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Transcriber's Office

Floor Debate  
February 05, 2009

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[LB5 LB12 LB17 LB24 LB53 LB64 LB68 LB85 LB99 LB100 LB101 LB120 LB137 LB152  
LB204 LB232 LB251 LB259 LB302 LB327 LB346]

PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the twenty-first day of the One Hundred First Legislature, First Session. Our chaplain for today is Reverend Jack Sample, from Wood River, a guest of Senator Dubas. Would you all please rise. []

PASTOR SAMPLE: (Prayer offered.) []

PRESIDENT SHEEHY: Thank you, Reverend Sample. I call to order the twenty-first day of the One Hundred First Legislature, First Session. Senators, please record your presence. Please record, Mr. Clerk. []

ASSISTANT CLERK: There is a quorum present, Mr. President. []

PRESIDENT SHEEHY: Any corrections for the Journal? []

ASSISTANT CLERK: Mr. President, I have no corrections this morning. []

PRESIDENT SHEEHY: Messages, reports, or announcements? []

ASSISTANT CLERK: Your Committee on Enrollment and Review reports LB259 to Select File; Committee on General Affairs reports LB137, LB232, to General File; Committee on Banking reports LB152 and LB327 to General File. I have a notice of a committee hearing from the General Affairs Committee. A communication from the Governor regarding certain reappointments to the Foster Care Review Board. Your Committee on Enrollment and Review reports LB24, LB99, LB100, and LB101, all as correctly engrossed. (Legislative Journal pages 375-378.) [LB259 LB137 LB232 LB152 LB327 LB24 LB99 LB100 LB101]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll move to first item under General File. []

ASSISTANT CLERK: Mr. President, with respect to LB5. It was a bill introduced by Senator Christensen relating to the game law. (Read title.) The bill was read for the first time on January 8 of this year. It was referred to the Committee on Natural Resources, which reported the bill to General File with no committee amendments. The bill has been considered previously. At that time, an amendment from Senator Campbell was adopted. When we left the bill, we were considering a motion to indefinitely postpone that was offered by Senator Stuthman. [LB5]

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PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Stuthman, would you give us a brief recap on your motion to indefinitely postpone. [LB5]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. As we adjourned for lunch the other day, I was still in my conversation and discussion with my IPP motion on this bill. I've been...how much time have I got? [LB5]

PRESIDENT SHEEHY: Just a couple of minutes. [LB5]

SENATOR STUTHMAN: Oh, okay. [LB5]

PRESIDENT SHEEHY: Brief recap, please. [LB5]

SENATOR STUTHMAN: Okay, and that's when I was considering the IPP motion on that part of it. What my intent was to do, was to try to get this bill killed. But as I remember from years past, Senator Chambers would always bring up the issue and I was always a little bit interested in what he was attempting to do with bills that he considered were bad. And he was continually trying to improve bad bills and make a bill better. And we have a...well, we have the same situation here this morning, and what I was attempting to do when we adjourned the other noon was to try and get rid of this bad bill. But taking that into consideration, I have decided to make this bill better, and I have introduced an amendment to hopefully do this part of it, to make this bill better; make it a better bill. So I am going to, at this present time, ask for unanimous consent to withdraw my IPP motion and then I will discuss the next motion...I mean, the next amendment that I have filed. Thank you, Lieutenant Governor. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Any objections? Seeing none, the motion is withdrawn. [LB5]

ASSISTANT CLERK: Mr. President, Senator Stuthman would now offer AM179. (Legislative Journal page 372.) [LB5]

PRESIDENT SHEEHY: Senator Stuthman, you are recognized to open on your amendment, AM179 to LB5. [LB5]

SENATOR STUTHMAN: Thank you, Lieutenant Governor. It is my attempt to try to make this bill a lot better bill. And if you run it up on your gadget is what my attempt to do is insert some new language, and I want to talk a little bit about the issue that was the reason that I brought this bill. In listening to the debate, there was a lot of discussion of areas where there was wildlife destroying roads, putting beaver dams in by bridges, and areas like that. And I truly believe that there needs to be trapping done in those areas where there is a concern, where there could be ruining road right-of-ways. So I

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have decided to...I have placed this amendment before you. And on page 2, starting in line 3, "...a county may request permission from the commission to permit trapping of wildlife in a designated area of a county road right-of-way for reasonable wildlife management purposes as determined by the commission and if the county board has reason to believe that wildlife management is a concern in such area. The commission then shall require signs to be posted within that designated area to provide such notice of traps." I think this really addresses the problem that was surfacing when we debated the bill. I don't think the majority of the people wanted to completely repeal the trapping ban and open it up to trapping in all road right-of-ways. What my attempt to do is to make it, that is if there is an area that a county or an individual comes to the county board and says, you know, I have a beaver building a beaver dam by a bridge, by a culvert, and it's backing up the water into my field and I'm not able to do things and it raises the water table, or the animals are undermining culverts, undermining bridges, ruining the road right-of-way, I think then the individual can go to the county board and request the fact that I think we do need some trapping; there should be some trapping; or try to get rid of those, that wildlife in that designated area. Then it is the duty of the county board, if they determine that is an area where there should be trapping taking place, the county board can go to the commission and to see whether they're in agreement that this wildlife, you know, is a real concern and it is a real problem in that area. I also think that, you know, we need to follow the guidelines of a management area of the commission, and I think then, with the cooperation of the county board and the commission, the Game and Parks Commission, to determine an area that they feel there is a need to trap this wildlife because of problems or damage to road right-of-way. And if there's an agreement there, then the commission shall, you know, direct the county board to place signs in that designated area. And I'll give you an example: Let's say there's a bridge that has beaver dams there, and they're raising the water and the water is crossing the road at a lower part, and the county board decides there's, on Road Such-and-Such, there should be a mile designated for trapping, or two miles or three miles, you know, that should be trapped so that these animals are not ruining the county road right-of-way. Then it is the responsibility of the county board to post signs there, that this is an area where trapping is allowed. Then the public is aware or should be aware that there could be traps placed in that designated area. I think that really solves both problems: the problem that we had, you know, nobody knowing where traps are at, and the possibility that traps are in this designated area is alerted by the fact that they are notified that this is an area where traps could be placed. I think this takes care of the majority of the problems. It does not open it up to the whole state for trapping. It does not open up a whole county for trapping. It does not make it so that the public is not aware of where traps are being placed, which was one of the main issues when we were debating it several days ago: people walking down the road ditches out with their dogs. I think that's an issue. But if we have signs posted stating that this is a designated trapping area, I think people should be aware that there is a possibility that their traps are in there--maybe there won't be any but I'm sure there may be--just to take care of the problems that the county or the landowner has. So I think this is a good amendment

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and I think this is a situation where we can take care of a problem that is there, and we can address it in a way that gives the county board the responsibility and the authority to designate areas where they see that there is a problem area, you know, upon a request of a property owner or at the request of a county board. So with that, those are my opening comments, and I would like to hear some of the discussion, but I think this is the direction that we could go and satisfy the majority of the people. Thank you, Lieutenant Governor. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. You have heard the opening of AM179 to LB5. (Visitors and doctor of the day introduced.) Moving on to floor discussion of AM179, members requesting to speak are Senator Lautenbaugh, Senator Christensen, Senator Carlson, Senator Howard, and others. Senator Lautenbaugh. [LB5]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I rise in opposition to this amendment, and let me say clearly, I love this bill, and I'm not joking. I didn't like the debate the other day, very much, on this, when I thought about it over the last couple of days. I don't have the ditch experience of many of my colleagues I heard the other day: not dating experiences, not necessarily hunting experiences that some have had in the ditches. And I'm not a trapper. There is no accounting for taste. Some people are trappers, some aren't. As many of you read in the paper today about Senator Flood, there is no accounting for taste. (Laughter) But I do love this bill, because this bill followed the rules, and that's important to me. In 2007, we made a change in the law and outlawed something that was important to some people: maybe not me, but to some people. We didn't have a hearing. We didn't have notice to the public. This was an amendment attached to a bill. I wasn't here but my perception is we were acting on the emotion of the moment, because a dog had been killed in a trap that was already illegal--still is, was then; and perhaps a colleague's husband might have been ensnared in a trap that was also illegal. So we outlawed all traps; not just the ones that were already illegal, if we can do that, but the ones that were in existence at the time, that were legal, in right-of-ways. So this bill comes around to repeal this two short years later, and we dismiss it: it's not important, it's not worthwhile, it's just here because it's early in the session. Well, guess what? It followed the rules. It was introduced. There was a committee hearing. People came and testified, and the committee put it out on the floor. It was important enough to someone to do that. Is there a real risk here that we tried to outlaw in 2007? I haven't heard that. I haven't heard anyone being caught in the traps that would be allowed under this law. Maybe I missed it. Maybe that was part of the testimony, but I didn't hear it. We've now amended this so the county boards can opt out of it. Fine. I think it should be up to the people in the county who feel at risk, to go try to convince their county boards that this is a risk. They should probably bring evidence of a specific risk to convince them, because I haven't been convinced. Instead, we sit here and just kind of sniff at this bill like drama critics from The Times, and look down our noses at it. Let me quote one of our

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colleagues who is no longer with us anymore. He didn't go on to a better place; I'm afraid he's in Sarpy County. He would have said, poppycock. This bill has merit. We took away something that was important to some people. Once again, maybe not me, maybe not you, but it was important to the people who do this kind of thing. This is our fault. Because of the way we outlawed this trapping, it's come back to us this soon, through the proper channels, and we're debating it now. So we have no one to blame but this body for being here today discussing this bill, because what we did in 2007 was not done in the normal way, with a full hearing. So here we are. And we're saying, in effect, trappers come to us and tell us why you need this; tell us why you need to do this. No, no, no. We should be able to articulate why it was important to outlaw these legal traps in 2007; and to my mind, we haven't done that yet. [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR LAUTENBAUGH: The burden should not be on the trappers to tell us why they want to do this. Someone wrote me an e-mail the other day on Senator Rogert's bill about the 2 a.m. closing time: I don't know why people need to stay out until 2 a.m., he said. Well, I don't know that either, but that's not really the test. The test is, do they want to; and is there a reason we should deny it. And maybe there is. But just because we don't know why they want to doesn't mean we should be comfortable outlawing it, and I feel like that's what we've done here. And now we've gone completely 180 degrees. We're putting the burden on the people who should have been free to do this, to come tell us why they should be free to do this--and I don't like it; and I like this bill. I meant what I said. And I urge you to vote against this amendment and advance the bill as it stands. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Christensen. [LB5]

SENATOR CHRISTENSEN: Thank you, Mr. President. I just want to thank Senator Lautenbaugh. I couldn't have said it better, folks. I want to see this bill move forward. I do not like the amendment. I think that we have done a good job on the bill so far. We've put an amendment on to give the county exemptions. I think we've got the bill in good shape. I think Senator Wightman has a great amendment coming that I'll support. And I think at the present time we've got it where it needs to move forward. Thank you. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Senator Carlson. [LB5]

SENATOR CARLSON: Mr. President and members of the Legislature, I would like to address a couple of questions to Senator Stuthman if I could. [LB5]

PRESIDENT SHEEHY: Senator Stuthman, would you yield to questions? [LB5]

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SENATOR STUTHMAN: Yes. [LB5]

SENATOR CARLSON: Senator Stuthman, as the bill stands without your amendment, we have a bill that was amended by Senator Campbell, and it indicates that a county has the option to opt out of this law. If this bill becomes law in that fashion, then it is law for the entire state, but a county can opt out. If I understand your amendment correctly, that really limits the bill beyond that point, and, in fact, it turns it around to where trapping is not allowed throughout the state of Nebraska unless a county opts in with a portion for a particular reason. Do I have that understanding? [LB5]

SENATOR STUTHMAN: This...my amendment would replace the bill and there would be no trapping in any county road right-of-way which is in place at the present time. But in my amendment, which replaces the bill, would allow an individual or a county that feels that there is an area where trapping should be allowed, a designated area. And the fact that, you know, they can go to the Game and Parks Commission and, with them, get a designated area where trapping will be allowed. I hope that answers your question. I don't want to take up a lot of your time. [LB5]

SENATOR CARLSON: Okay. Thank you, Senator Stuthman. I think that Senator Stuthman's amendment pretty well takes care of trapping as a sport, and it just puts it into a category that if a county wants to, they can take care of some predators. If they go through the hoops and take time, and...but it's taking away trapping as a sport. Now, I represent seven counties, one of which is Gosper County, and a portion of Gosper County cuts through the center of Johnson Lake. It may well be that Gosper County would like to allow trapping throughout the county, but perhaps in an area close to Johnson Lake they may wish that they could limit trapping. Under the bill as it stands, without your amendment, they really can't do that either. And so Senator Campbell's amendment to the bill would cause Gosper County to say that if we're concerned about trapping around Johnson Lake, we're going to have to exempt the whole county. I think that perhaps maybe Senator Wightman's amendment is going to address this. I represent Harlan County. Harlan County Lake is a portion of Harlan County. It may well be that Harlan County is okay with trapping, but they would like to make it illegal close to Harlan County Lake. Again, I think under the amendment that's going to be given by Senator Wightman, they would have that option. Under Senator Campbell's amendment, they simply either have to opt out altogether as a county and not exempt a part of it. [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR CARLSON: I don't know that this is a whole lot different than if we have an occurrence that happens with fishing. I had a cousin that got a fishhook in his eye, and maybe we should outlaw fishing except we'll let counties designate a certain pond where they can allow people to fish in that pond. I don't like the whole concept. And

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we're taking away freedoms from people and those that are legitimate sportsmen, so I oppose Senator Stuthman's amendment. I'd ask you to vote against it, and we listen to what Senator Wightman has to say with his amendment. Thank you. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Additional members requesting to speak: Senator Howard, followed by Senator Lathrop, Senator Wightman, Senator Hadley, Senator Haar, and others. Senator Howard. [LB5]

SENATOR HOWARD: Thank you, Mr. President and members of the body. If Senator Stuthman would yield to a question or possibly two. [LB5]

PRESIDENT SHEEHY: Senator Stuthman, would you yield? [LB5]

SENATOR STUTHMAN: Yes. [LB5]

SENATOR HOWARD: Thank you. Senator Stuthman, in listening to you present your amendment I heard you say that there would be a posting; there would be signs that would be placed to notify people to let them know that this was in effect. And I want you to know I certainly agree with that. I think people should be aware of what's out there; if there's a danger, especially. But my question goes really to a detail, and I hope you can clarify this for me. Does the cost of the signs and the costs that would be incurred with a posting of the signs fall with the commission, with the county board, or with the entity--that would be the person requesting the permit to trap? Who would be responsible for the cost of putting up those signs? [LB5]

SENATOR STUTHMAN: Senator Howard, it is my intention that signage of anything in a county road right-of-way is done by the county at the county expense. The county puts in signs stating: water over road, low water, bridge out, bridge weight limits, and everything like this. And this, in my opinion, is the responsibility of the county. When a county decides that there is an area that they want to allow trapping, then the county is responsible for the signage of it. And the signage of it, in my opinion, would be just as a weight limit or anything like that. It would state: designated trapping area. And that is my intent of the signage, and I think that's an important part of it, because we have heard in the discussion about the concern of people walking down the road and in the ditches, and they're not aware of anything. But I do not want to take up a lot of your time, but that is my answer. Thank you. [LB5]

SENATOR HOWARD: I appreciate that answer. And just so I clearly understand your reason for wanting the signs is...could you explain that a little bit more to me? [LB5]

SENATOR STUTHMAN: The reason for wanting the signs is that we have heard...you know, in the discussion, people are walking down the road, in the road ditches on the right-of-way. They're walking their dog. There have been people that ride their horse

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down the road ditch. And by having these signs there, that will tell the public that there is an area where there's a possibility of traps being placed in that designated area, and the rest of the area of the county road right-of-way besides that designated area, there shall be no traps. And I think that can ensure the people, the people that are walking down the road ditches, the people that are cleaning up road ditches, you know, in the fall when there's no snow or anything like that, and people that are working in road ditches like the county individuals when they're cutting trees out of road ditches and cleaning up the road ditches, that alerts those people that there is a designated area where there's a possibility of traps being placed. [LB5]

SENATOR HOWARD Don't you think it would be just as effective to put this notification in, like a newspaper, or do a mailing through the county rather than put up signs? [LB5]

SENATOR STUTHMAN: I don't think it will be as effective, because when people are going, you know, on a road right-of-way and they're walking in the ditch, you know, there's a lot of people don't get the newspapers, don't read the newspapers. But I think the fact is just the same as when a speed limit changes from 55 to 45 or anything like that, you know, that tells the people what is happening in that area. [LB5]

SENATOR HOWARD: Plus there might be people from another state that wouldn't know...that would...for some reason, happenstance upon that area and wouldn't know that there were traps down there. Thank you. [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR HOWARD: Thank you. [LB5]

SENATOR STUTHMAN: Yes. Yes, that is very possible. [LB5]

SENATOR HOWARD: So you see the signs as a critical piece of this amendment. [LB5]

SENATOR STUTHMAN: Yes, I see the signs...the signage of it is probably one of the most important parts of this fact, that, you know, that traps could be placed in that designated area. And that alerts the public, which the public was concerned, to start with, about the fact that there are traps there. If there's a signage there and there's a person walking his dog, he'll just make sure that his dog doesn't get down in the road right-of-way. [LB5]

SENATOR HOWARD: I appreciate you taking the time to explain that, and I certainly agree with you that without the signs, basically how would people know and how would people stay out of that area if they were walking their dog? The signs inform people; the signs educate people, and I'm glad you included that in the amendment. Thank you. [LB5]



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PRESIDENT SHEEHY: Thank you, Senator Howard. Senator Lathrop. [LB5]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Senator Lautenbaugh, I don't like LB5 and I can give you the reasons. And I appreciate the fact...and I have been a hunter my entire life. I'm not somebody that's opposed to the sport of going out into the fields and harvesting game through the hunting process, so...and it also gives me a certain amount of familiarity with going in and out of fields. And this is a whole different thing. And I can appreciate that I have never been a trapper, but that doesn't mean that I don't have an opinion about this; and because I haven't been a trapper and I'm not in favor of this doesn't mean that my opinion doesn't matter. You're right; you asked the question about what's the reason that we are having a debate over why shouldn't we let these guys trap. They have every field they can get permission in, to trap in this state. The question is whether they ought to be able to do it right alongside of the road in the right-of-way, and the right-of-way is part of the roadway. It is the people's right-of-way, and we are now going to put hidden traps in them and they are going to indiscriminately snare animals, including unintended animals, and those like hunting dogs and people. And the fact that there's beer bottles that people throw out of their car into the ditch doesn't make it okay to put a trap in the ditch. These are indiscriminate. They're hidden. They're intended to be hidden, and they are...they then surprise their prey and hold them there until they either exhaust themselves to death, starve to death, or they're shot in the ditch. I think Senator Stuthman made a good point yesterday or the last time we took this up, and his point was this, that if your trap in the right-of-way catches a beaver or a raccoon or a badger, there's three things that are going to happen to that animal. They are either going to exhaust themselves to death trying to get out of it; they are going to die of starvation, waiting for the owner of the trap to come by and collect his prey; or they're going to have to be shot. And if they are going and checking their traps as frequently as is humane, then they will find the raccoon or their other animal struggling in the trap and they're going to have to shoot them. I understand that. That's part of trapping and I'm not here to make a judgment about that. But if the solution...if what they have to do when they get to that trap in the ditch is to shoot the animal and humanely put it out of its misery, then they're breaking the law, because we have a law that says you can't shoot or discharge a firearm in the right-of-way. So now what are we doing today? If we allow trapping in the ditch, we either have to accept the fact that people who attend to their traps in a timely fashion are going to break the law by shooting these animals, or--and the alternative isn't very pretty--we're going to say that no animal can be taken from a ditch, once it's trapped, until it's exhausted itself or starved itself to death. That's why I don't think this is a good idea. That's why I think, Senator Lautenbaugh, these people should take their traps on the inside of the fence. You know, I've been in a lot of fields, hunting birds--a lot of fields--and every time we're looking for a place to hunt, the "No Hunting" signs are... [LB5]

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PRESIDENT SHEEHY: One minute. [LB5]

SENATOR LATHROP: ...always on the other side of the right-of-way. They're not up against the road. There's no warning that there's traps. I agree with Senator Stuthman's amendment. I support it because I don't like LB5; I don't like the idea of indiscriminate traps and the consequences of those traps in our right-of-ways. Senator Stuthman is on to something. If we're trapping animals in the right-of-way, and the justification for that is they're tearing up our roads, they're causing mischief along the side of the roads, then he has landed on an amendment that takes care of that and does it in a way that respects that these traps are indiscriminate, and people need to know that they are in the ditch so they don't land in them and their animals don't land in them. And for that reason I support LB179. Thank you...or AM179. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Wightman. [LB5]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. I rise in opposition to Senator Stuthman's amendment, AM179. Just for a refresher, AM179 would replace the bill, LB5, as amended by the Campbell amendment. And I believe, basically, it destroys any portion of the original LB5. I will be proposing an amendment which would amend the Campbell amendment, AM185 as proposed by Senator Campbell and as adopted by this body. It would leave, basically, AM185 to LB5 in place. It would merely insert that after the word "right-of-way" on line 1, page 15, that they either could prohibit, in full, and the new language would say "or in a certain area of the right-of-way as designated by the county." I'm not as strongly opposed to LB5. I was in its original form. I do believe that it can best be answered by the county commissioners in most counties as to whether that should be allowed. They can listen to local citizenry and make that determination. But I think they need the right, either beyond...just to prohibit it or allow it within the county. They need to be able to accept certain areas as designated by the county. And Senator Carlson, I think, hit it right on. Both he and I share part of Johnson Lake in our district. Some of it is in Dawson County. I guess we don't share it. I don't represent that part of Dawson County, so. Senator Christensen actually, and Senator Carlson share that area of Johnson Lake, but it is an area with a lot of foot traffic. I'm sure there are a lot of lakes and recreational areas throughout the state of Nebraska that have foot traffic far beyond what the county, in general, has. Obviously, when you get into the urban areas of Omaha and Lincoln, and probably around Grand Island, there's a lot of those areas. So all mine would do would be to broaden AM185, which is LB5 as it now stands, and make it clear that not only could you prohibit it in the whole county, but you could prohibit it in parts of the county, and it might be for whatever reason. I suppose they could allow it in some areas of the county if they felt that they were an area that, for example, has animals that are really a detriment to the public and to their roadways. So I would ask you to vote against AM179 and listen carefully when we consider the amendment to AM185. Thank you, Mr. President. [LB5]

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PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Hadley. [LB5]

SENATOR HADLEY: Mr. President and members of the body, I was thinking yesterday, who might be using the road ditches; who might be the type of people that are consistently in there? So I called the road superintendent in the two counties that I represent, Buffalo County and Kearney County, and I talked to them about this. And they both answered me. They were both opposed to LB5, and I asked them why, and they said that they spent...you know, the workers spend time in the ditches. And the county superintendent of roads in Buffalo County went on further to tell me that he had actually--a part of his job at one time was bridge inspection--and twice he had almost stepped on hidden traps, doing his job as a bridge inspector for Buffalo County. So that made me pause as to...if we have people that we're requiring, as part of their job, to get into the road ditches and work in the road ditches, do we want...is this really good policy to have these kinds of things where we expect employees to do their job? So I guess I have a concern on LB5, and I tried to document that concern by talking to the people who actually got into the ditches and did their work. I also had the concern about is there damage being done by rodents to right-of-ways, to bridges, and such as that. And again, I got the answer in the affirmative from both of the superintendents, that there are times that they would like to have the ability to trap animals that are doing damage, and I think that's what Senator Stuthman's amendment does. So I tried to get to the people that I felt would be most impacted because they're out there every day in the ditches, working and such as that, and I got the answer that I just gave you. Thank you. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Hadley. Members requesting to speak on AM179 to LB5 are Senator Haar, followed by Senator Price, Senator Stuthman, Senator Lautenbaugh, and Senator Carlson. Senator Haar. [LB5]

SENATOR HAAR: Mr. President and members of the body, thank you. I don't know what the newspaper said about Senator Flood this morning. I haven't read that. But my wife just read yesterday's newspaper and sent me an e-mail, and said, hey, I want to know who the girlfriend was that you sent into the ditch. (Laughter) I told her it's none of her business. (Laughter) No, we made it through a campaign together and we'll get through this. First of all, I actually got a lot of e-mails, as probably everybody did...well, first, I guess I should say I rise in support of AM179. I got a lot of e-mails, and I've got 25 in support of LB5, and 56 opposing, and a great share of my constituents are urban people. Sixty-five percent live in Lincoln. And I'd like to...first of all, Senator Carlson, I think you said that Senator Stuthman's bill takes away trapping as a sport. And I was...Senator Stuthman, would you...could I ask you a question? [LB5]

PRESIDENT SHEEHY: Senator Stuthman, would you yield? [LB5]

SENATOR STUTHMAN: Yes. [LB5]

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SENATOR HAAR: Would it take away any right for trapping beyond the right-of-way, if permission is given? [LB5]

SENATOR STUTHMAN: No; absolutely not. And that is a real concern of mine in the statement that he made, that it would take away the trapping as a sport. I mean, if that is a concern of those 8 acres around a section of 640 acres that we're concerned about, and then mine would maybe only be a half an acre that was a designated part of it, I can't see how that would be taking away trapping as a sport, in my opinion. [LB5]

SENATOR HAAR: It just requires it beyond the right-of-way. Yeah. Okay. Well, I would like to go back to Senator Gloor's wisdom from yesterday or the day before when he said, there should be no surprises in public places. And I've thought about that a great deal, and it goes like this: When people come to Lincoln, they expect to be safe in public places. Nobody would disagree with that. You come to Lincoln for a football game; you expect to be safe in public places. Now that doesn't give you a right to go onto my yard if I live in Lincoln or anything. It simply says if you go into a public place, you have a right to be safe. And speaking for my Lincoln constituents, I think they should expect to be safe in any right-of-way anywhere in the state of Nebraska. They should be welcome in any county, anywhere; and in the right-of-way, the public right-of-way, they should feel safe. And those would be my comments. Thank you. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Price. [LB5]

SENATOR PRICE: Mr. President, members of the body, thank you. I wonder if Senator Stuthman would yield to a few questions? [LB5]

PRESIDENT SHEEHY: Senator Stuthman, would you yield to questions? [LB5]

SENATOR STUTHMAN: Yes. [LB5]

SENATOR PRICE: Senator Stuthman, in your opening remarks you talked about there being signage because of the possibility of traps, is that correct? [LB5]

SENATOR STUTHMAN: Yes. [LB5]

SENATOR PRICE: Is it more accurate to say there will be traps there? Are we putting a sign that says there's going to be trapping for a specific point in time for a specific purpose or is it more likely that there actually will be traps there? [LB5]

SENATOR STUTHMAN: I can't honestly say there will be traps there, and the reason for my statement would be that the fact that trapping will be allowed in that area. But if trapping is allowed in that area, to me that doesn't mean that there will ever be a trap

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there. There can be traps there. [LB5]

SENATOR PRICE: So we're really not doing this to be specific to trapping for a problem as identified by the county, but for the possibility at some point in time there could be trapping for some reason. [LB5]

SENATOR STUTHMAN: Yes, there could be trapping in that designated area. Hopefully, there will be traps placed in there, but I can't guarantee that there will be traps placed there. [LB5]

SENATOR PRICE: All right. And the next question would be, then will...as a county has sanctioned the trapping in this area, would the county be exposed to being liable for any lost, damaged traps? [LB5]

SENATOR STUTHMAN: I do not feel they would be, but I do not know. [LB5]

SENATOR PRICE: All right, thank you. I would ask that the body consider that, that when we take on sanctioning an activity, identifying the equipment that other people have put out there for the safety of our communities, that we are possibly exposing ourselves to damages. And with there being some people that are not in favor of trapping and we have signage out there that says: come here, these are my traps; that we have opened ourselves up to some liability. So again I would urge the body to consider that as they look at going forward, and I do rise in opposition to this amendment. Thank you. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Price. (Visitors announced.) Senator Stuthman, followed by Senator Lautenbaugh, Senator Carlson, and Senator Campbell. Senator Stuthman. [LB5]

SENATOR STUTHMAN: Thank you, Lieutenant Governor. First of all, I just want to talk a little about an incident in my community. A lot of people hear, hear about wild animals and everything like that. Well, about 7 miles from my place, a mountain lion was sighted. There was a mountain lion sighted west of Columbus. I have visited in the past when people have stated that there are mountain lions in our area, and the Game and Parks has stated that, you know, that's all rumor. But I did see the picture. It was on one of my friend's farm, and it was truly a mountain lion. So there are mountain lions in my district, and this mountain lion was probably about 6-7 foot long, walking there by where there used to be a cattle feedyard, and they did get a picture on the cell phone at that time. So I just wanted to report that part of the mountain lion issue. I am very concerned with the fact that statements are being made that we're taking away trapping as a sport. Senator Carlson brought that issue up that if we don't allow people to trap in the road right-of-ways, in the public road right-of-ways, then we're taking away their sport for trapping. There are so many acres that could be trapped if they...without considering

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those small acres of road right-of-way. And I think also, as Senator Lathrop had stated, you know, what happens when there's a beaver caught in a trap? Most generally, the only way that you can take care of them without letting them starve to death is possible shooting them. If that takes place on private ground, it's perfectly legal. But if they're trapping in the road ditch, they really can't do that because it's illegal to shoot in the road right-of-ways. I would like to ask a question of Senator Price. Maybe he's not with us. [LB5]

PRESIDENT SHEEHY: He's currently not in the Chamber. [LB5]

SENATOR STUTHMAN: Okay. Thank you, Lieutenant Governor. But I do have a concern with what he was talking about as far as the designated area for trapping, that it could open up a lawsuit if traps are stolen or somebody gets caught in a trap or anything like that. He was concerned with that. But if LB5 would pass, that allows all of the road right-of-ways to be trapped; that you can trap in all of the road right-of-ways. I don't think we're as liable in a small area to allow trapping, that we're opening it up for lawsuits. And his concern was lawsuits to the county or to the state if we'd open them all up. So I think, in my opinion, my amendment identifies problem areas and it allows trapping in those problem areas. It doesn't do anything as far as taking away the sport of trapping. It just designates an area where trapping is allowed, hopefully to remove the predators that are doing damage to county road right-of-ways. And I think the signage is very important for the public to know where that area is. I think that's very important, because a lot of people will be walking... [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR STUTHMAN: ...walking their animals, their pets, or like I had stated before, county workers, you know, removing trees. They will know where that area is, where traps may be placed. They are allowed to trap in that area. But allowing them to trap in that area, to me doesn't mean that there could be a trap in that area. There probably will be traps in that area but it doesn't guarantee traps are there, but it alerts the public there is a possibility of traps in that designated area. Thank you, Lieutenant Governor. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Lautenbaugh. [LB5]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I wonder if Senator Christensen would answer a few questions? [LB5]

PRESIDENT SHEEHY: Senator Christensen, would you yield to questions? [LB5]

SENATOR CHRISTENSEN: Yes. [LB5]

SENATOR LAUTENBAUGH: Senator, can you describe for us, again, these traps that

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were outlawed in 2007, along the right-of-ways? [LB5]

SENATOR CHRISTENSEN: Okay. The trap, when it's open to its widest, can be 5 inches. Think about your foot. You step in it; it will not close over it. [LB5]

SENATOR LAUTENBAUGH: And that's pretty much the extent of the danger we're talking about here? [LB5]

SENATOR CHRISTENSEN: That's the extent of the danger. If the county men would have stepped in it, they would have laughed. They would have said, oh. Think about it. If they're working for the county and they go down in that ditch, are they going to be wearing sandals, are they going to be wearing work boots? Just think about it. It's not going to bother them. [LB5]

SENATOR LAUTENBAUGH: Thank you, Senator. Colleagues, I'd submit we've heard about there shouldn't be surprises in ditches and whatnot. This is a surprise that really does no harm. The danger from other wildlife, holes that are already there, covered over parts of the ravine you might tumble into, etcetera, etcetera, much outweighs these traps. And again, we're talking about this for the second morning, and now we've heard a story of a county worker, whose job it is to go in these ditches, who almost, twice, encountered some of these traps and almost stepped in them. That was a close one. But as you've heard, these traps aren't dangerous. So he almost had a problem with something that isn't dangerous. I would submit we encounter that level of risk everywhere we go in everything we do. And, frankly, I'm willing to bear it. And if you're saying, Scott, how can you put your kids at risk? I'm willing to do that because I don't see the risk and I haven't heard the risk yet. Just because it's a surprise doesn't make it a dangerous one or a risky one. I still oppose this amendment and here's why. We heard Senator Lathrop talk about the horrible way some of these animals might die in the ditch because you can't shoot them in the ditch along the roadside right-of-way, and the trappers don't get back there quickly enough, it was implied, to do this humanely. Under this amendment, though, we're going to trust the county to get back there more often than the hunters and be more diligent than the hunters to take care of these animals that are trapped. I'd prefer to trust the hunters. I don't see the risk here. I urge you to vote against this amendment. I urge you to support the underlying bill. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. (Visitors introduced.)  
Senator Carlson. [LB5]

SENATOR CARLSON: Mr. President, I call the question. [LB5]

PRESIDENT SHEEHY: There has been a call for the question. Do I see five hands? I see a sufficient amount. The question before the body is, shall debate cease? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB5]

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ASSISTANT CLERK: 27 ayes, 5 nays, to cease debate, Mr. President. [LB5]

PRESIDENT SHEEHY: The motion has passed. Senator Stuthman, you're recognized to close on AM179. [LB5]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I feel that this amendment satisfies the majority of the people that have a concern with the utilization of public right-of-ways along the roads. I think it's very important that we also address the situation that there are times when areas of road right-of-ways, you know, are being damaged by predators, wildlife, beaver, muskrats, badgers, and that they should be taken care of in there. I think it also addresses the situation that, you know, where these areas are designated by a county, you know, in with communications with the Game and Parks Commission, and an agreement is made that there is a designated area where they want to remove this wildlife that is doing damage to the county road right-of-way. I think it's also very important to the fact that there should be some signage on there so that the public is aware of it, and the only way that they will be aware of it, in my opinion, it should be the responsibility of the county, you know, to post the sign that this is a designated trapping area for a certain amount of time. Only the time would be when trapping is allowed. And I would say that this situation would probably be only in a one season because I'm sure it could be taken care of in one season. So it's not going to be an area where they're going to be trapping, you know, for the rest of their life or the next ten years in that area. I think we need to make sure that, you know, places that are going to be allowed trapping in right-of-ways, they should be signed. I also think that this gives the county, you know, an opportunity to allow trapping in those designated areas. And I think the signage is very important, which there's nothing been addressed in LB5, which there really doesn't have to be, because it would only have to be on one end of the state or the other end of the state. But in the amendment that was passed, would that...was passed, Senator Campbell's amendment, would state that a county could opt out of that. But there's no signage there. The public doesn't really realize where the county lines are or anything like that. So I think that's important. I think this makes it a better bill. I think it identifies where the problem areas are, and I think it gives the county board a responsibility to protect their road right-of-ways. And I would ask the body to support me on this AM179. Thank you, Lieutenant Governor. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. You have heard the closing. The question before the body is on the adoption of AM179 to LB5. Senator Stuthman. [LB5]

SENATOR STUTHMAN: I would request a call of the house and a board vote. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. The question before the body is on the call of the house. All those in favor vote yea; opposed, nay. Please record, Mr.



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Clerk. [LB5]

ASSISTANT CLERK: 38 ayes, 0 nays, to go under call, Mr. President. [LB5]

PRESIDENT SHEEHY: The house is under call. All unexcused senators please report to the Chamber. All unauthorized personnel please step from the floor. The house is under call. Senators, please record your presence. Senator Cornett, Senator Nantkes, the house is under call. Senator Harms, would you please check in. Senator Stuthman, all members are present or accounted for. The question before the body is on the adoption of AM179 to LB5. Senator Stuthman has requested a board vote. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB5]

ASSISTANT CLERK: 10 ayes, 27 nays, on the adoption of Senator Stuthman's amendment, Mr. President. [LB5]

PRESIDENT SHEEHY: AM179 is not adopted. The call is raised. We'll proceed to the next amendment, Mr. Clerk. Mr. Clerk, do you have a priority motion on your desk? [LB5]

ASSISTANT CLERK: Mr. President, I do. Senator Stuthman would move to reconsider the vote just taken. [LB5]

PRESIDENT SHEEHY: Senator Stuthman, you're recognized to open on your motion to reconsider. [LB5]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. It looks to me like we're going to be on this one a long time. I tried to make the bill, you know, acceptable to the people, and I think I had everything pretty well covered in that which would allow trapping in designated areas. I don't know really where this is going to go because a lot of people are, you know, against LB5, and maybe that's the way it will end up. But I think it's going to take days, maybe like 60 days before we find out where this bill is going to go. I just think that we have passed something two years ago. We passed a ban of trapping in county road right-of-ways, which I totally support. There should be a ban in county road right-of-ways as far as trapping. Because I look at it as this is an area where the public can walk, they can be in a county road right-of-way, and it doesn't take away the privileges of a trapper. A trapper can trap on the other side of the fence in private property. And I visited with a trapper the other night, came from the western part of the state to lobby me, that they wanted to trap in all county road right-of-ways. And I asked the gentleman, I said: Where do you get most of your animals that you trap? I said, do you get the majority of them in the county road right-of-way? He said, no, I get very few in the county road right-of-way. I said, well, where do you trap then? Oh, he says, I get permission from people of private property owners to trap in their private property. I think this is a situation where people, the

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trappers are so concerned about those 20 feet on the one side of the road that they don't have the ability to trap in, don't have the permission to trap in. And I really think there's very little activity of wildlife in that area. I think if they're really concerned about trapping as a sport, they should get the permission of property owners, which they do, and they can trap, you know, around buildings, they can trap in trees, they can trap by creek beds. They can do that, and that's where the majority of the trapping does take place. You know, we've taken a lot of time two years ago on this subject, and we'll take a lot of time again this year. I just think that we should go back to what was passed two years ago and the ban on trapping in county road right-of-ways, but I do realize that there were areas that, you know, trapping should occur, and I made an attempt, you know, to get that accomplished. I wasn't successful. I wasn't even close to being successful on that. So I think it's going to come down to whether the people are concerned about getting legislation passed this year or concerned that we would pass something, or leave in place what we spent so much time on two years ago. I think, in my opinion, the arguments of the trapper saying that it's going to ruin them and it could hurt them economically and there's value economically as far as trapping in the road ditch, I can't buy that. I really can't buy that because they can just go across the fence, with the permission from the landowner, to take care of that situation. I just think we need to take some more time and discuss it, and I would ask your support to reconsider the last vote. Thank you, Lieutenant Governor. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. You have heard the opening on the motion to reconsideration of AM179 to LB5. Are there members requesting to speak? Senator Haar, followed by Senator Stuthman. Senator Haar. [LB5]

SENATOR HAAR: Questions for Senator Christensen. [LB5]

PRESIDENT SHEEHY: Senator Christensen, would you yield? [LB5]

SENATOR CHRISTENSEN: Yes. [LB5]

SENATOR HAAR: Have you ever watched MythBusters on cable? [LB5]

SENATOR CHRISTENSEN: No. [LB5]

SENATOR HAAR: Okay. Well, it's a program where you try to figure out where something is a myth or not. And I think one of the myths here--because I'm concerned about safety--one of the myths here that is a legal trap is not dangerous. And I would like to know if you could bring me a trap down to my office--one of these legal traps? [LB5]

SENATOR CHRISTENSEN: I'm sure I can get somebody to bring me one so I can, but you do have a picture of one. [LB5]

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SENATOR HAAR: Right. Well, a picture doesn't really tell us whether it's dangerous or not. [LB5]

SENATOR CHRISTENSEN: I'll have someone bring one over. I'll find somebody. [LB5]

SENATOR HAAR: Okay. And we'll get some heavy gloves and we'll figure this one out. [LB5]

SENATOR CHRISTENSEN: Okay. [LB5]

SENATOR HAAR: I would relinquish the rest of my time to Senator Stuthman. [LB5]

PRESIDENT SHEEHY: Senator Stuthman, 4 minutes. [LB5]

SENATOR STUTHMAN: Thank you. Thank you, Senator Haar. Thank you, Lieutenant Governor. I want to talk a little bit about an experience that I had several years ago when we were debating this bill, and it was a situation where there was a lot of road kill on a road. And in my travel down here from Columbus that one year I took an inventory as far as what was on the roads. And in my 85-mile drive down here, I did come upon 29 dead animals on the road, and I'll give you the information as to what type of animals they were. There was 1 deer, 10 raccoons, 3 possums, 3 cats, 2 rabbits, then there were 10 others that I really couldn't identify because they were so flat and smeared on the road. So there was a lot of animals on the road at that time, and I would like to tell you as far as the date when I took that inventory was May 23 of '07 when we were discussing that issue. To tell you the truth, some of the only things that I see on the roads right now that are road kill are raccoons and deer, and the majority of them are deer. And I don't think this bill is going to address deer in any way, and I don't intend it to be that way. I just think that we have to be considerate of trappers, which does allow them to trap in private areas, and we have to be very considerate of the public. I think, you know, one of the most important things is consideration of the public safety, and if this bill would pass, LB5 would pass--I don't think it will--but if it would, that tells me that we are not concerned about public safety in road right-of-ways. I am very concerned about public safety in road right-of-ways because that is a public right-of-way. Anybody can walk down that right-of-way any time of the day or night they want to. So I think that is one thing that I am very concerned with. I also think that we should be concerned about trappers. If we were taking away the sport of trapping, that would be a lot different, but I don't see that we're doing this in any way. But that was mentioned on the floor, that we would be taking... [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR STUTHMAN: ...taking away the sport of trapping; taking away the privilege

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of people trapping. Yes, we would be taking away the sport and the privilege of people trapping in 20 feet or 2 acres of a section of ground, but we're still allowing them to trap in the rest if they have permission in the other 632 acres. I just think that we've got to take some more time on this. We have to try to come up with something, and we need to be very considerate of public safety. I don't know why, when we pass legislation in 2007, that we have to turn around and try to, you know, repeal it in two years. Then that legislation should have never passed at that time, but there must have been... [LB5]

PRESIDENT SHEEHY: Time, Senator. [LB5]

SENATOR STUTHMAN: Thank you. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. You may continue on your time. [LB5]

SENATOR STUTHMAN: Thank you, Lieutenant Governor. Members of the body, I have looked at the amount of votes that I received on there, which is very surprising to me at the present time. There was a lot of opposition to my amendment, which, in my opinion, was the best amendment that we have seen. The amendments that are proposed to come up after we take a vote, if I allow this to go to a vote, that does not address anything that I tried to address on the issue of signage for public safety. In the amendment that was passed, Senator Campbell's, which would allow a county to opt out and not allow trapping in their county, people that trap in counties, trappers, the majority of the people know where a county line is, but I don't think a lot of the youth realize where county lines are. And if one county has it on their side and the county allows trapping on the other side, I think that's kind of a situation where people do not realize where they're at and it would be illegal in one area and legal in another area. Now, the amendment of Senator Wightman's would make it that if a county allows trapping to take place, his amendment would not allow...they would...the amendment that is in place at the present time, of Senator Campbell's, is that a county could opt out of the trapping ban. This bill, LB5, would eliminate that ban, but then a county could still have a ban in their county. That's kind of confusing, but the amendment proposed by Senator Wightman states in there that if a county opts out of the ban and allows trapping not to occur in their county, and Senator Wightman allows trapping to occur in certain parts of the county, I think that's very confusing to the public. It's very confusing, you know. You've got...you don't have any signs; there's nothing ever mentioned about a sign. The only sign that there is, and the fact that it's a county line. And I think you could take a poll right here and drive somebody to a county road and tell them, where is the county line? Yes, there is signage on the highways: You are entering Saunders County, you're entering Butler County, you're entering Platte County. But you get off of that highway, there's...the majority of people do not realize where the county line is, except the property owners. So I think that's something that we've got to take into consideration, the fact that it really complicates the situation. One area you can trap in;

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across the road you can't trap; but you go down the road another mile, there you can trap in that area. I think it makes the situation, you know, a lot more complicated and there is no mention of signage, and I'm very concerned about that. So I think that we should spend a lot of time on this bill, and we plan to. I haven't got Senator Friend engaged in the debate yet, but I would like to. I would like to hear his opinion on this. [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR STUTHMAN: What I'm planning to do, and I'll be straightforward with you, I will take this reconsideration motion to a vote. Thank you, Lieutenant Governor. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Members requesting to speak on the motion to reconsider: Senator Lautenbaugh. [LB5]

SENATOR LAUTENBAUGH: I apologize, fellow members of the body. My impulse was not to speak on this and apparently I fought through because here I am. I'm going to continue to love this bill and I'm going to continue to fight for the bill. If this is the ditch we die in, so be it. (Laughter) That said, there is a value to taking more time on this, and it is maybe at some point someone who is actually injured by one of these traps will come tell us. Help me out here. We can wait. We talked about this the other day. We heard the hair-raising account today of a county worker who almost stepped in a couple of traps twice. Whew. I'm waiting to hear the danger. And if there's a value to taking more time on this, maybe it's that someone can bring that forward, because right now it's a hypothetical. And yeah, we just passed this two years ago. Far be it from us to ever pass a law and realize really quickly that we made a mistake. Where were all of us in November? I was here for a week. We make mistakes sometimes, and I think this is a mistake. I remain unconvinced. I'll wait patiently for the evidence I'm wrong. But at this point it's a hypothetical risk. I almost got hit by a car crossing the street today. Whew--I survived it. That's a risk we face every day. There are myriad risks we face every day. I believe this 2007 legislation was an overreaction, to say the least, and I urge you to continue to support this bill. I urge you, if we take this motion to reconsider to vote like you did a few minutes ago on the underlying motion, and I already belabored the point so I guess it's too late to say I won't belabor the point. Thank you. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. (Visitors introduced.)  
Senator Haar. [LB5]

SENATOR HAAR: Mr. President and members of the body, as you may have figured out, this is an intensely personal issue for me because as I've said, my grandkids and I have been down in the ditches, picking flowers and picking up trash and so on. To say that a 5-inch trap--and I guess we're going to figure this one out, see a 5-inch trap--would not hurt a child grabbing for that trap. My constituents who live in the

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Highlands, for example, may go out along a country road, see some pretty flowers. The kids go down in the ditch. How are they to know what a trap looks like? It would be similar to when people come to Lincoln and go to a public park, there's a big sign that says, well, here are the kind of dangers you ought to look for in the park. No? I think people have a right to safety with their children and their grandchildren in public places, and that includes the right-of-way on county roads. And so I'm going to support the reconsider motion, and thank you very much, Senator Stuthman. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Haar. Additional members requesting to speak? Seeing none, Senator Stuthman, you're recognized to close. [LB5]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. You know, a lot of you that are here for the first time are probably thinking, well, boy are we wasting a lot of time. We're not wasting any time. We've got time. We've got time until June 4, and we're going to use quite a bit of that time up. As a matter of fact, everybody, you know, has the opportunity to be here every day. We've got time. We've got time to pass good bills and we've got time to discuss bills that I don't think should get passed. I think this is an issue that we worked very hard and seriously two years ago. And the issue at that time, people thought it was because of the one individual that had a dog that was killed. In my opinion, that was an issue but it wasn't the issue that I'm concerned about. I'm concerned about the public safety in a county road right-of-way, and I think we should all be concerned about that. We need to be concerned about the public's safety. And counties, you know, have the jurisdiction in their right-of-ways. The county board has the jurisdiction. Game and Parks had been allowing trapping to take place in county road right-of-ways. But in my opinion an activity like that, what could endanger someone's life with an activity where there's a trap placed in there, you can say it's a legal trap or an illegal trap. But I don't know if someone gets caught, if a child would get caught in one of these illegal traps, and the fact that it's an illegal trap and your child gets caught in that trap and they have to remove her foot because of the injury of the trap. And maybe I should have some conversation sometime with some attorneys: what would really take place on that situation. Would the person say, well, I'm sorry; your child was caught by an illegal trap and that individual shouldn't have had that illegal trap there, and that was illegal. Sorry. Just walk home on your one leg and live with it. That's not going to happen. That's not going to happen. So I would like to reconsider the vote that we took last, and I think, in the essence of time, I think that I will close. Thank you, Lieutenant Governor. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. You have heard the closing on the motion to reconsider. The question before the body is on the motion to reconsider AM179. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB5]

ASSISTANT CLERK: 10 ayes, 23 nays, on the motion to reconsider, Mr. President. [LB5]

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PRESIDENT SHEEHY: The motion to reconsider is not adopted. Mr. Clerk, we'll move to the next amendment on your desk. [LB5]

ASSISTANT CLERK: Mr. President, Senator Wightman would offer AM185. (Legislative Journal page 373.) [LB5]

PRESIDENT SHEEHY: Senator Wightman, you're recognized to open on your AM185 to LB5. [LB5]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I did mention this amendment when the previous amendment was being considered. Mine would leave basically intact the Campbell amendment, which was AM185, which allowed the counties individually to prohibit trapping within the roadways of their county. I look at that and it appears that it might well be construed to be all or none, that they could prohibit it in full, and I just thought the counties should have more flexibility so all mine does, on page 1, line 15, after the word "right-of-way" we would insert the words "or in a certain area of the right-of-way as designated by the county." I am all in favor of local control on this issue. I did support the Campbell amendment, which now represents LB5 since it was in place of the original language of LB5, but it seems to me that the counties should have more flexibility than just prohibiting trapping within the entire county road rights-of-way, so I do offer this amendment. As I discussed previously and Senator Carlson discussed previously, it allows an area of heavy foot traffic to be prohibited separately as far as the trapping because it might very well be that there's a greater risk in that area. And Senator Carlson used as an example the Johnson Lake area. I happen to have Dawson County which has a lot of the Johnson Lake area in it, but none of that area is in my district. Some of it is in Senator Christensen's district, some is in Senator Carlson's district. I think this is a fairly noncontroversial amendment unless, of course, you're opposed to LB5 completely. But I think you can see it as either limiting or expanding on the amendment offered by Senator Campbell in that it certainly, with no question, allows more flexibility to the county. We already have some of that under the original bill that the cities would have jurisdiction to prohibit trapping within their zoning area, which could be either two or three miles, but this would give the county that same flexibility to prohibit it in areas of heavy foot traffic. So I do urge your support. I think both Senator Campbell and Senator Christensen will support this amendment. Thank you, Mr. President. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Wightman. You've heard the opening of AM185 to LB5. Members requesting to speak: Senator Hansen, followed by Senator Campbell, Senator Stuthman, and Senator Haar. Senator Hansen. [LB5]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I just want to stand briefly and say that I am for this underlying bill. I think that trapping has a place

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in the state of Nebraska. I supported Senator Campbell's amendment to have counties be able to opt out. I thought that was a good idea. Tried to relay the message that there's a lot of difference in-between the counties, but this...in difference in the counties in the population, of course, and size. This amendment that Senator Wightman is presenting allows the county board--and that's what Senator Stuthman was concerned about in his last amendment--the county board to say maybe the northeast part of the county can be trapped in, maybe the south half can be trapped in. It has more local control than anything we've talked about so far. I appreciate Senator Wightman bringing this and I'll certainly support it. Thank you, Mr. President. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Senator Campbell. [LB5]

SENATOR CAMPBELL: Thank you, Mr. President. I do want to thank Senator Stuthman and Senator Wightman who came to me yesterday and talked about these two amendments and explained them to me. I certainly had supported Senator Stuthman's amendment but it did not pass. And I told Senator White (sic) that if it did not I would support his amendment because I do think it clarifies the local control that we tried to put into place. Again, I want to convey my thanks to the two senators who have tried to help me on this issue. It's very important that the counties have this local control because of the diversity across the state. Senator Wightman's amendment I think clarifies that a little bit better. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Stuthman. [LB5]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I'd like to ask Senator Wightman a couple of questions. [LB5]

PRESIDENT SHEEHY: Senator Wightman, would you yield to questions? [LB5]

SENATOR WIGHTMAN: Yes, I will. [LB5]

SENATOR STUTHMAN: Senator Wightman, on your amendment, is an amendment to the amendment of Senator Campbell's. [LB5]

SENATOR WIGHTMAN: That's correct. [LB5]

SENATOR STUTHMAN: Okay. Tell me what Senator Campbell's amendment does. [LB5]

SENATOR WIGHTMAN: It allows the county to prohibit trapping within the county. It doesn't specifically address the issue of whether they can do that in part or in whole. I would think there would at least be a question as to whether, when they prohibit it, it would have to be in whole, and my purpose is just to clarify that it doesn't have to be in



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whole, that it can be in part or in whole. [LB5]

SENATOR STUTHMAN: So in other words, Senator Wightman, that you've got a county that wants to opt out and that would mean there would be no trapping in that county. Your amendment would state that you're going to allow trapping in certain parts of the county or a designated area that's designated by the county board or local control? [LB5]

SENATOR WIGHTMAN: Well, the language "allow" never gets into it. I really take off from Senator Campbell's amendment which is that it can prohibit, and then I say that they can prohibit in certain areas rather than in the entire county. So in effect, I guess the negative of the prohibition would be to allow it. [LB5]

SENATOR STUTHMAN: And if this situation would happen where a county decides to opt out, and it was your intention that the county would only opt out of a certain area to not allow trapping? [LB5]

SENATOR WIGHTMAN: The county has the flexibility under my amendment to either opt out in full, because Senator Campbell's amendment would still be in effect, or under the provisions of this could opt out in part, prohibit it in part of the county. [LB5]

SENATOR STUTHMAN: Okay. Give me an illustration then as far as...as far as an example of a county that would be in that type of a situation, what you're trying to do. A county, as the amendment that Senator Campbell has, a county, a county, a full county, can opt out and have no trapping in that county. [LB5]

SENATOR WIGHTMAN: Right. [LB5]

SENATOR STUTHMAN: And give me a situation or an illustration of a situation where only a part could be opted out or a part could allow trapping, or what are you trying to prove? [LB5]

SENATOR WIGHTMAN: Well, let's take the Johnson Lake area around Dawson County, which I think is a great example. They could very easily say we will prohibit trapping in the Johnson Lake area and designate the roadways that that would be, and allow trapping in the rest of the county, so they could prohibit in any part that they wanted to and not the entire county. [LB5]

SENATOR STUTHMAN: Well, would this apply to a situation that I was trying to accomplish, that there was a situation in a road ditch or a bridge or something like that where there was an area that it should be trapped? And I'll give you my illustration on this. Platte County would decide to opt out, allow no trapping, except on all of the roads within a half a mile of Shell Creek. Could they do that? [LB5]

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SENATOR WIGHTMAN: Absolutely, I think they could do that. [LB5]

SENATOR STUTHMAN: How are the people going to know, you know, where trapping is allowed and where trapping isn't allowed, according to your amendment? [LB5]

SENATOR WIGHTMAN: Well, I think county commissioners are going to know the same as this body knows, that if you're going to allow it in only part of the county that you probably better post it. I'm not requiring it because I give the county commissioners... [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR WIGHTMAN: ...credit for having that much sense themselves. I don't think we have to spell that out. I think they can make that decision and will make that decision. [LB5]

SENATOR STUTHMAN: Well, I think as far as the general public is concerned, though, they're not going to realize, you know, well, you know, are we on a road that we can trap on or are we not on a road that we can trap on? Are we going to be fined if we trap in an area that trapping is not allowed? I think this really confuses the situation. You know, there's no signage in the bill. Yes, you're thinking the county board will put signs there but, to tell you the truth, I don't think the county is going to do it. [LB5]

SENATOR WIGHTMAN: Well, I guess I'm willing to take that risk. I do think the counties can make that decision for themselves and in your situation and example you used, if they were just going to allow trapping in a one-mile area... [LB5]

PRESIDENT SHEEHY: Time, Senator. [LB5]

SENATOR WIGHTMAN: Thank you, Mr. President. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. [LB5]

SENATOR STUTHMAN: Thank you. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Haar, followed by Senator Hadley, Senator White, and Senator Stuthman. Senator Haar. [LB5]

SENATOR HAAR: Senator Wightman, could I ask you a couple questions? [LB5]

PRESIDENT SHEEHY: Senator Wightman, would you yield to questions? [LB5]

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SENATOR WIGHTMAN: Yes, I will. [LB5]

SENATOR HAAR: Okay. So what would be an example then of a rec area? You mention Johnson Lake. Are there any others in your district? [LB5]

SENATOR WIGHTMAN: Well, it depends on whether we're excluding or including, I suppose. We have creeks close to us. We have a creek going through Spring Creek that I walk quite often, had raccoons close-by, skunks close-by. Quite frankly, I wouldn't want to trap a skunk. I might have to get out and shoot that skunk, so skunks aren't a very good example. But they could allow trapping within a half a mile of Spring Creek, for example. I think that would be one where they could exclude all the rest of the county but that. [LB5]

SENATOR HAAR: Okay. So for example, if I went to Johnson Lake and I'm...somebody, one of my constituents from Lincoln now, from Fallbrook, let's say, goes to Johnson Lake, how will they know if their children could be surprised by a trap in the ditch? [LB5]

SENATOR WIGHTMAN: How will they know? You know, I guess I would think that would be an area that, if asked, the county commissioners would very likely prohibit trapping in because of the high foot traffic around there. [LB5]

SENATOR HAAR: Uh-huh. So now I'm coming to this area with my grandkids and hopefully the county commissioners have posted that area saying no traps? [LB5]

SENATOR WIGHTMAN: You know, I don't know whether they would post that or not. Certainly my amendment doesn't provide that they would have to do that, but I think the county would certainly be sensitive and if citizens come in and suggest that any area with trapping should be posted or any area that does not have trapping should be posted, I would expect them to listen very carefully. I don't think we can legislate everything from this body. I think sometimes we have to rely upon the county or other governmental entities executing the laws that we pass, and I just don't think we have to be that inclusive in what we require them to do. [LB5]

SENATOR HAAR: Okay. But as a citizen, again, coming from Fallbrook to Johnson Lake, shouldn't I be able to feel that it's safe for my grandchildren? [LB5]

SENATOR WIGHTMAN: Well, I think you'll be able to feel it's safe for your grandchildren probably, but I just think that the county board should make that decision rather than the state of Nebraska. And so all I'm doing is leaving it open to local control, which Senator Campbell's bill does that...or amendment did that, AM185 (sic). [LB5]

SENATOR HAAR: But let's say that, for example, at Johnson Lake the county commissioners are responsible and they put up signs so that I know precisely, and

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again I'm coming from Lincoln and I'm bringing my grandchildren, I want them to be safe, and the county commissioners recognize that and they post signs saying no trapping, so I can tell exactly. Wouldn't you agree that it's...that after I've been at Johnson Lake and seen those signs, then I could...I could count on going, for example, to Branched Oak Lake and I would be seeing signs again? [LB5]

SENATOR WIGHTMAN: Well, I get back to a little bit of some of Senator Lautenbaugh's argument, you know, how high that risk is. He suggests it's not very high and I think I would agree with him that there's not a tremendous risk. But by prohibiting it or allowing the counties to prohibit it in a heavily foot traffic area,... [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR WIGHTMAN: ...you know, I think we do eliminate a lot of the risk that Senator Lautenbaugh didn't think was there at all. Now I tend to believe there is some risk. Did you say my time was... [LB5]

SENATOR HAAR: But Senator Lautenbaugh has not even seen one of those traps and so I, frankly, very much question that. If my six-year-old grandchild was looking for weeds in a ditch and grabbed and came in contact with a hidden trap, I can't imagine that wouldn't break some fingers. Doesn't that make sense? Or do you think they are harmless? [LB5]

SENATOR WIGHTMAN: No, I question that they're harmless. You know, I think they can do some harm. How bad the injury would be I really do not know. But I still think this allows local control and this allows more local control probably or a little broader local control than it would under...and I misspoke. Senator Campbell's amendment is AM132. I just think it allows more flexibility and that's what I'm seeking to do by this AM185. [LB5]

PRESIDENT SHEEHY: Time, Senator. [LB5]

SENATOR HAAR: Okay. Thank you. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Haar. The cookies that were handed out to the senators this morning are to celebrate the birthday of Senator Dubas. Happy birthday, Senator Dubas. Senator Hadley. [LB5]

SENATOR HADLEY: Mr. President, members of the body, I supported Senator Stuthman's amendment but I'm also going to support Senator Wightman's amendment because I think it does get to the point of allowing counties to basically divide their county and decide whether or not they want trapping in their county. And if they do need trapping in an appropriate place, too, for bridges, embankments and such as that,

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they're allowed to do that. Secondly, I also support it because it does get it down to local control. I think Nebraska is a very diverse state. From the Sandhills to the southeast, it's very different and I think this allows counties to make that distinction. So I would rise in support of Senator Wightman's amendment. I think it does quite a number of the things that Senator Stuthman's original amendment did. I would yield the rest of my time to Senator Christensen. [LB5]

PRESIDENT SHEEHY: Senator Christensen, 4 minutes. [LB5]

SENATOR CHRISTENSEN: Thank you, Senator Hadley. I want to clarify something right here to Senator Haar a little bit. I think you're looking at the condition that Senator Wightman is doing here wrong. Let's say a county has a problem in an area. They may be in the northern part of Dawson County and they want trapping allowed there. Without this amendment, they may have to throw Johnson Lake back in there for a short time to get that taken care of. So this makes sense, to add this on, because then they can say we're going to take care of this area in the northern part of Dawson County and keep the area around the lake in a no-trapping area. That's just some good common sense that I think this amendment brings forth to it. So actually I think it's actually a great amendment because a county can opt out in a certain area and opt in, in a certain area or continue to allow that trapping in a certain area so they can deal with any problems they have and still provide the safety for the people around the lake. But what we got to remember, this is still a seasonal trapping, only November through February. Not many extras are around the lake that time, but it still allows that safety factor. So I think actually, if you think about this, this is a fantastic amendment, so if a county has a problem in one area, they can deal with that and still protect the areas that should be, like around that lake. Thank you. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Senator White. [LB5]

SENATOR WHITE: Thank you, Mr. President. I generally am supportive of Senator Wightman's amendment as well and I do have a series of questions for Senator Wightman, if he would yield. [LB5]

PRESIDENT SHEEHY: Senator Wightman, would you yield to questions? [LB5]

SENATOR WIGHTMAN: I will. [LB5]

SENATOR WHITE: Senator Wightman, under your amendment, could a county, for example, prohibit trapping throughout the county unless a person who wishes to trap came to the county board or a designate of it and applied for a permit? [LB5]

SENATOR WIGHTMAN: I certainly believe it would be broad enough to allow that, yes. [LB5]

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SENATOR WHITE: And then they could say, yes, you're able to trap within this specific area with this permit. [LB5]

SENATOR WIGHTMAN: That's correct. I see no reason that...anything in the amendment that would prohibit that. [LB5]

SENATOR WHITE: Could the county add additional concerns, for example, that might address some of Senator Haar's worries that, for example, the county might say that's an area where there are a lot of people so we want you to put a warning flag, you know, like one of those red construction flags, within a foot of the trap if you're going to trap there? [LB5]

SENATOR WIGHTMAN: I see nothing in the amendment that would keep the county from putting conditions on when they allow the trapping in that area. [LB5]

SENATOR WHITE: Okay. So would it be your intent in offering this then, the county would have extensive power, not only to limit where trapping could occur but under the conditions under which it could occur? [LB5]

SENATOR WIGHTMAN: Yes, that would be fine. And I really think that the counties should look carefully probably at floor debate before they allow it. [LB5]

SENATOR WHITE: Thank you, Senator. And I will yield the rest of my time, should he wish it, to Senator Wightman. [LB5]

PRESIDENT SHEEHY: Senator Wightman, 3 minutes, 20 seconds. [LB5]

SENATOR WIGHTMAN: Well, I won't use all of that 3 minutes and 20 seconds, but I do want to reiterate that I think this allows the county ultimate flexibility. I don't think there's anything in the act that would prohibit the county from placing restrictions upon the trapping within a designated area. So I think we've given the county flexibility, we've retained local control, and certainly the counties can much better address these issues than to submit it back to the Legislature at some time again and we spend three days discussing a new bill. So I certainly like the idea of giving the county not only local control but a good deal of flexibility in carrying out that local control. Thank you, Mr. President. [LB5]

PRESIDENT SHEEHY: Thank you, Senator White. Thank you, Senator Wightman. Senator Stuthman, followed by Senator Price and Senator Haar. Senator Stuthman. [LB5]

SENATOR STUTHMAN: Thank you, Lieutenant Governor, members of the body. Could

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I visit with...could I ask...I would like to ask Senator Christensen...no, Senator Wightman a couple questions. [LB5]

PRESIDENT SHEEHY: Senator Wightman, would you yield to questions? [LB5]

SENATOR WIGHTMAN: Yes, I will. [LB5]

SENATOR STUTHMAN: Senator Wightman, would your amendment deal anything with the Game and Parks as far as wildlife management? [LB5]

SENATOR WIGHTMAN: It certainly wouldn't be dependent upon obtaining any permission from wildlife management. I think wildlife management...well, at least I think Game and Parks were in favor of the original bill, as I recall, so I suppose they would be fairly lenient in granting permits anyway. But mine would not require the county to get the permission of Game and Parks to allow or prohibit trapping in a certain area. [LB5]

SENATOR STUTHMAN: Senator Wightman, do you think on your amendment, as compared to my amendment, there's a difference in local control? [LB5]

SENATOR WIGHTMAN: Well, I think there is. I think that much more flexibility is granted to the county commissioners under mine than under yours, because yours...as I understood your amendment, it was all subject to wildlife management's permission. So I just think there's more flexibility as far as the local control under my amendment. Besides, it leaves intact the Campbell amendment except for the changes that I am suggesting under AM185. [LB5]

SENATOR STUTHMAN: Would you be willing to put any signage thing into your amendment, Senator Wightman? [LB5]

SENATOR WIGHTMAN: Well, right now I don't think I am. I just think that the county commissioners can make that decision just as well as this body can make that decision. It may depend upon where the trapping is going to be located and what the possibility of, or probability at least, of foot traffic in that area is. So right now, I'm not particularly in favor of one that would require the counties to require the signage. I think the counties, at least the county commissioners I know, if requested to do so, probably have the good sense to do that on their own without being told by this body. [LB5]

SENATOR STUTHMAN: Okay. In a situation where if your amendment would pass and you have a county that doesn't allow trapping except in an area that they allow trapping, and an individual walking down the road and his animal or his horse or his pet or a child would get caught in a trap that was just a hundred feet from the designated area and the child would get hurt, what would happen or what legal rights does this family have as far as the injury they have received in a trap that was in an area that trapping was

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not allowed? [LB5]

SENATOR WIGHTMAN: Well, my opinion is it would be very difficult to bring an action against the county in that regard. They might very well have an action against the trapper, if he didn't mark the traps. I'm not sure. While I'm a lawyer, you're getting into a pretty complicated area when you're talking about governmental immunity and liability, and I think you'd have to know the facts of a particular case to really predict... [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR WIGHTMAN: ...what would happen. [LB5]

SENATOR STUTHMAN: Well, Senator Wightman, you know, this area, you know, no trapping is allowed and there's a trap in there, an individual does get hurt. But the individual, the trapper, can say, well, I really didn't know that I couldn't trap on this side of the fence or on this side of the designated area because there was no signage and there was no information that told them that they could not trap in that area. But an individual, for the safety of the people, the person that was probably walking there thought that there was, you know, no traps allowed, which we currently have, you know, no trapping in county right-of-ways. And then we got part of a community that is allowing it and part of the community is not allowing it, and this just seems like a...and no signage. I guess the people are supposed to know. I have a real concern with this. [LB5]

PRESIDENT SHEEHY: Time, Senator. [LB5]

SENATOR STUTHMAN: Thank you, Mr. Lieutenant Governor. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Thank you, Senator Wightman. Senator Price. [LB5]

SENATOR PRICE: Mr. President, members of the body, thank you. I have a confession to make and, as I do so, I'd like to know if Senator Haar would yield. [LB5]

PRESIDENT SHEEHY: Senator Haar, would you yield to a question? [LB5]

SENATOR HAAR: Love to. Thanks. [LB5]

SENATOR PRICE: Yes. Senator Haar, I have to admit, when I was a child I reached down. I reached down and I lost my thumb to a lawn mower. I was two years old. It was my birthday. And yet, and yet, I was able to serve 20 years in the military. I did receive some education. Why, even today I find myself in the very fortunate position of standing here before you today. And I don't wish to make light of anybody being hurt, but I wanted you to know that no one took action to outlaw lawn mowers. I don't have a clue



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of how many people are hurt by lawn mowers. And these were the old archaic ones. You probably remember along with me, the ones you push. But you know, they still sell them today. So I just wanted to make that confession and let you know, as we are building our bond, that I would, one, never want anything to happen to any of your grandchildren regardless if they're going for flowers or whatever they were doing, but it isn't, to me, the sole issue here. And while I understand your concern and I share it personally, I just want to let you know that this has befallen someone, a member of our body, before. Thank you. [LB5]

SENATOR HAAR: Uh-huh. Thank you. Can I respond to that or... [LB5]

SENATOR PRICE: Please. Oh, please. [LB5]

SENATOR HAAR: ...how does it work? Well, lawn mowers have signs on them and they say, you know, keep your hands and feet out. But I think as we make laws, the first concern nationally and locally and statewide is safety of our citizens, and that includes safety of my grandchildren. And I think that trumps the inconvenience of having somebody trapping in a field instead of in the ditch. And I'm sorry you lost your thumb. [LB5]

SENATOR PRICE: We've got along well without it and I would let you know that I couldn't read at two years of age and I didn't reach down because I thought the whirring blades were fun. [LB5]

SENATOR HAAR: Uh-huh. [LB5]

SENATOR PRICE: I fell down and in an attempt to brace my fall and save this mug--I guess I should have let it go--that's how I sacrificed that thumb, so just so you knew the follow on. Thank you. [LB5]

SENATOR HAAR: Sure. Sure. I also think it's common knowledge for parents that they need to, you know, that a lawn mower is a danger and when children are around a lawn mower they need to be careful. What I'm proposing is that when people use the right-of-way, they can make the assumption that it's safe. Thank you. [LB5]

SENATOR PRICE: Well, I do appreciate your comment. Thank you. [LB5]

SENATOR HAAR: Thank you. [LB5]

SENATOR PRICE: Thank you, Mr. President. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Price. Additional members requesting to speak on AM185 to legislative bill, we have Senator Haar, followed by Senator Louden

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and Senator Lautenbaugh. Senator Haar. [LB5]

SENATOR HAAR: I plan to have house...or town hall meetings in my district and one of the things I have planned to promote is that Nebraska is a beautiful state and that instead of having to go somewhere far and away, people can journey out into Nebraska and find a wonderful vacation. There are beautiful places. The Sandhills are one of my favorites. Backpacking at Fort Robinson has been one of my favorites. Nebraska, going down to watch the cranes and driving out along the county roads, seeing all the ducks and the geese and the cranes, I intend to promote that to my constituents, to my constituents in Air Park, for example. They're urban dwellers with lots of children. And I guess what I'm going to have to tell them, and this is frankly and really what surprises me, that I'm going to have to say you're safe on the roads but other than that your children may be in danger. And I'm wondering what kind of tourism message that is to a state where we're trying to promote tourism. And I'd like to ask Senator Christensen a question. [LB5]

PRESIDENT SHEEHY: Senator Christensen, would you yield to a question? [LB5]

SENATOR CHRISTENSEN: Yes. [LB5]

SENATOR HAAR: Now if I tell my constituents in Air Park, with their children, that they better stay on the roads because otherwise their children may be in danger, would you agree with that? [LB5]

SENATOR CHRISTENSEN: I don't agree with it because, for one, it's seasonal. It's not...it's in the winter months. And the other thing is, how many do you know that have been hurt? This was law before 2007 and we got no recorded people being hurt. So I think it's an overexaggeration for you to try to hurt your own area's economic development because you're scared of a trap that, when we get one, I'll step on it and let it go across my foot. There's another guy, says he'll come in with me and let it shut on his hand and show you how minor this is. I think it's an overreaction that you're going to try and hurt economic development over a little fear. [LB5]

SENATOR HAAR: So do you also, you know, a guy with a glove putting his hand in may not hurt. What about a six-year-old child? If they grabbed for something and they got their hand in a trap, do you think that would simply be an unpleasant surprise or do you think it might do some damage? [LB5]

SENATOR CHRISTENSEN: I think it's going to be something that makes them cry and scream, but how about some common sense on the adult end? We know the season is November through February, so if we're going to be out there we tell our kids, you know, there is hunting in this state for these months so this is an added thing that we're going to watch and be careful. Because that time of year, it's winter, it's frozen, and you

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explain to them, hey, if there's a little pile of leaves or a pile of weeds up sticking up, it's probably...you better be very cautious going there because it's going to look a little bit different. The idea of the trap is it sits on top of the ground, then you cover it. And so what happens is it should be obvious if we educate them, so if you're concerned, we explain it to our kids. [LB5]

SENATOR HAAR: So, in other words, if we tell them it's safe except if they go out in late November it's not safe. [LB5]

SENATOR CHRISTENSEN: That would be a better way to approach it if that's the way you believe,... [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR CHRISTENSEN: ...but I don't believe there's that much risk that I have to tell people they're going to get hurt. I would warn them that, hey, there could be traps out here, let's just be smart on what we're doing. [LB5]

SENATOR HAAR: Okay. Oh, I think it's a great tourism message. Thank you. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Louden. [LB5]

SENATOR LOUDEN: Question. [LB5]

PRESIDENT SHEEHY: There has been a call for the question. Do I see five hands? I do. The question before the body is, shall debate cease on...or call for the question? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB5]

ASSISTANT CLERK: 32 ayes, 1 nay, to cease debate, Mr. President. [LB5]

PRESIDENT SHEEHY: The motion to cease debate passes. Senator Wightman, you're recognized to close on AM185. [LB5]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I think the issue has been fairly well discussed and debated here today. As I said earlier, all AM185 does is to create more flexibility in the county commissioners or county board as far as prohibiting hunting within a particular county. It amends Senator Campbell's amendment, which was AM132 to LB5. Senator Campbell's amendment says that a county can prohibit trapping throughout the county. This just gives them the flexibility of prohibiting trapping within a county or in designated areas of a county. So it just clarifies Senator Campbell's amendment. I do ask for your support for AM185. Thank you, Mr. President. [LB5]

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PRESIDENT SHEEHY: Thank you, Senator Wightman. You have heard the closing. The question before the body is on the adoption of AM185 to LB5. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB5]

ASSISTANT CLERK: 39 ayes, 3 nays, on the adoption of Senator Wightman's amendment, Mr. President. [LB5]

PRESIDENT SHEEHY: AM185 is adopted. [LB5]

ASSISTANT CLERK: Mr. President, I have nothing further on the bill. [LB5]

PRESIDENT SHEEHY: Senator Lautenbaugh. We'll now return to floor discussion on LB5. Senator Stuthman. [LB5]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. It is surprising to see such support for an amendment that is very loosely drafted, as far as what county boards can do. Hopefully the county boards will adopt something, hopefully signage will be there. But I think...I think we're avoiding one of the major things as far as when we pass some legislation, the opting in, the opting out. People are not knowing where, where they can trap, where trapping is allowed, where public people can utilize that right-of-way if they want to use that, and that is what the right-of-way is to be used for. There was also discussion about kids; they should be looking for traps if they're in a...walking in a right-of-way. If they're out there picking up cans or anything like that, trying to beautify the right-of-ways, they should keep their one eye open, you know, because there's traps there, there could be traps there. I would venture to say that the majority of the people in the state of Nebraska do not and are not aware of the trapping season when they are walking in the road ditches. I would say when you have roadside beautification, there are areas that are designated by people that want to keep those right-of-ways clean. There are county right-of-ways that have a lot of trash dumped in them. County workers come and remove that there. And, to tell you the truth, I don't think these individuals realize, realize the trapping season. There are a lot of adults that trap, but there are a lot of youths that trap too. But I think families that are not involved in trapping have no interest in trapping but they have an interest in utilizing that right-of-way as walking their animals, their pets, walking just to walk. We have a number of people that have horses in the area. They walk down the right-of-ways with their horses. They ride horses on Saturday afternoon. They're not aware of a trapping season, when it is and when traps could be there. I think...I think we are...we have something that complicates an issue. We have areas that will be trapped. We got counties that they will not allow trapping, we got parts of counties that will not allow trapping, we got parts of counties that will allow trapping, and we've got different areas for, you know, allowing trapping or not allowing trapping. I think this makes it so that we are not defining areas. And, in my opinion, if we could have one situation, one regulation across the state of Nebraska, it would simplify it a lot. I think...I think with this,

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this amendment, and I would, you know, support the Campbell amendment where a county could totally opt out or opt in, that would be the best that I could give. But now we've got it to where now we split it all up. We may have four or five different areas in a county where you can allow trapping, and then you got four or five or ten places where you don't allow trapping. I think it's confusing, I really do. [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR STUTHMAN: I think this is a bill that we worked long and hard on, you know, two years ago. You know, in respect to trappers, we are not taking away any of the privilege of any trapper in the state of Nebraska. All we would...did at that time was say you can't trap in those 20 feet of county road right-of-way. They can still trap in the section, the other part on private lands. All you have to do is get permission. Traps are secure. People are not allowed to go on those...that property. But if you have permission, you can go there and you can feel that your traps are secure and you'll probably catch a lot more furbearing animals on private property than you ever will in the road right-of-ways. Thank you, Mr. President. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Howard. Senator Howard waives. Mr. Clerk, you have an amendment on your desk? [LB5]

ASSISTANT CLERK: Mr. President, Senator Haar moves to amend. (FA9, Legislative Journal page 379.) [LB5]

PRESIDENT SHEEHY: Senator Haar, you're recognized to open on your amendment to LB5. [LB5]

SENATOR HAAR: Mr. President and members of the body. Could you read the amendment for us or will it be up on the screens in a minute? [LB5]

ASSISTANT CLERK: The Haar amendment would provide that Nebraska tourism brochures carry this warning: "Ditches in Nebraska may contain traps." [LB5]

SENATOR HAAR: Okay. Thank you very much. It's a simple...I think if we're going to have traps in ditches and we're promoting tourism, at least people need to be warned. It says nothing about whether traps are dangerous or not. It simply says that people traveling around Nebraska should have the opportunity to know that there may be danger for their children. It seems very reasonable. It would be similar to you going into a park and, you know, Rocky Mountain National...or not that one exactly but Yellowstone Park where they say, you know, warning, don't feed the...don't feed the bears, you know, don't get out and don't get out and, personally, out of your car, and take pictures of buffalos and those kinds of things. So it's rather common to alert people to the warnings, even I guess in some of our public parks in Lincoln there are warnings

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for this or that sort of thing. So if we're going to have this hazard, this indiscriminate hazard in Nebraska ditches, and I'll let people, the tourists themselves, then decide whether or not traps are dangerous. It simply tells them, hey, there may be traps in the ditches. Thank you very much. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Haar. Members requesting to speak on FA9 to LB5, we have Senator Lautenbaugh, followed by Senator Stuthman. Senator Lautenbaugh. [LB5]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I do rise against this amendment and this bill is becoming about a lot more than it started out being about, I can tell that. Yes, it was a lot clearer in its original form than with these amendments--I just supported the last amendment--but I still support the bill. It is a good bill. And I want to announce right here on the microphone that ditches are not safe. Nothing, when you get right down to it, is safe. I almost fell down the stairs over there the other day because they're slick marble. We get by. This amendment is an overreaction and I think it's just made to illustrate a point that we're putting people at risk, a point that's yet to be demonstrated, again, I can't say enough apparently. Ditches have wildlife, broken glasses, various forms of litter, holes in them. I finally had someone tell me, I had a horse...I had a friend who had a horse step in a trap and it stumbled and we fell off...she fell off the horse or whatever. The horse hurt its leg. These traps catch animals that dig holes and I'd be willing to bet that a lot more horses hurt themselves stepping in holes dug by these animals that we're trying to trap than do in these traps. We just aren't getting there to the level where I think we should have taken away the freedom of people to do this activity in the right-of-way. I think we made a mistake in 2007. And now we're being asked to believe that this somehow is impactful on economic development and tourism. I'm not going to ask you to vote for this bill and take a leap into the unknown with me, because it isn't the unknown. We had decades of experience the other way and I think tourism was unaffected largely by the fact that we allowed trapping from November to February in the right-of-ways along the roads. This debate is starting to disturb me more because it's illustrative of what we have become. If we were the pioneers, we'd all be living in Boston or New York. We never would have hazard coming out here if this is the kind of thing that we're worried about. And it shocks me that we would suggest to put this in our tourism brochure, not...the effect won't be to alert people to a danger because, again, not a lot of risk here. The effect will be to make us look foolish because anyone reading that in a brochure would think it's something it's not or, worse yet, think we thought this was a serious risk. Again, what have we become that this is the kind of thing that we're reacting to? Are we going to wrap our children in bubble wrap and send them out into the great unknown? Is that what is necessary here? There are no guarantees. And again, there's no testimony that these traps are worth this much concern, to say the least. I now have the horse stumbling story so that's progress, but I just don't see it and I urge you to vote against this amendment and support the underlying bill. [LB5]

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PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Stuthman. [LB5]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I would like to ask a question of Senator Wightman. [LB5]

PRESIDENT SHEEHY: Senator Wightman, would you yield to a question? [LB5]

SENATOR WIGHTMAN: I will. [LB5]

SENATOR STUTHMAN: Senator Wightman, if a county wants to go through this process of opting out, what would a county do? [LB5]

SENATOR WIGHTMAN: Boy, I don't think they'd have to do any more than just pass a resolution by their county board that they are going to allow trapping...or they're going to prohibit trapping, I guess, because the bill would allow trapping and they would have to prohibit trapping. [LB5]

SENATOR STUTHMAN: Okay. Since you're an attorney, are resolutions enforceable? [LB5]

SENATOR WIGHTMAN: Well, I hope they are. It would be my opinion that they are. If they say we're going to prohibit trapping or allow trapping, I think that's going to become, for all practical purposes, the law of the county. [LB5]

SENATOR STUTHMAN: So, in other words, when a resolution is passed, that's just like a law? [LB5]

SENATOR WIGHTMAN: I think it's the law within that county. I mean, I think that's going to be controlling in that county. [LB5]

SENATOR STUTHMAN: Okay. Thank you, Senator Wightman. I would like to ask Senator Pirsch a question. [LB5]

PRESIDENT SHEEHY: Senator Pirsch, would you yield to a question? [LB5]

SENATOR PIRSCH: I would, if I can. [LB5]

SENATOR STUTHMAN: Senator Pirsch, are resolutions passed by a county board, are they enforceable? [LB5]

SENATOR PIRSCH: You know, I couldn't answer definitively with respect to that question. I was actually...you know, I've not served on the county board. If I would...you

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know, my suspicion is if there's an empowerment by the Legislature that gives the force of those resolutions the effect of law, it may be. So I guess I...probably left to better to one of the senators here who have served on the various county boards for a definitive answer. But I will certainly seek to get an answer for that question for you, Senator Stuthman. [LB5]

SENATOR STUTHMAN: Okay. Thank you, Senator Pirsch. Would Senator Campbell be open for a question? [LB5]

PRESIDENT SHEEHY: Senator Campbell, would you respond to a question? [LB5]

SENATOR CAMPBELL: Yes, Mr. President. [LB5]

SENATOR STUTHMAN: Senator Campbell, I appreciate the fact that you have served on a county board. Do you feel that resolutions are enforceable? [LB5]

SENATOR CAMPBELL: No, they are not. As I understand and as I understood when I was on the county board, the county boards are only given the authority what state statute gives to them, and we can pass resolutions but unless we're given an authority by state statute, they don't have the same power of law as an ordinance. And for all the attorneys in the body, I am not an attorney, so if I am incorrect, please step forward and indicate that. But my understanding, unless we're explicitly given a power, we cannot create law by ourselves. [LB5]

SENATOR STUTHMAN: Okay. Thank you, Senator Campbell. That was the impression that I had as...with my past experience serving on a county board. You know, a county board could pass a resolution, but that was not an enforceable act. But I think, you know, a statute, a bill passed here by the legislative body, you know, that is an enforceable act. But as far... [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR STUTHMAN: ...but as far as the resolution, and I was looking in the body...Senator Gay. [LB5]

PRESIDENT SHEEHY: Senator Gay, would you yield? [LB5]

SENATOR GAY: Yes, I would. [LB5]

SENATOR STUTHMAN: Senator Gay, you have served on the county board for 12 years. Do you feel that resolutions are enforceable or not? [LB5]

SENATOR GAY: Resolutions passed by the county are hard to enforce; however, if the



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state drafts a law, that's enforceable, is the way I always understood it, Senator Stuthman. [LB5]

SENATOR STUTHMAN: And if the county...if a county passes a resolution to opt out of the state law, is that enforceable? [LB5]

SENATOR GAY: Like you, I'm not a lawyer, but I think it is if the state law says that you can opt out. So if we draft a law here, Senator, I'm assuming that it could, yes. [LB5]

PRESIDENT SHEEHY: Time, Senator. [LB5]

SENATOR STUTHMAN: Thank you, Mr. President. [LB5]

PRESIDENT SHEEHY: Additional members requesting to speak on FA9: Senator Wightman, followed by Senator Fulton, and Senator Haar. Senator Wightman. [LB5]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. I think Senator Gay probably hit the nail on the head that if there was no enabling legislation by the state of Nebraska that probably it is not considered a law, you could not prosecute actions under it. But here, they have been enabled by the state of Nebraska, if in fact LB5 is passed, to prohibit trapping within the state. And I think once they do that, that it takes on the nature of a law passed by this Legislature. So if they prohibit trapping, my opinion is that that could be enforced because they have taken that action pursuant to a grant of power that we would have given them under LB5. Again, I don't know what the penalties would be and whether there are penalties in effect for illegal trapping, but that may well be covered by the game laws, and I certainly haven't studied those sufficiently to know. Thank you, Mr. President. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Fulton. [LB5]

SENATOR FULTON: Question. [LB5]

PRESIDENT SHEEHY: There has been a call for the question. Do I see five hands? I do. The question before the body is, shall debate cease on FA9? All those in favor vote yea; opposed, nay. Please record. [LB5]

ASSISTANT CLERK: 31 ayes, 2 nays, to cease debate, Mr. President. [LB5]

PRESIDENT SHEEHY: The motion to cease debate passes. Senator Haar, you're recognized to close on FA9. [LB5]

SENATOR HAAR: Okay. Mr. President and members of the body, Senator Lautenbaugh said that, you know, about wrapping our children in bubble wrap, well,

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what we're trying to do I think in modern society is reduce risk. For example, when I was a kid learning to drive a bicycle, I never wore a helmet, I never wore knee pads. But nowadays you see an awful lot of children wearing helmets because it's a safety issue. I agree with him that if we ever publish the information that there are traps in the ditch, the perception would be that they're dangerous, and that is my perception and that's the reason for this amendment. Thank you. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Haar. You have heard the closing. The question before the body is on the adoption of FA9 to LB5. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB5]

ASSISTANT CLERK: 4 ayes, 37 nays, on the adoption of Senator Haar's amendment, Mr. President. [LB5]

PRESIDENT SHEEHY: FA9 is not adopted. We'll now return to floor discussion on LB5. Are there members requesting to speak? Seeing none, Senator Christensen, you're recognized to close. [LB5]

SENATOR CHRISTENSEN: Thank you, Mr. President. I want to thank everyone for the great discussion that we've had on this bill. I want to thank you for the amendment that Senator Campbell brought forth that we have adopted that made it better, and Senator Wightman's. And I think this is...it's at the right time to bring this to a vote and to pass this on to second round where if there's any additional concerns we can deal with them there. Thank you. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Christensen. You have heard the closing. The question before the body is on the advancement of LB5. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB5]

ASSISTANT CLERK: 30 ayes, 10 nays, on the motion to advance the bill, Mr. President. [LB5]

PRESIDENT SHEEHY: LB5 advances. Next bill under General File. [LB5]

ASSISTANT CLERK: Mr. President, LB53, introduced by Senator Fischer. (Read title.) The bill was read for the first time on January 8 of this year. It was referred to the Committee on Natural Resources, which placed the bill on General File with no committee amendments. [LB53]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Fischer, you're recognized to open on LB53. [LB53]

SENATOR FISCHER: Thank you, Mr. President and members of the body. LB53 will

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make changes to the chartered territories of public power districts to establish one set of rules for all public power districts regardless of the number of counties that the districts operate in. The chartered territory generally includes the areas where the district provides wholesale and retail electric service and is the area from which individuals may vote and run for a public power district board of directors. The statute currently differentiates between districts that operate in 50 counties or less and districts operating in more than 50 counties. NPPD is the only district that operates in more than 50 counties in the state and, because of this, according to statute, NPPD must include the entire state in their chartered service territory with a few exclusions. The current exclusions from the service territory are Douglas and Sarpy Counties, Alliance, Blair, Fremont, Nebraska City, and Sidney. Because of the current statutory guidelines for chartered territories, many Nebraska residents with limited or no financial interest in the operation of NPPD are eligible to vote for and serve on the NPPD board of directors. In theory, I believe 11 out of the 11 directors on the NPPD board of directors could come from communities that are not vested in NPPD. In order to address the issues of equality and fairness for governing public power districts, LB53 will establish a single set of guidelines for public power district chartered territories. There is no rational basis for treating NPPD differently than other...than the other 30 public power districts in the state of Nebraska. So you may question why are there two sets of chartered territory statutes? In 1986, the Legislature passed LB949 at the request of the electric industry. The 1986 legislation created two categories of public power districts: those operating in 50 counties or less and those operating in more than 50 counties. The end result was to create statutory requirements that essentially preserved NPPD's chartered territory as it existed in the early 1980s. Unfortunately, changes in population and changes in contractual relationships are creating unintended consequences, ambiguities, and inequalities for NPPD's total requirements customers who rely upon NPPD for power supply. The simple solution is to return to one set of statutory requirements for the chartered territory of all of our public power districts. It's also necessary to clarify who is a wholesale customer entitled to inclusion in the chartered territory. LB53 adds a provision to require municipalities and wholesale customers to purchase 50 percent or more of their firm wholesale annual energy from a public power district to be included in the chartered territory of the supply district. LB53 allows voters who are directly impacted by the decision of NPPD's board of directors to receive equal and fair representation on all of the board's actions. I would point out that this legislation in no way diminishes any citizen's representation on a public power board of directors. Consumers continue to have a voice through their currently elected officials as part of a municipality, a public power district, or a cooperative. Other NPPD customers have contractual agreements that clearly define their rights as a contracting customer. Therefore, it is important to address the differences of public power customers and recognize the stake that many of our citizens have with regards to their direct costs and services. If you would look at the committee statement, you will see the bill is supported by NPPD, OPPD, the Nebraska Rural Electric Association, and various public power districts. There was no testimony in opposition at the hearing. With that, thank you, Mr.

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President. [LB53]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You've heard the opening to LB53. Mr. Clerk, we'll proceed to the first amendment. [LB53]

ASSISTANT CLERK: Mr. President, the first amendment, offered by Senator Avery, AM38. (Legislative Journal page 326.) [LB53]

PRESIDENT SHEEHY: Senator Haar, you're recognized to open on behalf of Senator Avery to AM38. [LB53]

SENATOR HAAR: Mr. President, members of the body, Senator Avery, as you know, is having...has had heart surgery, bypass surgery, is doing well and probably is as feisty as ever. I know the nurses are making him walk the second day after he had the operation. He has asked me to introduce the...his amendment and to speak for it, so pretty much I'm going to use the opening that he would have used. Senator Avery's amendment, which is AM38, changes the requirement for a community or chartered territory to qualify for a seat on the NPPD board. LB53 would require a community to buy at least 50 percent or more...LB53, as it stands, would require a community to buy at least 50 percent or more of its power to hold a board seat. This amendment would make one change and change that to 25 percent. The result would be Lincoln retaining one seat, one single seat on the NPPD board instead of two seats it now holds. Why? The issue is largely one of fairness, fairness to the NPPD customers and basic fairness for the users and ratepayers in Lincoln. Lincoln Electric System purchases more than one-third of its power from NPPD. Lincoln purchases...Lincoln's purchases comprise nearly 7 percent of the total sales of NPPD, a total of more than \$32 million in 2007. This puts Lincoln in the top four or five of all of NPPD's customers. This is Bill speaking: I said the issue was largely one of fairness; it has other dimensions. Under existing statute, NPPD is required to reexamine its chartered territories after each census to ensure that each of its subdivisions is approximately equal in population. If nothing changes, Lincoln and Lancaster County likely will get a third seat on the board, owing to substantial population growth over the past decade. This looming prospect understandably makes some of the rural districts worry that Lincoln will have too much influence over NPPD policy. The potential for a rural/urban dispute is very real, pitting Lincoln against our friends in rural areas. I do not want to see that happen. No one gains when we drive a wedge between urban and rural areas of the state, so I offer this compromise amendment to avoid this possible conflict by offering to reduce Lincoln's representation on the NPPD board from the present two members, and a possible three members, to only one. This is reasonable, it is fair, and it will avoid a great deal of grief on both sides. I urge you to support AM38 for the sake of good policy, harmony, and good will. And I would also urge you to support AM38 for the sake of good policy, harmony, and good will. Thank you very much. [LB53]

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PRESIDENT SHEEHY: Thank you, Senator Haar. Mr. Clerk, you have an amendment to the amendment. [LB53]

ASSISTANT CLERK: Mr. President, I do. Senator Haar would offer AM211 to AM38. (Legislative Journal page 379.) [LB53]

PRESIDENT SHEEHY: Senator Haar, you're recognized to open on AM211. [LB53]

SENATOR HAAR: Okay. I'm going to have the pages pass this out. I'm sorry, I'm not quite used to the flow of things or I'd a had this done beforehand. The amendment I'm handing out would simply...there apparently was some confusion, some concern expressed by NPPD of changing the 50 percent to 25 percent. This would restrict it to cities of the primary class. In other words, it restricts it to Lincoln. So with this amendment and with AM38, it basically says again, Lincoln, instead of two votes now, which is unfair, and the potential of three votes after the next census, this would give Lincoln clearly one vote. Thank you very much. [LB53]

PRESIDENT SHEEHY: Thank you, Senator Haar. You have heard the opening of AM211, an amendment to AM38. Members requesting to speak: Senator Fischer. [LB53]

SENATOR FISCHER: Thank you, Mr. President and members of the body. I rise in opposition to the amendment and to the amendment to the amendment. Senator Avery, on his amendment, knew that I would be speaking against this. We had a long conversation on it. In 1986, when I mentioned earlier that the changes were made, Lincoln supported that in order to vote for a member of the board. The chartered territory had to have 50 percent of their wholesale and annual energy from NPPD. That's the existing requirement in statute that was supported by Lincoln at that time. This bill is not directed at Lincoln. First of all, I want to make that clear. This bill is addressing fairness and equity that the people who receive their power from NPPD have a say in who makes the decisions on that board that affect them. The board sets the rates. If your rates are being set by that board, you should have a voice. Lincoln has two contracts with NPPD. They are protected through the contracts. Those contracts are signed and they're made in advance and so the people are protected in that way. LES, Lincoln Electric System, has their own board, as does OPPD. I rent an apartment in Lincoln. I pay a bill to LES. I am not asking to be on the LES board. As I said, the bill isn't directed at Lincoln. In fact, I have a member who lives in one of my communities in Broken Bow, Nebraska, who serves on the NPPD board. As a result of this bill, he will no longer be able to serve on the board because Broken Bow does not receive at least 50 percent of their power from NPPD. As a board member on NPPD, he voted in favor of this change. This bill came from NPPD. He voted in favor of that. The president of the board, Denny Rasmussen, a former state senator, is now president of the NPPD board, he is from Lincoln. He came and testified in favor of this bill at our committee, knowing

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full well that he would lose his seat on the NPPD board. In his testimony he stressed that this was a question of fairness and equity. Once again, the people whose pocketbooks are affected by electrical rates should be represented on that board, should have a voice, and they, in my opinion, are the only ones who should have the voice. Other customers with NPPD do have these contractual agreements, including the citizens of Lincoln. Also, as I said earlier, all citizens in this state have representation on a public power board, on a municipal board, or with a cooperative. We are not shutting out any citizen in this state from being represented on those public power boards. With that, I would ask you--we'll keep this short--I would ask you to vote against the amendment, I would ask you to vote against the amendment to the amendment, and then I would ask you to vote in favor of the bill. Thank you, Mr. President. [LB53]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Members requesting to speak on AM211: Senator White, followed by Senator Haar, and Senator Carlson. Senator White. [LB53]

SENATOR WHITE: Thank you, Mr. President. Would Senator Fischer yield to a question? [LB53]

PRESIDENT SHEEHY: Senator Fischer, would you yield to questions? [LB53]

SENATOR FISCHER: Yes. [LB53]

SENATOR WHITE: Senator Fischer, I have been approached by a number of people concerned with this bill and particularly concerned that it was aimed at a certain member who is currently on the board and who is, I think it's fair to say, an ardent environmentalist and that there was at least considered a side benefit that her voice would be removed from the board. Have you had anyone discuss that possibility with you that this bill, in fact, is an effort to remove a duly elected person, who does speak strongly in favor of the environment, from the NPPD board? [LB53]

SENATOR FISCHER: No, I have not and I wouldn't support the bill if that was the case. As I said, the bill came from the NPPD board. Their legal counsel wrote the bill and when we had it drafted and it is not directed at any member of the board and certainly not at my constituent who I mentioned would be...lose his position on the board, and he's from Broken Bow, Nebraska. [LB53]

SENATOR WHITE: Thank you, Senator Fischer. Can you tell us, Senator Fischer, who in Lincoln would lose their seat on the board should this bill pass? [LB53]

SENATOR FISCHER: Senator Rasmussen represents Lincoln and Mary Harding represents Lincoln currently on the board. [LB53]

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SENATOR WHITE: Is Mary Harding a strong environmentalist? [LB53]

SENATOR FISCHER: Mary, I don't usually use or make characterizations like that. I know that Ms. Harding has deep concerns and feelings for our environment and how we need to balance things in the state. [LB53]

SENATOR WHITE: Thank you, Senator Fischer, for those answers. Members of the Legislature, I have a concern. I do generally strongly agree with the idea that those who actually have a stake in an actual operation of a government, whether it is a power district or a county or a city, should be those who vote. On the other hand, unlike Senator Fischer, I've had people tell me that they find some of the environmental lobbying of board members to be burdensome and that a benefit of this bill would remove that from NPPD. If that's the case, I have a problem with the idea that we take on ideas in this state by removing the person through this kind of maneuver rather than actually challenging them in an election. I generally support the fact that Lincoln, which still does have a significant interest, I believe, in NPPD, continue to be represented on the board. And with that, I would generally be supportive of both amendments. Thank you, Mr. President. [LB53]

PRESIDENT SHEEHY: Thank you, Senator White. Senator Haar. [LB53]

SENATOR HAAR: I had passed out by the pages a policy statement passed by the NPPD board in 1986 and the underlining is mine but I really found it significant. First of all, it recognized the importance of electrical energy to present and future development. Right now that's especially important when we're thinking of renewable energy. A second point, the effect of the operations of public power districts on both its citizens and economy, I certainly agree with that. It can have a huge impact on our economy, and especially as we develop wind potential it will have even a bigger effect. And then three, the significant impact of the action or inaction of a public power district not only on its direct and indirect residential ratepayers but also on the population and economy of areas in proximity to the immediate area served. NPPD, the Nebraska Public Power District, is certainly sort of the crown jewel in the energy system for the state of Nebraska and this 1986 policy clearly states that. That all these public policy...or, I'm sorry, all the public power districts basically affect each other, have an impact on each other. And I'd certainly suggest that with Lincoln Electric System buying 33 percent of its electricity, being one of the largest customers of NPPD, that it is affected by the actions of NPPD. It certainly affects the pocketbooks of my residents in Fallbrook and they certainly have a stake in the decisions made by NPPD. And finally, point four, it's hereby declared to be the public policy of this state to provide for and encourage a broad-based representation of the citizens of this state on the boards of directors of public power districts. The point was made that LES, people in the LES area get to vote for LES. Well, I would also tell you that there are 52 municipal...52 other municipal public power bodies that vote for their board of directors, but they also get to vote for NPPD board.

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So with that, I will sit down and wait for my next turn. Thank you. [LB53]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Carlson, followed by Senator Louden, Senator Fischer, Senator Haar. Senator Carlson. [LB53]

SENATOR CARLSON: Mr. President and members of the Legislature, I rise to oppose AM211 and AM38, even though it's brought by a very good friend, Senator Avery, and I support LB53 in its original form. And I think it's not a bad idea to look back. We have hearings. We schedule them ahead of time so that people have concerns, can come and be heard. And if you notice, all the testimony was positive. There was no negative testimony. There was not even any neutral testimony. If there had been some real environmental concerns, I think the appropriate place would have been to have that registered at the hearing. It wasn't done. But we're in a system where it's perfectly okay to bring these things up on the floor and that's what we're witnessing this morning. But I would ask you to recognize that all the members of the Natural Resources Committee voted for this bill in its original form. I would ask you to support it that way. Thank you. [LB53]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Louden. [LB53]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I've been associated with electricity from time to time over the last 35 years, I suppose, there are some things that we have to point out here, I think, when it comes to Nebraska public power. They're trying to realign their districts clear across the state. At the present time where I live, I get to vote for membership on the Nebraska Public Power Board and that was what they want to change, is those areas like that. We have never gotten power from Nebraska Public Power. We've always gotten our power from a local co-op and all that power comes from Basin Electric up in South Dakota. So we are not or never have been members of that. Now as they change that area out there, the person that's on the seat in Broken Bow will probably lose his seat also, but that will have to be realigned because we have a lot of towns up and down Highway 20--Gordon, Rushville, Chadron--and even on the North Platte River, Bayard and some of them all receive power from Nebraska Public Power. So they will get some representation as they realign their chartered territories and that's what this is all about. It isn't about whether LES is going to take a beating or not. At the present time LES has their own generation plant. What they do is they contract power from Nebraska Public Power, no difference in their contract power from Mid-America or anyplace else. They have some of their own generation. I think they get some of their power from Sheldon out here south of town and they get a little bit of their power from the Gerald Gentleman plant up by...up towards North Platte by Paxton, up in that country. Actually, LES gets the majority of their power from what's known as Laramie River Station in Wheatland, Wyoming. They own...they own a substantial share of one of the generation plants in Laramie. There's three generation plants there on that Laramie River and they're all coal-fired, and the



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one that has the east-west...the east tie is where they get their power. That's the reason a few years back when the power lines went down Lincoln Electric was caught in a real lurch because most of their generation came from Laramie River in Wyoming, and with the lines down they weren't able to receive that power. And that power was set up for the east tie so they couldn't do anything with it but just let it sit idle until the lines were repaired up and down the whole length of the state of Nebraska. So this is something where they're realigning their chartered territory. Sure, there will probably be someone that will get moved off of the board. Shouldn't have anything to do with it because really LES shouldn't have that much say about what's going on with the Nebraska Public Power no more than what they should have to say with what's going on with Tri-State or with Basin Electric. They don't have members on those boards or representation so I don't see where it's anything different. So I support the underlying bill and I don't see where these amendments that are being put on here are of any value other than to make it look like LES needs some protection. And at the present time, they're doing quite well and they really don't need representation on that board. Thank you, Mr. President. [LB53]

PRESIDENT SHEEHY: Thank you, Senator Loudon. Senator Fischer. [LB53]

SENATOR FISCHER: Thank you, Mr. President. Senator Loudon has had years and years of experience dealing with electric cooperatives and I do thank him for standing and trying to clarify this for you. As he mentioned and as I mentioned before, Lincoln does have contracts. Other entities also have contracts. When you have purchases, electric purchases that are based on contracts, that cost is based only on the cost of operation of those generation stations, whether it's Sheldon or Gerald Gentleman. It doesn't account for anything else within NPPD's system and the costs that are borne by other customers, NPPD customers, within that system. They...electric systems that have contracts with NPPD are protected. In fact, LES filed a suit against NPPD for relief on a similar contract for purchase of power from Cooper Nuclear Station and they did so even though they have two members on the board. There is relief when you have contracts. All of you in here, attorneys and otherwise, who understand that, know that. Again, this is a question of fairness and equity in our system. We are allowed to vote for representation on boards that directly affect us and an example is school boards. We all know people who own land in other school districts but they aren't residents in those districts, and we have people who own a lot of land in other districts and they pay a lot of property taxes. So are we saying, okay, since you pay the majority of property taxes for this school in Valentine, Nebraska, even though you live in Omaha, you should have a vote? I don't believe that and I don't think anybody in here believes that. In essence, I think that's what this argument here has come down to, that we buy a lot of our electricity from NPPD, 30 percent, even though in NPPD's great scheme of things it's only 3 or 5 percent, but since we buy so much of our electricity from NPPD, we should have a say. This bill puts that say at 50 percent. And if you look at the history on how the 50 percent was established to begin with and all the parties agreed to, including

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residents in Lincoln, that was the standard. So that's the standard we're using in this bill. I think it's appropriate and I oppose the amendments. Thank you. [LB53]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Mr. Clerk, you have items for the record. [LB53]

ASSISTANT CLERK: Mr. President, I have a Reference Committee report regarding certain gubernatorial appointments. Your Committee on Revenue reports LB302 to General File. Your Committee on Enrollment and Review reports LB85, LB120, and LB251 as correctly engrossed. An amendment to LB204 from Senator Fischer to be printed. A series of name adds: Senator Giese to LB12; Senator McCoy to LB17; Senator Giese to LB64; Senator Coash to LB68; Senator McGill to LB346. (Legislative Journal pages 380-381.) [LB302 LB85 LB120 LB251 LB204 LB12 LB17 LB64 LB68 LB346]

And a priority motion: Senator Haar would move to adjourn until Friday, February 6, 2009, at 9:00 a.m. []

PRESIDENT SHEEHY: You have heard the motion to adjourn until Friday, February 6, 2009, at 9:00 a.m. All those in favor say aye. Opposed, nay. We're adjourned. []