to support this nomination. And that is what I will do. Thank you, Mr. President.

SENATOR KRIST: Thank you, Senator Avery. Senator Gloor, you're recognized.

SENATOR GLOOR: Thank you, Mr. President. Good morning, members. We all take actions in life because of roles we fill and responsibilities we have that require us to make decisions that may not be popular, and we have to assume responsibilities for those decisions. When we leave here as senators, no doubt votes we've made, bills we've carried will follow us, and someday, somewhere somebody will land on us (laugh) about the WIN Program, about the Keystone pipeline, about property tax. And we are stand-up men and women and we will take responsibility for the things that we did in the past. That's just a moral truism, I think, and I know that those of you that serve here with me feel that way about the decisions you make. But there are times where that goes

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beyond the pale. There are times where that goes beyond a degree of reasonableness. And the only way I can think to relate that has to do with when I went door to door in my campaigning and would have people, hopeful constituents, depending upon how the election goes, tell me they weren't going to vote for me because, with 30 years of experience in my community and in all the areas that I served in my community, I made a decision that they disliked. Maybe it was pushing for the half-cent sales tax. Maybe it was not expanding a program at the hospital. But because of that decision or decisions I made in that role, they weren't going to vote for me for the Legislature. Forget the fact that I have an active record of helping work in the community, had brought no discredit or disgrace to the position I held for years. Forget the body of my record. Some of those decisions were enough for those folks to say, I'm unhappy with you and the decisions you made, and this is my chance to give you a thumbs down. And that's what concerns me about the report out of the Ag Committee. Is there anybody in here who doubts that I'm not looking for opportunities to send a message to the Governor? Is there anybody who doubts the fact that I have, if I were to back this resolution, anybody in my community of Grand Island wouldn't say, attaboy? But that's not appropriate. The State Fair needs quality representatives whose body of knowledge, as Senator Hansen laid out with Mr. Fahleson, will be a plus for the State Fair and, as a result, a plus for the citizens of the state of Nebraska. And I'm not blind nor not itching to get involved in this in a different way or understanding that there are reasons people would be in a different way, but I don't think it's the way this body conducts itself outside of here and I don't think it's the way it will conduct itself inside of here when we cast votes. I'll be voting red. Thank you.

SENATOR KRIST: Thank you, Senator Gloor. Senator Hadley, you are recognized.

SENATOR HADLEY: Mr. President, members of the body, I will also be voting red. I would be voting red if this was Mr. Vince Powers for this board. We all have jobs. We do jobs and we hope we do the job the best we can. I was thinking of this in terms of Washington, D.C., where, as you know, confirmations can run into a lot of problems. But I think a lot of their problems there are based on philosophical differences on how the person is going to do the job, how they're going to interpret what they should do, what they should not do, and it's deep philosophical differences. I don't think that's the case here. In looking at Mr. Fahleson's record, I don't see anything that would lead me to believe that he would somehow bring politics into the State Fair Board. I think he is well qualified. He wants to do it. He has the background. So I hope that we don't get into the position of determining a person's politics as a qualification for the many boards that we expect people to volunteer for and do the work on. So again, I will be voting red on this confirmation. Thank you, Mr. President.

SENATOR KRIST: Thank you, Senator Hadley. Senator Janssen, you're recognized.

SENATOR JANSSEN: Thank you, Mr. President and members. Would Senator Schilz

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yield to a question?

SENATOR KRIST: Senator Schilz, will you yield?

SENATOR SCHILZ: Yes.

SENATOR JANSSEN: Or Senator Christensen said yes. So to be clear, if Mr. Fahleson is to be on the Fair Board, we have to vote red.

SENATOR SCHILZ: That's correct. And there needs to be 25 red votes to place him on the State Fair Board to confirm him.

SENATOR JANSSEN: Okay. I just wanted that clarification. And I plan to vote red as well. And I echo the comments almost entirely of the esteemed Revenue Chair, Senator Hadley, back there, regardless of political persuasion of who we would put on a Fair Board. I've never...on the Transportation Committee, we have several appointments. I've never checked into the background of what political party somebody is from. If they're selling cars or not, if they're on a certain board, I haven't checked into that. This appears to be more fully vetted than most appointments would happen to be. I would say I know Mr. Fahleson and I know Mr. Tam Allan who did a great job. I happen to know Tam Allan is also a Republican and a conservative and a supporter of the cause. I don't think that affected him on the board, the State Fair Board, and I know that won't affect Mr. Fahleson either. So on this particular day, at least for the morning into the early afternoon, I say go big red. There is no blue up there so we can wait for later on for that. But this morning, go big red. Thank you.

SENATOR KRIST: Thank you, Senator Janssen and Senator Schilz. Members, the treats that you've been handed out...have been handed out today are to celebrate Senator McGill's engagement and it's also her birthday. Senator McGill, congratulations. Senator Larson, you're recognized.

SENATOR LARSON: Thank you, Mr. President. I rise in support of Mr. Fahleson and a red vote on the board, as Senator Janssen walked us through. I think especially in the light of yesterday, as so many people passionately stood up on the floor and talked about, and Senator Hansen brought it up, partisanship in the body and their want or wish that partisanship would leave the body, and I think every one of us is partisan at times and that's...everybody made that point abundantly clear as well. But we have to ask ourselves, do we really want partisanship out of the body? And if we do or if you do, start. I don't quite see what partisan decisions Mr. Fahleson is going to be making on the State Fair Board. You know, what time the beef show starts or what exhibits are in the exhibit hall, what entertainment is going to come to the State Fair, is Mr. Fahleson qualified? In reading his background, he has it. He grew up in an agricultural background, showing in 4-H, doing those types of things. What disqualifies him from the

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State Fair Board? And so I guess I'm disappointed in the Ag Committee's report that felt that he wasn't qualified. And it would appear on mainly political reasons they felt that he wasn't qualified, not his actual qualifications. So as much as people like to talk about not being partisan or taking things out of the hands of the Legislature to make it more nonpartisan, this is a partisan decision that was made by the Ag Committee and it just...it displays a lot. So I, again, I support Mr. Fahleson. He's qualified. I don't think any one of us can say that he's not qualified to do the job. It isn't a political job, and I'd urge everybody to vote red on the confirmation report.

SENATOR KRIST: Thank you, Senator. Senator Christensen, you're recognized.

SENATOR CHRISTENSEN: Thank you, Mr. President. I'll be voting red here because I guess I'm waiting to hear on the floor why he is not qualified, if we're voting him down coming out of committee. And I went to one committee member and asked and I guess I'm trying to figure out why he's not qualified. I make a little comparison to yesterday when we was talking about the redistricting. Everybody said, let's get the politics out of it. Well, is that what we have here today, politics, or is there real reasons why he shouldn't be appointed? I guess my question, and I hope to hear answers from, is why he's not qualified. Otherwise, I got to assume it's just about the opposite of yesterday's debate. Thank you, Mr. President.

SENATOR KRIST: Thank you, Senator Christensen. Senator Brasch, you're recognized.

SENATOR BRASCH: Thank you, Mr. Chairman. And good morning, colleagues. I also stand in support of the red vote this morning on this. It's really interesting and I have been smiling a little bit about this dialogue here. I was the marketing director for the State Fair. I had just left the Department of Revenue here and that was my next job, was to learn all about agriculture. And henceforth, I'm a farmer's wife a few years thereafter, and it's been a marvelous journey. And if the State Fair is a gateway to farming for city people, then that's a greater purpose than it ever intended. It is a marvelous, magical place, the first marketplace for our state. We had a State Fair before we had a state of Nebraska. I do know Mark Fahleson. He is a man who is strong in his faith in agriculture, in his family, in his country, and he would be a great asset to the State Fair. During my time there, I also smile because I remember my good friend from the State Fair, who I did not know until that point, and it was...and I'm going to...here it's...I'm tearing up a little bit but it was Senator Stan Schellpeper and his dear wife, Faye. Boy, we weren't the same political party but we grew close. I had to also collect bills from delinquent vendors, and if somebody gave me trouble Stan watched my back. He was there with a stick in his hand. And everyone was sure nice to me when Stan was next to me. So the fair, no matter where you walk in, it's a good place that good people migrate towards. And so I plan on supporting the faith that Mark Fahleson has in agriculture, as a 4-H supporter, in many, many ways. He's a Nebraskan

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of true spirit. So I am going to encourage everyone here to vote red on this. We need 25 of you to stand up and help this person keep the State Fair growing the good life. Thank you, colleagues. And thank you, Mr. President.

SENATOR KRIST: Thank you, Senator Brasch. Senator Campbell, you're recognized.

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. You know, I'm sure there's many of you in this body would know that I, of many people, have been the target of watches. And I can remember the day when we were discussing the prenatal bill, and I think it also might have been on voter ID, and it was probably on the voter ID bill that Senator Harms and I were named on a watch list by the Republican Party saying, how could we do this, how could we vote that way? And I have joked that at some point I expected that the Republican Party would come and ask for my card and take it away. I have stayed there in that party because I am a third-generation Republican officeholder. And I've also believed that the Republican Party that I had faith in was willing to include people like me. And so I've had a very tough history here. But yesterday on the floor of the Legislature Senator Chambers gave a quick, but I thought thoughtful, reminder to me when he had an exchange with Senator Hadley and he said to Senator Hadley, did I not promise you that I would vote yes? And back and forth that conversation went and Senator Chambers finally said, you know, usually I wouldn't vote yes but I gave my word I would. Shortly after the news article came out about Mr. Fahleson's appointment, I ran into him and we had a conversation. And I told him I was very surprised at his background and his interest in the State Fair and that he truly had quite an interest here in serving. And we had a very good conversation. I had known Mr. Fahleson on the county level, less contentious, I should add, and we had an excellent conversation. And from that conversation, at the end of it, Senator Chambers, I also said I would give him my vote. As much as I would like to send a message to lots of people, I gave my word and I'll stay by it. Thank you, Mr. President.

SENATOR KRIST: Thank you, Senator Campbell. Senator Wallman, you're recognized.

SENATOR WALLMAN: Thank you, Mr. President. I don't necessarily think this is about politics. It's about statements made in the past. And do you want a cohesive State Fair Board? I do. Do I want an active ag producer on that Fair Board from this area? Yes, I do. I want somebody involved in production agriculture. Not...if you show 4-H calves, that's not involved in production agriculture necessarily. So I don't like to bad-mouth anybody, period, but I do want a cohesive Fair Board, one that can work with everybody. And so that's what we have to watch out for, folks. You think it's fun being on the "no" side? No. I voted for a lot of Republicans and I would vote for Tom Hansen in a minute to be on that Fair Board if he was in my district. So that's where I'm at. Thank you, Mr. President.

SENATOR KRIST: Thank you, Senator Wallman. Senator Karpisek, you're recognized.

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SENATOR KARPISEK: Thank you, Mr. President, members of the body. We're talking about redistricting that was up last night, and with everyone popping up and talking about nonpartisanship, I think that that bill should just sail right through, because if that's what everybody is talking about then that...there should be no...absolutely no thought about that bill. I'm curious if we all just approve Mr. Fahleson, if everyone will stick to their word then and their thoughts today and vote for redistricting and get rid of more politics in here. I'd like to call everyone up to the mike and ask them, but I'm not going to do that. I think that there will be a very short memory when we get back around to that bill. I'd like to send a message, too, and I might. I haven't really decided yet. I agree with Senator Wallman that we do need a production ag person on there. I have no qualms with Mr. Fahleson personally. And he'll probably hate to hear this, but he sent someone to me about my Parenting Act bill saying, yeah, "Karpi" is a pretty decent guy. I appreciated that. He did have a job to do. But what I don't like is that it went after us in here and tried to disrupt things inside this body, and I have always stood up against that no matter who it is trying to influence us, if it's the Governor, if it's the congressional people, and try to disrupt the nonpartisanship that we try very hard to keep in here. And again, I think we do a fairly good job. We all know that things that you do can turn around and bite you later. I guess my question is if Mr. Fahleson had to do it over again, would he? Was it his idea to tell people not to vote for Democratic Chairs, or was he advised that by someone else? My guess would be that someone else was telling him to say that. But that really put a negative spin on things in the body and I know for 100 percent fact that it backfired. And I think we send a message--stay out of our business; help us out, help us be good senators, send us good people to be senators, but don't get involved and make things a mess in here. If people would come to me and say, you're right, it shouldn't be about partisanship, and you're really doing a good thing with your redistricting plan and we agree, I would probably change my mind. I doubt that too many people will come over and tell me that. It is kind of...it is a tough decision.

SENATOR KRIST: One minute.

SENATOR KARPISEK: But I'll bet you that every one of us, when we leave here or even now, we catch it for things that we do, for votes that we make. And we're going to pay for them, good or bad, down the road. And we all need to think about the things that we do and how it will affect us later. I appreciate Mr. Fahleson putting his name in for consideration. The past always represents the future. Thank you, Mr. President.

SENATOR KRIST: Thank you, Senator Karpisek. Senator Smith, you're recognized.

SENATOR SMITH: Thank you, Mr. President. And good morning, colleagues. I'd like to stand in support of Mr. Fahleson for the appointment to the Nebraska State Fair Board. I agree with Senator Avery. I was listening to him when he was on the mike just a few minutes ago, and I agree with him that we should advance Mr. Fahleson in a sense a

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fairness and regardless of personal preferences. I think that speaks very well of Senator Avery in what he said. In the spirit of fairness and nonpartisanship, I ask for your support of this appointment. I believe that Mr. Fahleson has the qualifications necessary to do this job. I ask you that you vote red. That would be in support of this appointment. Thank you, Mr. President.

SENATOR KRIST: Thank you, Senator Smith. Senator Lathrop, you're recognized. Senator Lathrop waives. Senator Schilz, you're last in the queue. Would you like to close?

SENATOR SCHILZ: I would continue to talk, if you don't mind, take the 5 minutes if that's okay. Thank you, Mr. President. Members of the body, I think it's important to note here that we have a gentleman here that is qualified. As I was looking through his resume, I think it's interesting that he was in the Ag Honors program at UNL, grew up in Waverly. He's one of those guys that when you look at his resume and you see what he's done in his past, you would be kind of surprised. He was a livestock judge. Basically that Ag Honors course allows you to basically set your own curriculum and then move forward with that. So he, in his undergraduate, that's where he went to do his school. So to say that he would not be qualified, I mean even back then he was looking at an ag career, looking to step up to do those things that makes him specifically qualified. We have to remember that this person that represents here is from the business community and that business community needs somebody on this board. Now we heard that there was other people that had stepped aboard to put their names in after we heard what the vote was coming out of the Ag Committee. Unfortunately, even if that person would step up, I'm not sure that they would qualify as the business community. And that's one question. So I think it's important to note that we understand that there is qualifications for this and that those qualifications need to be met, and he does meet that for all of this. I would also hope that as we move forward and we do this, and I would like to thank everybody here for the decorum that they've shown this morning, I think it does show that we're in...that we're a body that takes this stuff seriously and understands. And I understand why people can have some hard feelings over this nomination. I get that. But I think it's one of those things that will set us apart and show us that we can move forward together in a nonpartisan way to do what's best for the state of Nebraska. Thank you, Mr. President.

SENATOR KRIST: Thank you, Senator Schilz. Senator Janssen, you're recognized.

SENATOR JANSSEN: Thank you, Mr. President and members. As we kind of continue this, well, debate if you will or actually learning a little bit more about the candidate for this, I guess you'd call it an appointment, not an office, if Senator Schilz would yield to some questions, I like to learn a little bit more about what this entails.

SENATOR KRIST: Senator Schilz, will you yield?

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SENATOR SCHILZ: Yes.

SENATOR JANSSEN: Thank you. So on the State Fair Board, could you tell me again--I apologize, I was getting coffee when you were going through your opening--the number of members that are on it and how they're selected.

SENATOR SCHILZ: Sure. And the State Fair Board has changed over time from when it was first enacted and today how it is, is that we have seven members that are drawn from among the leaders of county fair organizers and they're nominated and selected by district, as provided in the constitution. And then we have four members that are appointed by the Governor, and three of those whom represent the business community of the state and selected by Congressional districts and one member selected to represent the business community of the State Fair host community.

SENATOR JANSSEN: Has there ever been any partisan ties to who was selected or have you looked at it or the committee take a look at partisanship in this at any point in time? And if you don't know, I understand.

SENATOR SCHILZ: Yeah.

SENATOR JANSSEN: I don't know.

SENATOR SCHILZ: Here's what I would say, is that appointments are, by their nature, partisan because the Governor has the ability to appoint whom he wants. And so in that respect, they are partisan. But I could tell you there's been both sides of the aisle that have served on that committee and done a great job, I'm sure. So I don't foresee that...or I'm just saying that, yeah, there has been partisan picks. Every pick that a Governor makes is partisan, I would guess, albeit that person may not be of one particular party or the other.

SENATOR JANSSEN: Is this a...I can't let you off the hook yet, Senator Schilz, if this is a hook. Is this...so this position, it's...and the members that it's made up of, are they paid? I know in certain positions that you get a per diem, some even pay. I guess the Liquor Commission pays, I think. But is this a paid position that you're given travel money, per diem, State Fair tickets, something?

SENATOR SCHILZ: I think the one thing I would guess they do get paid a per diem and I would guess, yes, that they probably do get State Fair tickets. But I would guess that...in fact, I know there's no pay for this. It's a voluntary position.

SENATOR JANSSEN: So he's stepped up to do this and nobody else put their name in for the appointment. Is that correct?

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SENATOR SCHILZ: That's correct, yes.

SENATOR JANSSEN: Okay. Thank you, Senator Schilz. I guess I understand being upset. I've been the target of some politicians on the other side myself, and I understand that. And I understand sometimes it gets very personal and very nasty. That I also understand. But I usually think...I think in this particular case the person had a job to do. It happens on both sides. This is not a political job. And if we're concerned about somebody bashing us or speaking negatively about us, I would say that this morning, as I was driving in from Fremont, I was listening to KFAB 1110. I'm not a paid endorser. But the Legislature was on the Scott Voorhees show. Chris Baker...

SENATOR KRIST: One minute.

SENATOR JANSSEN: Thank you. Chris Baker sitting in was talking about lack of leadership in the Legislature this year and he was talking about how we're wasting our time on...this happened this morning, wasting time on amber lights, mountain lions, novelty lighters, and not tax reform. That was them this morning and it's going on right now on the show, I believe. That's what they were leading in with. Would that mean that Chris Baker is never qualified to serve on the State Fair Board because he disagrees with all of us? He threw us all in the hat with that. He wasn't specific. So I don't know if Mr. Baker would be interested in serving on the board, but I just think...

SENATOR KRIST: Time, Senator.

SENATOR JANSSEN: ...we're setting a precedent we shouldn't do. Thank you, Mr. President.

SENATOR KRIST: Thank you, Senator Janssen and Senator Schilz. Senator Kintner, you're recognized.

SENATOR KINTNER: Well, thank you, Mr. President. I hope George Norris isn't rolling over in his grave, because I know he hated partisanship and politics and some of this stuff. And we can...tried to design a system where we don't have the partisanship and the politics and all the things we do in this great body. We don't have an aisle. We sit amongst each other, Republicans and Democrats, liberals and conservatives and everything else in between. That's one of the unique things about this. When you have a problem in our state, you know who to go to. You have one representative. You can pick up the phone. There's a good chance you know that person because our districts are not that big. So it's good that we have a system like this where we look at every...we're supposed to look at everything on its merit and we're supposed to look at everything through lenses that aren't partisan. I know it's tough sometimes, so we try to build a system where it's conducive to be nonpartisan and we look at everything based upon if

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it's good or if it's bad. And that's the way we do things here. Now we've got 49 free agents here, no one telling us what to do, no one telling us how to vote. We don't have a whip, a majority whip, a minority whip. We've got no one to tell us what to do. I think a few times state party chairmen have tried to interject themselves and that hasn't gone very well. We are an independent body and we take a great deal of pride in that, and I think every single person here does. Every person in this body defends this body, defends the institution. So that gets us to where we are today with this nominee. And I look through the...his resume. I looked at everything. I don't see anything that would disqualify him. So would Senator Schilz submit or yield to a question? Senator Schilz, yield to a question?

SENATOR SCHILZ: Yes, I would.

SENATOR KRIST: Senator Schilz, will you yield?

SENATOR SCHILZ: Yes, sir.

SENATOR KINTNER: I haven't really heard a good argument of why. I was out getting coffee for just a little bit so I may have missed it. What were the arguments made that we shouldn't confirm this nominee?

SENATOR SCHILZ: Well, when we talked about it, and as I said in my opening, it all came down to Mr. Fahleson's experience when he was working with and for the Republican Party and it was just about the duties that he undertook while he was working in that capacity.

SENATOR KINTNER: Thank you very much. Would Senator Lathrop yield to a question?

SENATOR KRIST: Senator Lathrop, will you yield?

SENATOR LATHROP: Yes.

SENATOR KINTNER: Do you have a problem with this nominee? Are you going to support him or do you oppose him? Is this a good nominee in your opinion?

SENATOR LATHROP: I'm going to speak to that. I think I'm next in the queue. I do have an issue with him and I'll make that clear in a minute.

SENATOR KINTNER: Oh, fantastic. That would help me quite a bit. I just have not heard a good argument of why this nominee should not be confirmed and I always like to listen to Senator Lathrop. He always says pretty common-sense things and makes pretty good points. So I will certainly listen to that. And I thank you, Mr. President.

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SENATOR KRIST: Thank you, Senator Kintner, Senator Schilz, and Senator Lathrop. Senator Lathrop, you're recognized.

SENATOR LATHROP: Thank you, Mr. President and colleagues. I serve on the Ag Committee. The first time we took a straw vote, this was a 6 to 2 against. It then became a 5-3 against, and came out. And now we've had a number of people stand up and talk about how this has become political. I want to give you my take on it. I think our first responsibility in this place is to the institution itself. If you cut corners and diminish the institution on your way to getting something, it wasn't worth it. In the time that we're here, it's about keeping your word and it's about the institution first. All the other stuff are wins and losses that come along the way. But you do, you win and you lose without diminishing your word or the institution. And along comes the Fahleson nomination. I'm going to tell you something. I've sat in three committees for eight years and I've approved. I don't think I've had one person that I voted no on in the time that I've been here. And so I don't do this because he's got an R behind his name nor because he was the past-chair of the Republican Party. My problem, my problem goes to what he did as chair of the party in relationship to this institution. I think it's fair for the chair of the Republican Party to do everything he can to aid Republicans to get elected in races even though those races are for a nonpartisan office. Couldn't fault him or anyone else for that. Where I believe the line has been crossed and why I have a problem with this appointment is when the chair of either party begins to tell the members what they have to do to be a good Republican or a good Democrat. That's when...that's when the line gets crossed. It isn't being chair, because before him there was another guy. And when I ran, they were all over me, right? And when you ran, there was probably somebody all over you. That's fair. That's what they do. Some of the stuff isn't really particularly honest, in my opinion. I don't appreciate it on either side, but that's the way it's become and I wouldn't fault Mark Fahleson for that. But when he sends a memo to the Republicans and says, call your state senator right now, your Republican state senator right now and tell them only to vote for Republican Chairs, that's when the line gets crossed. Now I'll make this observation. Most of you didn't listen to it, right? Most of you didn't listen to it, but that doesn't mean that he isn't meddling or hasn't meddled in the institution. And when he sets up hit lists and say, call these people, they're not good Republicans, he's crossed a line, in my judgment, because the parties are important for getting elected but they have no place when it comes to governing. They have no place when it comes to governing. And Mark has done that. Look, we're approving him for the Fair Board. This isn't the Chief Justice of the Nebraska Supreme Court, right? The guy is going to run the midway out in Grand Island. I get that. And it's largely ceremonial perhaps. But in the end, it is about the institution. This is somebody that crossed the line, in my opinion. That has no place here. And if Vince Powers called me up and said, Democrats need to do this or they need to do that, I'd say politely, stay out of our business.

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SENATOR KRIST: One minute.

SENATOR LATHROP: That's what this nomination is about. That's why I opposed it and for a number of other reasons that go on to that whole Blue Cross, United Healthcare...yeah. Let's just stick with these guys shouldn't be telling people inside here in trying to light up Republicans to tell the Kathy Campbells and the Mike Gloors that they're not good Republicans. That's when they crossed the line. That's why I oppose the nomination and I'll be a green. Thank you.

SENATOR KRIST: Thank you, Senator Lathrop. Senator Brasch, you're recognized.

SENATOR BRASCH: Thank you, Mr. President. And thank you, colleagues. I will rise again to explain a few things, questions asked by Senator Janssen here and also for Senator Lathrop some clarification. It is not a ceremonial position. When I was marketing director for the State Fair Board, I reported to 11 bosses from across the state. The State Fair is not only open during the ten days there. It is a year-round facility. There are events that take place, Husker Harvest Days to name one. They rent the buildings all year-round. It is a business as well. And during that time they also during the fair you would need to come to work maybe 6:00 in the morning. Some of them stayed there. I don't know, one evening somebody left the gates open in the pig barn and the State Fair members who stayed there on the grounds, they were up during the night. There's security that's involved. There's only 11 employees--I just checked the Web site--that work full-time for the State Fair for an event that runs...a place that runs all yearlong. There's a State Fair Foundation also. The State Fair during those 11 days from 7:00 a.m., 6:00 a.m. until potentially 11:00 p.m., it was a long day. The time I worked there one of the local papers or actually it was a statewide paper asked if I would wear a pedometer. In ten days, I walked 200 miles. You could not get anywhere in the golf cart because of the crowds. It was best to go on foot. You are in constant movement during those ten days. It is usually extreme heat during those ten days. And if it was a rainy day then everyone crowds the buildings and there's also crowd control involved. The State Fair has many multiple departments. I'm just going to name a few here for you: horticulture, swine, horse, livestock, poultry, sheep, goats. They have sponsors that they work with. They also have grounds and buildings to maintain. They have a budget and that's not just done by one meeting overnight. That is addressed monthly. It is a working group truly and it is something that they've earned, you know, every chance they get to put their feet up, if possible, during the State Fair. But it does not happen that often. So, no, it's not ceremonial. It's a very valued position where only 11 employees, the general manager, and others welcome to put that Fair Board to work, particularly during the State Fair with the crowds. So if that clarifies the role, it's not ceremonial, no. It is a working job. President, how much time do I have left?

SENATOR KRIST: 1:40.

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SENATOR BRASCH: I'll yield my time to Senator Lautenbaugh.

SENATOR KRIST: Senator Lautenbaugh, you have 1:36.

SENATOR LAUTENBAUGH: Thank you, Mr. President. Thank you, Senator Brasch. Senator Karpisek is a good friend of mine and I don't say that in the sense that people refer to their good friend on the floor before they talk about what a bad guy they are. But we disagree on some things. And that this episode reminds him of the importance of redistricting is a surprise to me because this episode reminds me of why this body isn't qualified to confirm election commissioners, and I'll explain that at length here in a bit.

SENATOR KRIST: One minute.

SENATOR LAUTENBAUGH: But many of you will be shocked to know I was an election commissioner back in the day and in 2000 I announced, in I think August, that I was going to redistrict the Omaha City Council because the districts were out of balance. They hadn't been redistricted in years. Some of the east Omaha districts had 30,000-some people, one of the west Omaha ones had 70,000-some people because of annexation. It was a constitutional violation, and I don't say that in the open mike night, I don't like it so I'm going to say it's unconstitutional sense. I'm saying I actually bothered to look it up. It was unconstitutional as it stood and I announced I was going to do something about it. I'm going to run out of time here, so in a minute you're going to hear how that story played out and then we're going to wonder about what my reconfirmation hearing would have been like in this body after that episode.

SENATOR KRIST: Time, Senator. Senator Nelson, you're recognized. Senator Nelson, could you stand by one second, please? I need to read something here. (Visitors introduced.) I had to get those in, Senator Nelson, because they're going to the basketball game. So you're recognized, sir.

SENATOR NELSON: Thank you, Mr. President, members of the body. I had not intended to speak on this but I do want to respond a little bit. I want to commend Senator Campbell and commend Senator Avery on their positions in this matter. I'm a little disappointed in the committee process here where we find that someone was rejected, a very qualified candidate was rejected because they had crossed the line. There's a lot of meddling sometimes, if we want to call it that, with what goes on in the Legislature, and it often comes from the Governor's Office, whether they're Republican or a Democrat. They're interested in getting their legislation through and getting support and probably interested in who goes on certain committees. When do they cross the line? There have been state Democratic chairmen of the Democratic Party that have been very good at putting the needle in and being very sharp in their criticism. They have a job to do. Whether you're a Republican or Democrat, they're out to get support and they're out to push their political agenda and their beliefs. So that simply, in my

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mind, cannot be the criteria for whether someone should be appointed to an office, a nonpartisan office, just because they represented their party very strongly and perhaps went overboard once or twice. But I think we have to forget and forgive. I don't know Mark Fahleson that well, but no one has mentioned his qualifications as an attorney. He was editor in chief of the Nebraska Law Review. That is no small deal. You have to be very bright. You have to stand very high in your class and be qualified in a lot of aspects to be an editor in chief of a Law Review, because what appears in that periodical goes out all over the country. He served for...as a clerkship with a judge. So I don't think there's any question but what mentally and intellectually he's qualified to hold a position on the State Fair Board. And part of the qualifications is that you represent the business community in your district, and he's eminently qualified to do that. He's practiced law since 1992 and would have to be involved in business decisions, plus he has an agricultural background somewhat similar to mine. I went to the State Fair. I was there all the time, until I went into college, showing calves and have a knowledge and farm background. So he's got qualifications there. I didn't come into the Chamber this morning because I wanted to listen to an interview with the Governor that Chris Baker did, and I heard the same thing that Senator Janssen did. I wish I could have heard how he pursued his criticism of the lack of leadership here in the Legislature. Maybe there will be a rerun of that. But, pretty easy to criticize unless you've served here and had to make the decisions we have and follow the leaders that we do have. I'll give the rest...remainder of my time. I do intend to vote yes on this, so that the candidate will receive his appointment to the State Fair Board. And I will give the remainder of my time to Senator Lautenbaugh, if he chooses to take it.

SENATOR KRIST: Senator Lautenbaugh, 1:10.

SENATOR LAUTENBAUGH: Thank you, Mr. President. And thank you, Senator Nelson. And I think if you support this, I think you intend to vote no on the resolution. And I do and I will vote no. But on with the story, so I redistricted the city council in advance of the election, in advance of the census. And election night 2000 rolled around, and some of you may recall it was close in Florida. It was close a lot of places. And the Gore campaign had its covetous eye on Omaha, wanting our one electoral vote. And we had a hiccup in the election office where someone loaded results from one machine twice on one pickup and then backed the results out, so the numbers went up and then they went down and they went back up again, and didn't tell anybody until the Secretary of State noticed it. And when it came to my attention, I made that person stop releasing results. The office stopped releasing results. We had to recreate the error, satisfy me that...myself, that that's what went wrong before we could proceed with confidence. It took about two hours to make sure we had it right, but we released no results in that period for two painful hours on election night. We reaccumulated the results and got it right.

SENATOR KRIST: Time, Senator. Senator Larson, you're recognized.

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SENATOR LARSON: I'll give my time to Senator Lautenbaugh.

SENATOR KRIST: Senator Lautenbaugh, 5 minutes.

SENATOR LAUTENBAUGH: Thank you, Mr. President. And now for the thrilling conclusion of this three-part story, so since the Gore campaign was watching, they called Nebraska and said, what in God's name is going on in Douglas County? And the Democratic Party sent out three wise men--some guy named Lindsay, some guy named Boyle, and a third man that is forgotten to history--and...I just can't remember his name. And they came out, looked around. I explained what happened and they said, yeah, everything is right; you did it right. My party got wind of the fact that the Democrats had done that and sent out two less-wise men who had been celebrating election night before they were sent to the office and, oh well, they did what they did. But anyway, my point is the next day the state Democratic chairman was calling for me to be fired over this horrible fiasco in Douglas County. We didn't have a horrible fiasco in Douglas County. We delayed releasing results, until we were sure we did it right, for a couple hours. And everyone knew, because she wasn't very discreet about it, that her beef with me was over the fact that I redistricted the city council. And everybody who looks at it in retrospect knows that I did the right thing and made the districts equal and cleared up a clear constitutional violation of the one person, one vote principle. Now how would life be if I'd had to come up for reappointment and come before the Legislature with that in my background? Would I have been confirmed by this body? Does this episode today suggest anything about how that would have played out to all of you? Please vote no on this. I think I suggested last night that we can all agree that we're nonpartisans. We can all agree that we're thin, too, for all the good it does us. But this is an episode that needs to end the right way. Mr. Fahleson had a job to do and he did it. Ms. Boyle had a job to do and she did it. We all move on and we need to have a little shorter memories I think, as I'm telling you a story from 14 years ago. Please vote no. Thank you, Mr. President.

SENATOR KRIST: Thank you, Senator Lautenbaugh. Senator Bloomfield, you're recognized.

SENATOR BLOOMFIELD: Thank you, Mr. President. Good morning, colleagues. Senator Lathrop mentioned the fact that when we did the first straw poll it looked like 6-2. Later it became 5-3. I was the sixth. Mr. Fahleson, when he came in to the hearing, made a statement that he wanted to make the fair so more people from Lincoln would attend. I, being an ag person from way outside Lincoln, looked at the fair the way it was in Lincoln, looked at the fair the way it is now in Grand Island, and thought, my God, I don't want any piece of that; we're going to make it more like it was when it was dying in Lincoln. This isn't going to ingratiate me to my colleagues from Lincoln, but there wasn't much at the fair that attracted people from outside of Lincoln the last time I attended it down here. All I knew of Mr. Fahleson at that time was that he had served as chair of

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the Republican Party. I at the same time served as chair of Wayne County Republican Party. I knew him through that process and that really didn't enter into my decision. I later learned his true ag background. That did enter into my decision. I don't believe Mr. Fahleson has any intent of turning the fair back into what it was in Lincoln. I do believe he wants to get more people from Lincoln to go. That would be good for the people of Lincoln. They should see what the fair became. And on the partisan line, I don't know how many of you folks in here know but I want to say something about Steve Lathrop. When I ran...after being appointed, when I ran I had four opponents. One of them was a Democrat. He had an event in South Sioux to kick off his campaign. He put out in the paper the next day that he was endorsed by Senator Lathrop and a couple other senators from down here. I wasn't aware of the unwritten rule of the Legislature that you don't go out and campaign against anybody. I thought nothing of it. A Democrat supporting a Democrat; no big thing. I got back down here. Senator Lathrop had heard that story from elsewhere; got ahold of me and informed me there was no truth in it; and I walked with him over to the Senator's Lounge where he called Democrat headquarters and told them not to use his name or any reference to him in any campaign against me. I've thought a great deal higher of Senator Lathrop since that time. He's hideously wrong on motorcycle helmets but that doesn't necessarily make him a bad fellow, and that is part of the makeup of this body. I have been persuaded by facts to change my mind on Mr. Fahleson. I will be voting red for his nomination. I encourage the body to do likewise. Thank you, Mr. President.

SENATOR KRIST: Thank you, Senator Bloomfield. Seeing no one else in the queue, Senator Schilz, you're recognized to close.

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Thank you to everyone for the discussion we had this morning. It was good. I...you know, whenever you come into something like this, divisive and controversial, you wonder how it will play out. And I'm happy with the way things have turned out today. I really appreciate that on both sides. Let's talk about Mr. Fahleson. He is qualified for the job from what I can see and what I do...of what we have now. The committee did vote 5-3 to not confirm this appointment, and therein lies the little twist that we have, is that you're not...you need to vote red if you want to see Mark Fahleson on the State Fair Board. So a vote for Mark Fahleson is a red vote this morning. And with that I will close, and please vote red. Thank you.

SENATOR KRIST: You've heard the closing with the little twist mentioned. The question is the confirmation report. A green vote is to reject; a red vote is to approve the conferee. All those in favor...sorry. Have all those voted that wish to? Please record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 992-993.) 4 ayes, 31 nays, Mr. President, on adoption of the report.

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SENATOR KRIST: The report is not adopted. Would that be the right terminology, Mr. Clerk?

CLERK: I believe so, Mr. President.

SENATOR KRIST: We've got that straight. Anything for the record? Any items?

CLERK: Yes, sir. I have a new resolution, Senator Kolowski, LR513. That will be laid over. And an amendment to be printed to LB701 by Senator Dubas. That's all that I have, Mr. President. (Legislative Journal page 993.) [LR513 LB701]

SENATOR KRIST: Next item.

CLERK: LB810 by Senator Watermeier. (Read title.) Introduced on January 10; referred to Banking, Commerce and Insurance; advanced to General File. There are committee amendments, Mr. President. (AM1865, Legislative Journal page 525.) [LB810]

SENATOR KRIST: Senator Watermeier, you're recognized to open. [LB810]

SENATOR WATERMEIER: Thank you, Mr. President. I'm here today to introduce LB810, which proposes to prohibit local ordinances or resolutions relating to real estate loans and mortgage services activities, leaving the regulation of these activities to state and federal laws. Examples of intrusive local ordinances which are being proposed or adopted by cities and counties across the country include proposed ordinances to exercise their power of eminent domain to acquire so-called underwater mortgages, to require lenders to register vacant and abandoned properties and pay annual fees to the city for such properties, and to require preforeclosure mediation. Under the dual banking system of the United States, the states or the federal government have the exclusive power to regulate banks. As such, municipal and local governments have been given no authority to examine or regulate bank activities. Any local ordinance adding a new level of bank regulation conflicts with federal and state laws. LB810 assures that real estate loan agreements will continue to be governed by state and federal laws only. The bill assures that local laws will not interfere with rights or obligations pursuant to real estate loan agreements made under state and federal law, or subject these agreements to local fees or taxes. If real estate loans and the purchase, sale, and transfer of real estate are governed by a multitude of different local laws, rather than state and federal law, substantial complexity will be imposed on the real estate market, which could adversely impact property values and cause losses for businesses that serve homeowners and home buyers. I do want to point out that while the legislation would prohibit local ordinances from interfering with the rights of lenders with respect to real estate loans and servicing of these loans, regulation of these activities would still be subject to new state laws. Therefore, if municipalities felt that additional restrictions or

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regulations were necessary they could approach the Legislature for assistance. Furthermore, such law would then have statewide applicability rather than multiple and different ordinances being adopted in various municipalities. LB810 advanced from the Banking, Commerce and Insurance Committee on a 7-0 vote with 1 senator absent. No one testified against LB810 at the public hearing. Committee amendments were offered to clarify that the bill does not apply to tax increment financing activities, which is TIF. But I do have an amendment that will address a concern from the city of Lincoln that I'll address after we take care of a committee amendment. I would like to thank the Speaker for selecting LB810 as one of the priority bills, and I urge your favorable vote on the advancement of LB810. Thank you, Mr. President. [LB810]

SENATOR KRIST: As the Clerk stated, there are committee amendments. Senator Gloor, as the Chair, you are recognized to open. [LB810]

SENATOR GLOOR: Thank you, Mr. President. The committee amendments AM1865 would provide that the bill does not apply to any ordinance or resolution adopted pursuant to the Community Development Law. As Senator Watermeier said, this amendment relates to TIF. Some of the members of the Banking Committee became concerned about unintended consequence and wanted to be sure that provisions of LB810 did not apply to tax increment financing activities in communities. Accordingly, this amendment was adopted by the committee to clarify that the preemptive effect of LB810 with respect to real estate loans and servicing activities would not apply to any ordinance or resolution adopted pursuant to the Community Development Law. I'd urge the adoption of this amendment. Thank you. [LB810]

SENATOR KRIST: Thank you, Senator Gloor. Mr. Clerk for an amendment. [LB810]

CLERK: Senator Watermeier would move to amend with AM2557. (Legislative Journal page 988.) [LB810]

SENATOR KRIST: Senator Watermeier, you're recognized. [LB810]

SENATOR WATERMEIER: Mr. President, it was my intention that my amendment was going to go to the bill and not the amendment from the committee amendment. [LB810]

CLERK: It's drafted to the committee amendment, Senator, that's why. [LB810]

SENATOR WATERMEIER: Okay. [LB810]

CLERK: It says in the standing committee amendment, so. [LB810]

SENATOR WATERMEIER: All right. AM2557 addresses concerns expressed by the city of Lincoln in that the bill would prevent them from collecting expenses from the owner

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for mowing his neglected or abandoned property that was subject to a lien. The amendment that clarifies that a lender which holds equitable title or a lien interest only and does not own the property is protected by the provisions of the bill preventing the imposition of fees or taxes. The purpose of this amendment is to clarify that when a bank acts as a lender it will be exempt from local fees or taxes that affect the lending activity. However, when a bank becomes the actual owner of the real estate, the bank will be subject to all ordinances applicable to owners of real estate. An example would be that when a bank makes a loan secured by a mortgage or a deed of trust there will be no local fees or taxes that can be imposed on the bank because of the loan. However, if the loan goes into default and the bank forecloses and becomes the owner of the property, the bank as the owner will be subject to local regulations that any property owner must follow, such as code enforcement and any other local fees and taxes to which the property owners are subject. The amendment also removes the retroactive provision making the bill prospective only. Finally, the amendment cleans up the committee amendments based on the language in this amendment. So thank you, Mr. President. [LB810]

SENATOR KRIST: Thank you, Senator Watermeier. Seeing no one wishing to speak, Senator Watermeier, you're recognized to close. Senator Watermeier waives closing. The question is the adoption of AM2557 to AM1865. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB810]

CLERK: 26 ayes, 0 nays on adoption of Senator Watermeier's amendment to the committee amendments. [LB810]

SENATOR KRIST: The amendment is adopted. Seeing no one wishing to speak, Senator Gloor, you're recognized to close on the committee amendments. [LB810]

SENATOR GLOOR: Just one comment of appreciation to Senator Watermeier for working this bill very hard, especially after it came out of committee, to address additional concerns that came up. It's a good bill. The committee amendment is necessary, and I would ask for a green vote. Thank you. [LB810]

SENATOR KRIST: You've heard the closing on AM1865 to LB810. The question is, shall the amendment be adopted? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB810]

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB810]

SENATOR KRIST: The committee amendments are adopted. Seeing no one wishing to speak, Senator Watermeier, you're recognized to close on your bill. [LB810]

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SENATOR WATERMEIER: Thank you, Mr. President. I'd just like to again thank the Speaker for putting this on the bill. I do believe this does serve a purpose and I had a good education as far as the process, and I appreciate Senator Gloor and the Banking Committee, so. I believe this is a good bill. Please vote green. Thank you. [LB810]

SENATOR KRIST: Thank you, Senator Watermeier. You've heard the closing. The question is the advancement of LB810 to E&R Initial. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB810]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB810. [LB810]

SENATOR KRIST: LB810 advances. Next item. [LB810]

CLERK: LB674 is by Senator Chambers. (Read title.) Introduced on January 8 of this year, referred to Judiciary, advanced to General File. I have no amendments to the bill at this time, Mr. President. [LB674]

SENATOR KRIST: You're recognized, Senator Chambers, to open. [LB674]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this is a very simple bill in what it does; it could have been a consent calendar bill. What it does, and then I'll go into more detail, but I'm going to give you more background, take more time for that. When a person is convicted of animal cruelty, it could take one of two forms. It could be to cruelly mistreat an animal which means to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise inflict harm upon any animal. The second prong to cruelly neglect: that means to fail to provide any animal in one's care whether it's owner or custodian with food, water, or other care as is reasonably necessary for the animal's health. This bill will not change the penalty for anything. What it has to do with is the court having the discretion to prevent a person from owning or residing with an animal when that person has cruelly neglected. The court can do this where there's been cruel mistreatment. Cruel neglect can also be tortuous. It could be denying an animal food, water so that it would starve to death, not providing medical care where it is needed. And there was a very bad case which I will touch on. But I said I wanted to give you background. I even invited the "Parson" to listen up. If you would just look at those who supported this bill, that would be enough to make you vote in favor of it without even hearing me explain it. The person who now works for the Nebraska Humane Society and voted for this bill recently had a book published. The headline...I mean the title Busting Bad Guys: My True Crime Stories of Bookies, Drug Dealers, and Ladies of the Night. The one who wrote it is named Mark Langan. He had worked for many years, the Omaha Police Department, and he was an undercover narcotics officer. While he was an undercover narcotics officer, I was a strong advocate for my community. That put me in constant conflict with members of the Omaha Police Department. There were practices that they engaged in

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which were discriminatory in nature and I felt beyond that. To give you a little background, I had even had a federal investigation initiated about some conduct that involved Mark Langan. So while he was an officer, he and I were at loggerheads, very strong...or very serious loggerheads. But before I go into that, because we now have passed from being foes to being two men who work in very close concert with each other. But this is what I wanted the "Parson" to pay attention to, to let you know that there's a precedent for this occurring. I'm going to Luke 23, beginning with the sixth verse. And we have somebody who can confirm whether I'm properly presenting this. When Pilate heard of Galilee, he asked whether the man, meaning Jesus, were a Galilean. At that time they were trying to figure what to do with him or how to get it done. And as soon as he knew that Jesus belonged unto Herod's jurisdiction, he, meaning Pilate, sent Him to Herod, who himself also was in Jerusalem at that time. And when Herod saw Jesus, he was exceedingly glad. I'm reading this the way it is written. We would put an I-y on that because it's an adverb, but people say that whoever this book is about can take liberties with the King's English, so I'm going to read it the way it is written. And when Herod saw Jesus, he was exceedingly glad, for he was desirous to see Him of a long season because he had heard many things of Him and he hoped to have seen some miracle done by Him. Then he questioned with Him in many words. But Jesus answered him nothing. And the chief priests and the scribes stood and vehemently accused Him. The religious people vehemently accused Him. And Herod with his men of war set Him at naught and mocked Him and arrayed Him...or arrayed Him in a gorgeous robe and sent Him again to Pilate. And this is the verse: And the same day Pilate and Herod were made friends together, for before they were at enmity between themselves. And the "Parson" can confirm that these two enemies were brought together by virtue of a man whom both of them were working against. In the situation involving former Police Officer, Mark Langan, and myself, now a state senator, the thing that led to our working so much in concert are four-legged friends. There was a saint called Francis of Assisi and he loved animals; he preached to animals. He referred to animals as his brothers and his sisters. And the current Pope named himself Francis after this Francis of Assisi who is famous or renowned for his love of animals. When Mark Langan was asked by some of this friends on the police department how in the world he could work with me, this is from his book at page 192: "Fifteen years later, would find me...himself...retired from busting drug dealers and now lobbying for animal welfare laws in the Nebraska State Legislature. Senator Ernie Chambers was our biggest advocate. His support on many animal cruelty-related legislative bills was the determining factor in getting them passed. The pit bull of the Nebraska State Legislature had a white toy poodle named Nicole that patrolled the floors of his office with pink ribbons in her hair. Though Senator Chambers and I are polar opposites on law enforcement issues, it is safe to say we both love our dogs. In my two careers, I've gone from battling Senator Chambers on no-knock search warrants to working with him in the Nebraska State Legislature on laws keeping animals safe. My full-circle life plays out in strange ways." My feeling about animals is that people who really care about them should do what I'm saying. Mr. Putin of Russia was shown posed with a baby tiger.

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President Obama of the United States has a dog. Both of them love animals. What they ought to do when they come together again to talk about Ukraine or any other serious issue is discuss how they feel about animals. And the first thing that we'll do is to humanize each one to the other. The things they can talk about will cause barriers to drop... [LB674]

SENATOR KRIST: One minute. [LB674]

SENATOR CHAMBERS: ...guards to relax and a mind to open to other things which maybe that mind would be closed to. I'm going to put on my light and the next time I will tell you more details about the bill. [LB674]

SENATOR KRIST: Thank you, Senator Chambers. (Visitors introduced.) Returning to discussion on LB674, Senator Carlson, you're recognized. [LB674]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I would like to address Senator Chambers if he would yield. [LB674]

SENATOR KRIST: Senator Chambers, will you yield? [LB674]

SENATOR CHAMBERS: Yes, I will. [LB674]

SENATOR CARLSON: Senator Chambers, this bill, LB674, has to do with rectifying a situation with animal cruelty. I have a question for you. Is a human being an animal? [LB674]

SENATOR CHAMBERS: Yes. [LB674]

SENATOR CARLSON: Well, is it possible to call cruel and unusual punishment if one human being gives a vicious stare toward another? [LB674]

SENATOR CHAMBERS: It depends on the circumstances. [LB674]

SENATOR CARLSON: So it could be a possibility that that could be called cruelty? [LB674]

SENATOR CHAMBERS: Well, I wouldn't call it cruelty under any circumstances unless it was an adult in a position of authority over a small child and use that stare as a substitute for physical or corporal mistreatment and would cause the child to feel great concern, great fear, and mental agony; that would be cruel. But if it's a man dealing with...an adult dealing with another adult, I say no. [LB674]

SENATOR CARLSON: So I think it could be concluded from that that it's better to give a

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vicious stare than it may be to take some further action that might really be calculated as cruel punishment; because yesterday I observed a couple of vicious stares on your part and I just want to make sure that that wasn't unusual punishment. But I'm considering this bill. And I think I have concluded that in LB674, I find no fault in this bill. Thank you, Mr. President. [LB674]

SENATOR KRIST: Thank you, Senator Carlson and Senator Chambers. Senator Bloomfield, you're recognized. [LB674]

SENATOR BLOOMFIELD: Thank you, Mr. President. I'd like to ask Senator Chambers a question. [LB674]

SENATOR KRIST: Senator Chambers, will you yield? [LB674]

SENATOR CHAMBERS: Yes. [LB674]

SENATOR BLOOMFIELD: Senator Chambers, would you be kind enough to go back to your...the very beginning of your opening and repeat what makes up cruelty. [LB674]

SENATOR CHAMBERS: All right. What I'm reading is directly from the statute for the record. Cruel...first of all, there is a cruelly mistreat prong to it, then a cruelly neglect. To cruelly mistreat means to knowingly and intentionally to kill, maim, disfigure, torture, beat, mutilate.. [LB674]

SENATOR BLOOMFIELD: Senator Chambers, that's far enough. [LB674]

SENATOR CHAMBERS: Oh, okay. [LB674]

SENATOR BLOOMFIELD: Thank you. The first word I heard was "kill", and I want to be very, very sure that when we slaughter an animal for food, that we're not infringing on the right of people to kill animals for food. [LB674]

SENATOR CHAMBERS: No, this...this language I'm reading is current law and it's been there forever and it does not relate to the slaughtering of animals. But if they're slaughtered in a way that is tortuous and so forth, that would violate the cruelties provision. [LB674]

SENATOR BLOOMFIELD: What if someone were to have a badly diseased animal and opts to put it, in my terms, out of its misery by shooting it, is that... [LB674]

SENATOR CHAMBERS: No, that wouldn't qualify as being either cruel mistreatment or cruel neglect. [LB674]

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SENATOR BLOOMFIELD: Okay, I just wanted to get that on the record. I was sure that was what you meant and thank you. [LB674]

SENATOR CHAMBERS: Thank you, "Johnny." [LB674]

SENATOR KRIST: Thank you, Senator Bloomfield and Senator Chambers. Senator Chambers, you're next in the queue. [LB674]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, for the record I do want to make some things clear about this. The case that led to...oh, and by the way, the other person who came in support of the bill was a member of the Lancaster County Attorney's Office. He's a deputy county attorney and the County Attorneys Association agreed with the bill. This breeder had animals in such bad circumstances that lower jaw bones...lower jaws were missing, teeth missing, rotted teeth, fur was matted, they were vermin infested. It was such a bad situation that the judge described that operation as an animal Auschwitz. That was one of the worst concentration camps and death camps that was operated during the Holocaust. This operator pleaded guilty to cruel neglect. And when you enter a plea bargain, the person who enters the plea gets something in exchange. So rather than being charged with animal cruelty, she was allowed to plead guilty to the cruel neglect. The maximum sentence, since there would be no jail time, of probation was two years...or three, I believe it was two. Since there was no allowance in the law itself to prevent such a person convicted of that offense from owning animals, the judge could only impose a period of time during which she could not own animals that would be equal to the period of probation. The probation, whether the maximum was two years or three, was not the five years of limiting ownership or possession that is available under the cruelly mistreating an animal. This bill was brought because the judge was surprised that you could not give the five-year limitation. The county attorney was surprised that you couldn't, because everybody who deals with this area of the law had assumed that the law had been written in such a way that that limitation on ownership could be five years regardless of whether it was cruel mistreatment or cruel neglect. This bill is designed to give the judge the discretion to restrict ownership or possession for five years, just as currently is allowed under the law for cruel mistreatment. If what I've said has made it unclear, then any questions you ask that will give me a chance to further clarify I'm prepared to answer. Thank you, Mr. President. [LB674]

SENATOR KRIST: Thank you, Senator Chambers. Senator Davis, you're recognized. [LB674]

SENATOR DAVIS: Thank you, Mr. President. Would Senator Chambers yield to a few questions? [LB674]

SENATOR KRIST: Senator Chambers, will you yield? [LB674]

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SENATOR CHAMBERS: Yes. [LB674]

SENATOR DAVIS: Senator Chambers, I want to follow up a little bit on what Senator Bloomfield discussed. I know exactly what your intention is here and I fully support it a hundred percent. I always am concerned about unintended consequences so can you...can you elaborate a little more on cruel mistreatment and what some of those...what the statute says about that in terms of what is that? [LB674]

SENATOR CHAMBERS: All right. And the statute for the record would be 28-1008. And this is what it says about the cruel mistreatment, it says: to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise inflict harm upon any animal. And this language has been construed to mean that you're talking about a type of mistreatment that is tortuous and along the lines of this itemization. [LB674]

SENATOR DAVIS: Thank you. And what about neglect, can you talk about that a little bit? [LB674]

SENATOR CHAMBERS: Yes, again I'll read the language of the current law in which I'm not changing: it means to fail to provide any animal in one's care whether it's owner or custodian with food, water, or other care as is reasonably necessary for the animal's health. [LB674]

SENATOR DAVIS: And the reason I'm asking this question, Senator Chambers, we had a...we had some situations a year ago with some horses in a small community that were confined in a small pen. And the community was very upset about the conditions that the horses were held in and the state...the statute, I think, called for the veterinarian to come out and evaluate that and he didn't find an issue with that. So it became a very problematic thing for the community because it was a small community without any zoning regulations. But this wouldn't have any impact on that, would it? [LB674]

SENATOR CHAMBERS: In what way? [LB674]

SENATOR DAVIS: What you're doing with the changing of the statute is, basically, prohibiting people from ownership of livestock. So we're not impinging on the...on how a community enforces its regulations. [LB674]

SENATOR CHAMBERS: First of all, I'm not dealing with any of the language that I read... [LB674]

SENATOR DAVIS: Right. [LB674]

SENATOR CHAMBERS: ...at all. The only thing this does is to allow the person who is

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convicted of the cruel neglect to be restricted as far as owning for five years as is the case with cruel mistreatment. Now if the person pleads guilty or is convicted of the cruel mistreatment, the judge as a condition to that probation can restrict the ownership for the same period as the probation. But the probationary period maximum is not five years; I think it's three. So what the judge wanted, the prosecutors want is to let that period be five years, then it's the same as the other. [LB674]

SENATOR DAVIS: Thank you, Senator Chambers. I think that clarifies my points. I appreciate it. And I'll yield the rest of my time to Senator Chambers. [LB674]

SENATOR KRIST: One minute. [LB674]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, as I stated, this, I believe, could have been a consent calendar bill, but because only 15 minutes would be allowed, even if there were no opposition, I would have wanted to be sure that the record is clear on what this bill does and what it does not do and I wasn't sure whether that could be done in the 15 minutes and I would have not wanted anybody to be put in a position of voting for a bill that seems on its face to have no problems, but there could be some lingering questions in their mind. So I let the Speaker know that instead of my trying to get it taken as a consent calendar bill, I would try to get it taken as it is now as a Speaker priority bill. So that is as much as I have to say. [LB674]

SENATOR KRIST: Thank you, Senator Chambers and Senator Davis. Seeing no one else in the queue, Senator Chambers, you're recognized to close on your bill. [LB674]

SENATOR CHAMBERS: Since I've undertaken to involve Mr. Langan in this, I'm going to read his testimony into the record because I think it will really give a better presentation of what this is all about than what I gave. I was explaining the best I could; he is an advocate. Good afternoon, Chairman Ashford and members of the Judiciary Committee. My name is Mark Langan and I am the vice president of field operations for the Nebraska Humane Society. We provide animal control service in the Omaha area and Sarpy County and also routinely provide assistance and advice throughout Nebraska. On November 15, 2013, defendant Julia Hudson was sentenced in Lancaster County Court on the charge of cruelly neglecting dogs under the Nebraska State Statute 28-1009. Hudson had been operating a puppy mill type operation in Malcolm for years, and was finally prosecuted for allowing dogs to live in filthy conditions while suffering from a variety of medical conditions. Some of the issues that her dogs suffered from were ear infections, congenital leg issues, heart murmurs, skin conditions, dirty and crusted paws, infected wounds and sores, umbilical hernias, eyes and eye infections, and most seriously, several dogs had missing and rotted teeth and missing lower jaws. In fact, the conditions of this puppy mill were so horrendous that when Judge Timothy Phillips of the Lancaster County Court sentenced Hudson to two years probation, he

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referred to her puppy mill operation as an "animal Auschwitz." Both Judge Phillips and the Lancaster County Attorney's Office expressed frustration that Nebraska Statute 28-1019 could not be applied to the Hudson case. This statute allows the sentencing judge to impose animal ownership restrictions to those convicted of animal cruelty for up to five years on a misdemeanor charge. Why was Judge Phillips not allowed to impose that five-year restriction? It's best explained by pointing out that Nebraska Statute 28-1008 defines two distinct types of animal cruelty...which I've already read. Then he said: Currently, Statute 28-1019 only allows judges to impose a five-year ownership restriction...I'm hurrying right along...for those convicted on the misdemeanor charge of cruelly mistreating animals, and not for those cruelly neglecting animals, which is what Julia Hudson was convicted of. It is the position of the Nebraska Humane Society that judges should be allowed to impose a five-year animal ownership restriction for those who either cruelly mistreat or cruelly neglect animals. I think it's important to point out that LB674 does not change the portion of the state law which gives judges the discretion to impose the five-year animal ownership restriction in misdemeanor cases. Judges currently have the choice in misdemeanor animal cruelty cases and we're not trying to change that portion of that statute. Thank you very much. And quoting him and Elvis Presley, I will also say, thank you very much. [LB674]

SENATOR KRIST: Thank you, Senator Chambers. You have heard the closing. The question is the advancement of LB674 to E&R Initial, all those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB674]

ASSISTANT CLERK: 25 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB674]

SENATOR KRIST: LB674 advances. (Visitors introduced.) Mr. Clerk, next item. [LB674]

ASSISTANT CLERK: Mr. President, LB799 introduced by Senator Carlson. (Read title.) The bill was read for the first time on January 10; referred to the Banking, Commerce and Insurance Committee. That committee placed the bill on General File with committee amendments. (AM1730, Legislative Journal page 523.) [LB799]

SENATOR KRIST: Senator Carlson, you're recognized. [LB799]

SENATOR CARLSON: Thank you, Mr. President, members of the Legislature. I'm introducing LB799 which was heard by the Banking, Commerce and Insurance Committee on January 28. The committee advanced the bill on a 7-0-1 vote. This bill would amend a section of law that requires every insurance company licensed to do business in Nebraska to annually file the executive salaries and board of directors compensation with the director of Insurance. This section of Nebraska statutes has been in effect for nearly 100 years. The goal of the law was to allow the commissioner to see how companies were being run and where the profits were going; in essence, to

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protect the purchasers of insurance. Nebraska also has what are referred to as sunshine laws. These laws make all state records public unless there is a specific exemption. Nebraska's public record law, Section 84-712.01, made public the officers' and executives' salaries of the aforementioned insurance companies. This information should be collected for regulatory purposes only. There is no public policy to making public the salaries of private company executives, and this is the only place in Nebraska law where the state requires private companies to disclose salaries. Other regulated businesses in our state--banks, telephone companies, numerous businesses under the Nebraska Advantage Act--are not required to make public their executive salaries. And let me point out that this bill only impacts private companies. Public companies are subject to the Securities and Exchange Commission, and under the SEC public companies are required to file certain information of value to investors to determine the risk involved in those companies. The salaries and benefits of the top six executives will still be made public in nonprivate businesses. There's a committee amendment to follow which defines the limits of such public disclosure as to private insurance companies. We say in Nebraska that we're a business-friendly state. We encourage businesses to come here. We encourage them to do business here. We encourage them to hire other Nebraskans and thus increase the number of private sector jobs that we have in the state, which is the key to small business, which is the economic engine of our state. And I would ask for your support on LB799 and also the amendment that is coming forth. Thank you. [LB799]

SENATOR KRIST: Thank you, Senator Carlson. As the Clerk said, there are committee amendments from the Banking, Commerce and Insurance. Senator Gloor, you're recognized to open. [LB799]

SENATOR GLOOR: Thank you, Mr. President. The committee amendment AM1730 would leave undisturbed the current requirement that the salaries and compensation of insurance company officers shall be filed with our director of Insurance. Committee amendments would add new provisions that provide that the salary and compensation information required to be filed must be maintained as confidential by the director, may not be subject to disclosure to persons outside the Department of Insurance except under two instances: first, as agreed to by the insurance company; or number two, as ordered by a court. Thus the information would continue to be filed with the director, used as the director sees fit to ensure the business vitality of that entity, but its release would happen only with the agreement of the insurance company or pursuant to a court order. I'd urge adoption of the committee amendments. [LB799]

SENATOR KRIST: Thank you, Senator Gloor. You've heard the opening on AM1730 to LB799. Those wishing to speak: Senator Schumacher and Senator Coash. Senator Schumacher, you're recognized. [LB799]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body.

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Sometimes I sit in my chair and I wonder how much of what we do here will make a difference to anybody 100 years from now. And today maybe I have part of that answer. This is a 100-year-old rule and it's making a difference, so much of a difference that it's worth \$50,000 in lobbying fees from an out-of-state company to get rid of. Let's roll back in time 100 years. Our pioneers recognized the value of insurance, particularly mutual insurance, where they threw money into a pot so in case somebody's barn burned down or somebody was hurt, a member of the company could get money back out and reimbursed. But in that age, as in this age, there was a distrust, a distrust that some slickers would get control of a company and end up taking off its value in high compensation for the officers. And so we have a rule that if you're in the insurance business, the salaries of your executives are public in case your members who own your company want to know or in case the public wants to know, that rule has been there and it has proved to be a leadership rule, because when things went south in the 1930s because of slickers in charge of big companies were taking advantage of the system, cutting a fat hog, the rule that came into play for companies that were owned by the public and the insurance companies by having their members own them or owned by the public, you had to publish and you had to declare your salaries to the SEC. And it's proved to be good policy. Time has gone on and one of the things that happened in 2008 was you had real cozy arrangements in public companies, particularly in the financial industry, particularly those in our state, where the boards of directors looked the other way on the officers of a company because they were greatly compensated, and the officers took advantage of the situation because they were greatly compensated. And so you had multimillion-dollar salaries and compensation packages that were, in a sense, working against our national interest and led us down a path to which we are suffering yet today. What this particular bill seeks to do is to hide from the public that which serves a public interest to know. Nationally...and the reason it's so important and worth so much lobbying money, nationally Nebraska's rule has become a beacon that has allowed these salaries to be known nationwide and has countervailed against the runaway type of compensation that so many of us feel just is wrong. [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR SCHUMACHER: With millions and millions of dollars in compensation being paid to these executives, it is the public's right to know because the public owns these companies through ownership of their policies, either that or they're public companies that we know through the Securities and Exchange Commission. This bill repeals something that is serving a public function, and there is no public function served by the repeal of this bill. The Department of Insurance never even bothered to show up at the hearing. That tells you it's just not a dusty old bill or dusty old law, but it is something that is important and it's important for the transparency and the integrity of our industry. It is a leadership role that we have in this United States and insurance transparency, and there is no publicly sound reason for it to be repealed. Thank you. [LB799]

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SENATOR KRIST: Thank you, Senator Schumacher. Senator Coash, you are recognized. [LB799]

SENATOR COASH: Thank you, Mr. President. Good morning, colleagues. I wanted to take the opportunity to use LB799 to talk about some insurance bills that I've struggled with. I have a bill to provide coverage for children with autism but it's still in the committee. It's a bill from last year, a bill I prioritized. Couldn't get out. Asked for it again this year. Has not come out. I don't even know where I stand with the bill as it relates to the committee. I have 18 cosponsors on this bill. I have addressed every concern that has been brought to me on this bill. The Insurance Committee is reluctant to let bills that include a mandate out of their committee, and I think they have reasons for that and some of those reasons I agree with. The main reason that I hear bills don't come out of that committee as it relates to an insurance mandate is we've got an insurance lobby who fights against this. I've taken care of those concerns. I have spoken with Senator Gloor. We are working together but I still haven't got a vote on this bill, and I've asked for one and we're going to continue to have that discussion. LB799 is a vehicle for me to get a vote on this bill and if I have to, I will use it. But I will not...I will tell you it is not my first choice. I don't want to do a pull motion. I want to find a way to provide this coverage for children who, without it, have to move to other states to get it. I am frustrated and I'm not alone in this. There have been bills...everyone of us has bills we can't get out of committee, so we do what we can. We prioritize them. I may not have the votes to get this out of committee, I just don't even know, but I will have my vote on this bill. And LB799 is important to somebody but it's not as important to me as the bill that I can't get out of committee. In fact, Senator Schumacher, you're giving me even more reason to doubt whether or not this bill can go. Thank you for your comments. I will continue to work in good faith with the Chair of the committee. We've talked about that. But I am not going to do anything sneaky. I am telling you my intention. My intention is to have a vote on my bill, and if the vote is a committee vote and it is 1 vote to move it and 7 votes against it, that's the vote. That let's me know who I need to work with. That let's me know what concerns I have to address. Here's my opportunity and I will take it if I have to. [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR COASH: This has been a long time coming. It is not out of the realm of possibilities to pass a bill in this Legislature that requires an insurance company to do something that they may not want to do. In my time here I've voted on a handful of them. I will continue to work on this and I will not give up and I will do what I feel I have to do. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Coash. Senator Chambers, you're recognized. [LB799]

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SENATOR CHAMBERS: Thank you, Mr. President. Both speakers said things that I agree with, but my advice to Senator Coash would be not to put it on this bill, because I don't think this bill, LB799, should go anywhere. I refer from time to time to Senator Schumacher as the "Professor." Today he fulfilled that function by giving us some history on this provision that LB799 attempts to do away with. If this is a bill...let me ask Senator Schumacher a question or two if I may. [LB799]

SENATOR KRIST: Senator Schumacher, will you yield? [LB799]

SENATOR SCHUMACHER: Yes. [LB799]

SENATOR CHAMBERS: Senator Schumacher, you said \$50,000 is being paid in lobbying fees to get this provision of Nebraska law repealed. Did I hear you correctly? [LB799]

SENATOR SCHUMACHER: You did. [LB799]

SENATOR CHAMBERS: Is it a Nebraska insurance company trying to get this done? [LB799]

SENATOR SCHUMACHER: No, it's an outfit out of Texas. [LB799]

SENATOR CHAMBERS: From where? [LB799]

SENATOR SCHUMACHER: Texas. [LB799]

SENATOR CHAMBERS: Texas. And they want to get an item repealed in Nebraska law. [LB799]

SENATOR SCHUMACHER: That is correct, Senator Chambers. [LB799]

SENATOR CHAMBERS: Thank you, Senator Schumacher. Members of the Legislature, that should cause a question. If the insurance companies that operate in this state right now and have always operated in this state for the decades that Senator Schumacher has explained to us this provision has been in the law, why would we even give serious consideration to repealing it at the request of a Texas company that has paid lobbyists \$50,000 to do this? Any insurance company that is going to operate in this state will know that it's subject to the laws of this state. I'm not aware of any company having said that they want to set up in Nebraska but they won't do it because of this provision. As a matter of fact, and I think it was the one that has the big wheel coming out of the water then falling down and splashing, a few years ago was interested in coming to Nebraska. And this was not mentioned as a deterrent at all. I was the biggest deterrent because there were questions I wanted answered. But for some other outfit to try to get this

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repealed causes me to have to ask "Parson" Carlson a question or two if he will yield. [LB799]

SENATOR KRIST: Senator Carlson, will you yield? [LB799]

SENATOR CARLSON: Yes, I will. [LB799]

SENATOR CHAMBERS: Senator Carlson, what is the name of the company that is trying to get this provision repealed, if you know? [LB799]

SENATOR CARLSON: It's USAA. [LB799]

SENATOR CHAMBERS: And what does that stand for if you know? [LB799]

SENATOR CARLSON I don't know. United States something association. [LB799]

SENATOR CHAMBERS: You put a C in there. Does the US...is the first A, does that mean United States of America A something else, but you don't know for sure? Is that company thinking about setting up an office in Nebraska? [LB799]

SENATOR CARLSON: They are already doing business in Nebraska. They're doing a considerable amount of business in Nebraska. [LB799]

SENATOR CHAMBERS: How long have they been here if you know? [LB799]

SENATOR CARLSON: I don't know that. [LB799]

SENATOR CHAMBERS: Okay. But this provision, they didn't...or did they, say that if this provision is not taken out then they're going to leave Nebraska? [LB799]

SENATOR CARLSON: No, I'm not aware that they did. [LB799]

SENATOR CHAMBERS: Thank you. Members, why do it then? This has served the public, and Senator Schumacher has pointed out the public nature of insurance companies, so I don't have to go into that. [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR CHAMBERS: If there is not a very sound reason to get rid of something that is a part of the warp and woof of the system of law in this state, then I don't think we ought to do it. The only way I think Senator Coash should attempt to use this bill is to draft an amendment that would repeal all of the provisions...or strike all of the provisions from this bill and insert his bill in its place. But I don't look for smooth sailing for this bill.

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Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Chambers. Senator Schumacher, you are recognized. [LB799]

SENATOR SCHUMACHER: Thank you, Mr. President. This is not intended as a filibuster. I think we can get an up or down vote and move on with life. But I do want to make it clear that this particular maneuver to conceal the salaries of insurance companies serves no public interest. It only serves the self-serving interest of high paid boards of directors and executives who are paid millions upon millions upon millions of dollars and must evidently be ashamed of it. Furthermore, there must be no sound regulatory basis for this attempt to conceal transparency in this industry. Our Insurance Department didn't come before the Insurance Committee and say, gosh, we can't get anybody to write insurance in Nebraska, because, you know, their millionaire executives will have their salaries revealed. No. We haven't heard any outcry that companies won't even establish in Nebraska. In fact, we have one of the strongest insurance industries in the country. Our Nebraska companies aren't ashamed of their salaries. They're not leading this effort. They may toot along with it, why not? But they're not leading this effort. This has...our law has created an uncomfortable situation for one company who thinks that somehow Texas politics plays well in Lincoln, Nebraska. We have an opportunity to send word to the country that we're not afraid of transparency here. Our insurance companies aren't afraid of transparency here. We are not a Unicameral that can be led down a road of concealment by a bill that simply, in its language, in its heading, would seem to indicate this is just getting rid of some old dusty law. Thank God for transparency or we would have never known about the \$50,000. Why? Why on earth would we conceal this information from the public? What possible good? What possible good, members? I will not aid and abet an effort by a Texas company to do this to Nebraskans. Thank you. [LB799]

SENATOR KRIST: Thank you, Senator Schumacher. Senator Davis, you're recognized. [LB799]

SENATOR DAVIS: Thank you, Mr. President. I wonder if Senator Schumacher would yield to a few questions. [LB799]

SENATOR KRIST: Senator Schumacher, will you yield? [LB799]

SENATOR SCHUMACHER: Yes, I will. [LB799]

SENATOR DAVIS: So Senator Schumacher, as I understand what you're trying to do here by blocking this bill, is to keep these salaries available to everybody who would want to know what they are, is that correct? [LB799]

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SENATOR SCHUMACHER: That's correct. [LB799]

SENATOR DAVIS: And can you tell us a little bit about USAA? [LB799]

SENATOR SCHUMACHER: I don't know much about the company other than it has a marketing program which seems to market to anybody who was in the service or who has a lineal ancestor or...I'm not sure if it extends to children, but a service member somewhere in its lineage. [LB799]

SENATOR DAVIS: In fact, what it really does is capitalize on its military connections, isn't that true? [LB799]

SENATOR SCHUMACHER: Oh, the advertisements indicate some little girl got their coverage because of something that happened on the moon in 1969, and yeah, they really...I mean, it's very effective advertising. [LB799]

SENATOR DAVIS: I've seen their advertising and I'm aware of that. But if Nebraska were to...and this is a mutual insurance company, and so in a mutual insurance company everybody who pays into it is essentially kind of a shareholder, is that the way you would describe it? [LB799]

SENATOR SCHUMACHER: Yes, and I think it's more than just one company. There's conglomerations of associated companies; one of them is a Delaware insurance company. I mean, this is a fairly integrated, big high-power operation out of Texas. [LB799]

SENATOR DAVIS: So is Nebraska the only state that has a law like this? [LB799]

SENATOR SCHUMACHER: Apparently we are, and that's why we're so important. We...Nebraska...lots and lots of insurance companies write insurance in Nebraska, and we are the only window to the inside of these salaries. [LB799]

SENATOR DAVIS: So as far you know, are there other companies that would be pressuring Nebraska to do away with this law; or is the only one that you know of? [LB799]

SENATOR SCHUMACHER: This is the only that's spending that kind of money. Now I think there was an association that appeared in the orchestra after the main event at the hearing, but...and, you know, why not? But as far as a burning desire, no. This is the only company that apparently is embarrassed by these salaries. [LB799]

SENATOR DAVIS: And Senator Schumacher, you've done a lot of research on this. Do you know what the salaries happen to be? [LB799]

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SENATOR SCHUMACHER: Well, the information from some of the salaries indicate they run...what we're talking about here is something in the range of \$5 million to \$10 million a year. [LB799]

SENATOR DAVIS: For each of the high-placed officials? [LB799]

SENATOR SCHUMACHER: Yeah, these are the executive folks of this particular company. And it's very cleverly done because there's several companies, and these folks get a couple million from this company, a couple million from that company, another couple million from this company. And I suspect that our transparency leads them to have to do some explaining they'd just as soon not have to do. [LB799]

SENATOR DAVIS: Thank you, Senator Schumacher. I think you've made a very good case for keeping the law as it is in Nebraska. Transparency is good for everyone. It should be good for the companies, it should be good for Nebraskans, but it also should be good for the nation; and I strongly support you on this bill. [LB799]

SENATOR KRIST: Thank you, Senator Davis and Senator Schumacher. Senator Wallman, you're recognized. Actually, Senator Wallman, before you start, let me read a few things. (Visitors introduced.) Your turn, Senator Wallman. [LB799]

SENATOR WALLMAN: Thank you, Mr. President. Good morning. This smells a little bit like Wall Street, doesn't it? I really appreciate Senator Schumacher's comments, and I'm always about transparency. If we give money away, we have premiums to pay, and then this company goes bankrupt to whatever happened to a good friend of mine in the health insurance, folks, if the more control we have over how the money goes, where the money flows, all these things, it is very important to have a consistent economy because things can go bad and it hurts the guys at the bottom, never at the top. So I agree with Senator Schumacher and I'd yield the rest of my time to him. Thank you, Mr. President. [LB799]

SENATOR KRIST: Senator Schumacher, you've been yielded 4 minutes. [LB799]

SENATOR SCHUMACHER: I don't particularly want to burn up the body's time. We've got other business to do. The case is laid out. We can get in the bed with these folks for whatever reason they're inviting us in with them, or we can stand up as Nebraskans for transparency. We can say, don't try this stuff in the Nebraska Legislature. If there's a law that's outdated and dusty, our Insurance Department will tell us about it. Don't try and use us to further excessive compensation. Don't try and use us to further cozy arrangements between boards of directors and corporate officers, the kind of which put this whole country in trouble just a few years ago and we're still scrambling. Don't try to play the Nebraska Legislature for pansies. Thank you. [LB799]

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SENATOR KRIST: Thank you, Senator Schumacher and Senator Davis. Senator Carlson, you're recognized. [LB799]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. Interesting speeches being heard this morning and with some passion and almost with a tone of making me feel like I'm in church. I don't make any apologies for being someone that is pro business. And companies that come to Nebraska are here to make a profit and there is nothing wrong with making a profit. You either make a profit or you're not in business. And I think it's something to be said in fairness that if we're the only state that does this and we've done it for 100 years, does that make it right? Maybe it does and maybe it doesn't. But I got to thinking about the fact that I worked for a mutual insurance company for many years and then that company went...changed to a stock company. In the mutual company, I always told my clients that you in a sense own a portion of the company because when there are profits made, dividends are paid; dividends are paid out to you in your policies based on the profit that's made, and you get a share of that. When a company become a private company, the same procedure occurs but the profits go out in dividends to shareholders, stockholders, people who made an investment in the company. That's our system, and I don't see anything wrong with that system. And then I started to think about other things that I spend money on and I invest in, and I have no idea what the owner makes, what the executive makes. And when I was working for the mutual company for many years, I didn't have any idea what the executives of the company made. It really didn't matter to me. What mattered to me was what I made and what kind of a framework was there that I could do business in and do it in a profitable and good manner. When I go to buy a vehicle, I don't know what the owner of that agency makes. It's none of my business. I either have a choice to buy a vehicle from this business or not buy it, whether the owner makes a million dollars or makes \$100,000. If I go buy an appliance it's the same thing. I make a decision whether I want to buy the appliance or not; not how much the owner makes on that purchase. Furniture. Farm equipment. Farm equipment--that's big business, that's big value business. Expensive machinery. Nobody asks the owner, what do you make on this deal? It's really nobody's business. You have a choice, either buy it or don't buy it. We go and buy food at the grocery store. We don't ask the owner, what kind of money do you make; I think you ought to publish your salary. In business it's ridiculous. When I go to the doctor, I want to get fixed, I don't want to demand how much the doctor makes. If I go to the hospital, I want to get well. I don't want to demand how much the hospital makes to get me well. And I think that's the principle here, and obviously you have the power and you will vote. And I think that LB799 is a fair bill as is AM1730, and I ask for your support. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Carlson. Mr. Clerk, items. [LB799]

CLERK: I do, Mr. President. Thank you. Senator Wightman, an amendment to LB810;

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Senator Lathrop, LB1072; Senator Sullivan, LB967A; Senator Lathrop, LB699; Senator Mello, LB559; Senator Scheer, LB916; Senator Nordquist, LB276. All those to be printed. New A bill. (Read LB383A by title for first time.) Reference report regarding LR512. (Legislative Journal pages 994-1005.) [LB810 LB1072 LB967A LB699 LB559 LB916 LB276 LB383A LR512]

And Mr. President, I have a priority motion. Senator Lathrop would move to adjourn the body until Monday, March 24, at 10 a.m.

SENATOR KRIST: I can safely say we can both root for Creighton and Nebraska today, or for one day. All those in favor, aye. Opposed, nay. We are adjourned.