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Transcriber's Office

Floor Debate
January 28, 2009

[LB1 LB2 LB3 LB5 LB24 LB28 LB44 LB45 LB48 LB53 LB61 LB74 LB75 LB80 LB85
LB87 LB92 LB99 LB100 LB101 LB105 LB108 LB120 LB135 LB189 LB192 LB204
LB251 LB259 LB331 LB342 LB438 LB666]

PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifteenth day of the One Hundred First Legislature, First Session. Our chaplain for today is Senator Dierks. Would you all please rise. []

SENATOR DIERKS: (Prayer offered.) []

PRESIDENT SHEEHY: Thank you, Senator Dierks. I call to order the fifteenth day of the One Hundred First Legislature, First Session. Senators, please record your presence. Please record, Mr. Clerk. []

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

PRESIDENT SHEEHY: Any corrections for the Journal? []

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

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

CLERK: Mr. President, your Committee on Enrollment and Review reports LB99, LB100, LB101, LB24, LB85, LB44, LB45, LB120, and LB251 to Select File, some of those having Enrollment and Review amendments attached. Mr. President, I have a Reference report regarding two bills that are rereferred. I have a confirmation report from the Business and Labor Committee, signed by Senator Lathrop. I have hearing notices from the Government, Military and Veterans Affairs Committee, signed by Senator Avery; Banking, Commerce and Insurance Committee, signed by Senator Pahls; Revenue Committee, signed by Senator Cornett; and Retirement Systems, signed by Senator Pankonin. Mr. President, committee reports: General Affairs Committee, chaired by Senator Karpisek, reports LB189 to General File; Banking, Commerce and Insurance Committee, chaired by Senator Pahls, reports LB74, LB87, and LB259 to General File; those reports signed by their respective chairs. And that's all that have, Mr. President. (Legislative Journal pages 307-313.) [LB99 LB100 LB101 LB24 LB85 LB44 LB45 LB120 LB251 LB189 LB74 LB87 LB259]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. The bears distributed today at your desk are from the K&W Apiaries in Lakeside, Nebraska. John Wilson, owner of K&W Apiaries provides honey from his bees in the western Sandhills. It is fresh Nebraska honey from

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

Floor Debate
January 28, 2009

last summer's flowers and it is being furnished to you by Senator Louden. Senator Louden, thank you. Mr. Clerk, we will move to Final Reading. Members should return to their seats in preparation for Final Reading. Senator Friend and Senator Christensen, would you please check in. Mr. Clerk, the first bill is LB1. [LB1]

CLERK: (Read LB1 on Final Reading.) [LB1]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB1 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1]

CLERK: (Record vote read, Legislative Journal page 314.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB1]

PRESIDENT SHEEHY: LB1 passes. We will now proceed to LB2. [LB1 LB2]

CLERK: (Read LB2 on Final Reading.) [LB2]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB2 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB2]

CLERK: (Record vote read, Legislative Journal pages 314-315.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB2]

PRESIDENT SHEEHY: LB2 passes. We will now proceed to LB3. [LB2 LB3]

CLERK: (Read LB3 on Final Reading.) [LB3]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB3 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB3]

CLERK: (Record vote read, Legislative Journal page 315.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB3]

PRESIDENT SHEEHY: LB3 passes. We will now proceed to LB61. [LB3 LB61]

CLERK: (Read LB61 on Final Reading.) [LB61]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB61 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Record please, Mr. Clerk. [LB61]

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

Floor Debate
January 28, 2009

CLERK: (Record vote read, Legislative Journal page 316.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB61]

PRESIDENT SHEEHY: LB61 passes with the emergency clause attached. Mr. Clerk, we'll prepare to return to General File. [LB61]

CLERK: Mr. President, on General File, the first bill this morning, LB75. It's a bill originally introduced by Senator Pirsch. (Read title.) Introduced on January 8 of this year, referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB75]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Pirsch, you're recognized to open on LB75. [LB75]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I am the sponsor of LB75. It was passed out of the Banking, Commerce and Insurance Committee on a, I believe, 8-0 vote. There were no votes against it. It's not grand in scope. LB75 would simply clarify and not make a substantive change that Nebraska financial institutions may impose ATM access charges against customers of foreign financial institutions without violating the nondiscrimination provisions of Nebraska law. While existing law allows for such charges to be imposed on customers of Nebraska financial institutions currently, and currently allows for charges to be imposed on customers of out-of-state financial institutions, say, Iowa, Missouri, Kansas, etcetera, the law is not clear with...regarding the ability to impose such fees upon customers of foreign national institutions. And by utilizing the word "foreign," I mean France, Canada, outside the United States. So I would...with that, I'll yield the balance of time and just ask you to pass it along. Thank you. [LB75]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. You have heard the opening to LB75. Before we go to floor discussion, I do have a couple of announcements. (Visitors and doctor of the day introduced.) We will now return to floor discussion on LB75. Members requesting to speak are Senator Louden. [LB75]

SENATOR LOUDEN: Thank you. Thank you, Mr. President and members. I was wondering if Senator Pirsch would yield for a question, please? [LB75]

PRESIDENT SHEEHY: Senator Pirsch, would you yield? [LB75]

SENATOR PIRSCH: I would be happy to. [LB75]

SENATOR LOUDEN: When you state in here foreign financial institutions, I guess I'm

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

Floor Debate
January 28, 2009

not quite clear, because most of our financial institutions are owned by foreign companies such as your bear on the corner and I think some of the other ones; even your Wells Fargo is out of state. But some of them are out of country, as you mentioned the French and the Chinese. How will that affect this, if you have ATM cards from these banks that are around in Nebraska but they're owned by foreign countries? Does that affect this anyway? [LB75]

SENATOR PIRSCH: My understanding--I'll confirm this--is it's the customer of foreign financial institutions, so if you're a Frenchman or a Canadian or an Englishman and that's where you're a resident of, that that would dictate. It isn't necessarily who owns the bank, and so I don't think we get into that chain of ownership question there, but I'll confirm that for you; but that's my understanding. [LB75]

SENATOR LOUDEN: Okay. I was just curious on what we were...what you were trying to do with this bill, and when you talk about these foreign financial institutions and if that were to have an effect on the way we use ATM cards now. And from Nebraska to Colorado, such as your First National Bank has banks all over several states and your ATM card is good in all of those states, is that going to affect that? [LB75]

SENATOR PIRSCH: No, it shouldn't. We're talking about mainly, I would assume, tourists who come over. They're not going to be large in number. I think the estimate is probably about ATM fees, and approximately \$20,000 per month; so less than a quarter-million dollars a year from these, essentially I believe it to be tourists or anybody over here who is a resident of a foreign country. And currently we charge these ATM fees, many banks, for residents of Nebraska or they're allowable for residents of Nebraska. They're allowable for, under current law, again for residents of Iowa, Kansas, and Missouri. We just want to clarify and make sure that the law is quite clear and explicit in saying, if we can charge them on Nebraska residents, on Kansas and Iowa residents, we ought to be able to charge ATM fees for people who come from foreign countries, Europe, and whatnot, so. [LB75]

SENATOR LOUDEN: Are those fees necessarily charged, or is it just that they may charge the fees? [LB75]

SENATOR PIRSCH: Could you say...I'm sorry, I had a little problem hearing you. [LB75]

SENATOR LOUDEN: When you charge these...when these fees are charged to foreigners, tourists, foreign tourists that come in there, is it a case where they may charge those fees or do they...will they automatically now charge those fees? [LB75]

SENATOR PIRSCH: Well, no. It's up to the bank...what it says is that if you charge...they can only charge these...any, say, tourists from, say, France who comes here. Say they want to impose \$1.50--I think that's the average ATM fee--they cannot

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

Floor Debate
January 28, 2009

charge a Frenchman any more than they can charge an individual from Missouri or Iowa. So if the ATM access fee is \$1.50 for an Iowan or a Missourian, they can't charge the individual from France more than \$1.50. [LB75]

SENATOR LOUDEN: Okay. Thank you, Senator Pirsch. [LB75]

SENATOR PIRSCH: Very good. [LB75]

SENATOR LOUDEN: Thank you, Mr. President. [LB75]

PRESIDENT SHEEHY: Thank you, Senator Louden. For the courtesy of members on the floor, if you could keep your conversations' volumes to a minimum. Are there additional members requesting to speak? Seeing none, Senator Pirsch, you're recognized to close. [LB75]

SENATOR PIRSCH: I'm just going to waive my closing, just to ask to vote green on the bill. Thank you. [LB75]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. You have heard the closing. The question before the body is on the advancement of LB75. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB75]

CLERK: 41 ayes, 0 nays, Mr. President, on the advancement of LB75. [LB75]

PRESIDENT SHEEHY: LB75 advances. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB1, LB2, LB3, and LB61. Next item, Mr. Clerk. [LB75 LB1 LB2 LB3 LB61]

CLERK: Mr. President, on LB80, by Senator Nelson. (Read title.) The bill was introduced on January 8 of this year, referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. At this time I have no amendments pending, Mr. President. [LB80]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Nelson, you're recognized to open on LB80. [LB80]

SENATOR NELSON: Thank you, Mr. President, members of the body. I have had distributed for your reference just a summary of some amendments by the Uniform Law Commissioners to Sections 409 and 505 of the Uniform Principal and Income Act, which are intended to implement technical changes related to developments and interpretations relating to tax matters by the Internal Revenue Service. And that sheet there is for your reference, just to go into a little more detail than I am here this morning, but you may want to take that with you and read it before we get to Select File. I'm here

Floor Debate
January 28, 2009

to introduce LB80. The Uniform Principal and Income Act, enacted in 43 jurisdictions, provides trustees of and personal representatives, procedures for separating principal from income as they administer a trust or probate an estate. Generally, assets allocated to principal go to remainder beneficiaries of a trust, and final distributees of assets in an estate. Assets allocated to income meet requirements of income beneficiaries during the life of the trust, and beneficiaries under a will who are to receive income derived during the administration of the estate. An unexpected ruling by IRS raised serious issues concerning retirement plan benefits, including annuities, IRAs, and a pension, profit-sharing stock bonus, or stock ownership plan. This prompted the National Conference of Commissioners on Uniform State Laws, acting on an emergency basis in 2008, to clarify the intended and previously generally understood language in Section 409 of the Uniform Act. Nebraska's version of the Uniform Principal and Income Act is contained within Sections 30-3116 to 30-3149 of our Revised Statutes. LB80 is intended to amend Sections 30-3116, 30-3135, and 30-3146, and also enact a new section within the act in order to adopt amendments approved and recommended to the states by the National Conference of Commissioners on Uniform State Laws. Section 1 simply amends Section 30-3116 to provide that new Section 4 of the bill shall be assigned within the act. Section 2 would amend 30-3135 to address the IRS position on qualifying separate property for the marital deduction. Sometimes a person leaves his or her IRA or similar retirement plan to a trust for his or her spouse, rather than to the person outright. Qualifying this trust for the federal estate tax marital deduction avoids estate tax from being incurred until the surviving spouse dies. The IRS Revenue Ruling states that when an IRA or other retirement plan is payable to a marital deduction trust, the plan is treated as a separate property interest which itself must qualify for the marital deduction. The IRS position is that Section 409, in our case Section 30-3135 as written, does not cause a trust to qualify for the IRS's safe harbor. So this revision to the section is designed to satisfy the IRS's safe harbor and address concerns that might be raised for similar assets. Subsection (f) requires the trustee to demand certain distributions from a fund if the surviving spouse so requests. The Revenue Rulings' safe harbor requires that the surviving spouse be separately entitled to demand the fund's income and the income from other assets as well. Subsection (f) also recognizes that the trustee may not control payments that the trustee receives, and provides a remedy for the surviving spouse if the distributions under (d)(1) are insufficient. Subsection (g) addresses situations where, due to lack of information provided by the fund's administrator, the trustee is unable to determine the fund's actual income. Section 3 would amend Section 30-3146, which is Section 505 of the official Uniform Laws text, which regards allocation by a trustee of taxes between income and principal. It is not uncommon for trusts which are required to pay income to a beneficiary to own an interest in a pass-through entity, such as a partnership or an S-corporation. Often, the trust is required to report its share of the entity's income, whether or not the trust actually receives all of this income. Current law provides a formula for calculating how much the trust needs to distribute and how much it can use to pay taxes. The proposed change clarifies that the trust will keep enough money to pay the taxes and then

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

Floor Debate
January 28, 2009

distribute the balance of income to the mandatory income beneficiary. Section 4 would enact a new section to provide transition rules for amendments made to the act by this bill. LB80 was heard by the Banking, Commerce and Insurance Committee on Monday, January 26, and advanced to General File by a unanimous vote of the committee members. Three proponents testified on behalf of the bill. No one testified as an opponent or in a neutral capacity. This bill basically contains technical changes which will assist trustees and personal representatives in allocating principal and income, and will ensure that assets intended to be part of a marital deduction trust shall be in a safe harbor and not be subjected to estate tax upon the death of the trustor or testator. I want to acknowledge the assistance of Professor John Gradwohl at the University of Nebraska College of Law, and Larry Ruth, a Nebraska Uniform Law Commissioner, in bringing this bill. I will appreciate your affirmative vote in moving this bill onto Select File. Thank you, Mr. President. [LB80]

PRESIDENT SHEEHY: Thank you, Senator Nelson. You have heard the opening to LB80. Are there members requesting to speak? Seeing none, Senator Nelson, you're recognized to close. [LB80]

SENATOR NELSON: I'll waive closing, Mr. President. [LB80]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Nelson waives closing. The question before the body is on the advancement of LB80. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB80]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB80. [LB80]

PRESIDENT SHEEHY: LB80 advances. (Visitors introduced.) Mr. Clerk, we'll proceed to the next item under General File. [LB80]

CLERK: Mr. President, on LB192, by Senator Pahls. (Read title.) The bill was introduced on January 12 of this year, at that time referred to the Banking, Commerce and Insurance Committee; advanced to General File. At this time I have no amendments, Mr. President. [LB192]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Pahls, you're recognized to open on LB192. [LB192]

SENATOR PAHLS: Thank you, Mr. President and members of the body. LB192 was introduced at the request of the Director of Insurance. This is the annual update and housekeeping bill proposing changes in a few of the many statutes subject to the jurisdiction of the Department of Insurance. At the hearing, the bill was supported by organizations representing insurance companies and insurance agents. There were no opponents and no amendments were offered. Under the section dealing with burial

Floor Debate
January 28, 2009

preneeds sales: The bill would provide that the director may sanction a preneed burial seller or agent who fails to respond to a written inquiry from the department within 15 days. The committee was told that this was to help the department investigate citizen complaints. The bill would require the licensee to either respond to the inquiry or request additional time within the 15 days. Failure by a licensee to do so could result in suspension or an administrative fine.

The section dealing with individual sickness and accident insurance policy provisions: The bill would amend sections which prescribe provisions of individual sickness and accident insurance policy. Specifically, the bill would allow policies to include coordination of benefit provisions to provide for nonduplication between two or more coverages, based on the rules and regulations to be adopted and promulgated by the director.

Under the section dealing with title insurance, the bill would provide that when a title insurer releases unearned premium reserves and restores them to net profits, it would do so over the course of a year in 12 equal monthly installments instead of once a year on July 1. The release of reserves for a title insurance policy is made over a period of 20 years according to a schedule set out in the statute. The practical impact of the current once-a-year release is that it distorts the financial reporting of domestic title insurers. The once-a-year release does not give the department an accurate view of the quarterly performance of our domestic title insurance. In three out of the four quarters, no reserves are released; but in the third quarter, the surplus position of the title insurer spikes as an entire year's worth of reserves is released all at once. So currently, no quarterly statement really reflects an accurate picture of the surplus position of the domestic title insurer. As proposed by the bill, a monthly release of reserves would present a much more realistic and current view of the domestic title insurance surplus position. That would assist the department in its regulatory role.

The section under insurance producer: The bill would provide for a couple of additional reporting requirements for agents and brokers. First, agents and brokers would be required to report to the director any action taken against them by a professional, self-regulatory organization such as the Financial Industry Regulatory Authority or a similar organization. That report would have to be made within 30 days of the disposition of this matter. A similar requirement is already in place with administrative actions are taken against agents or brokers in another jurisdiction. Second, agents and brokers would be required to report to the director any obligations regarding insurance premiums or fiduciary funds owed to a company within 30 days of the date of discharge or an attempt to discharge the obligation in a personal or organizational bankruptcy.

In the section dealing with insured investments: Currently, our statutes allow banks and trust companies to hold securities owned by domestic insurance companies as custodians. The bill would expand the list of permissible custodians to include the federal home loan banks. This change is endorsed by the National Association of Insurance Commissioners.

Under the section dealing with small groups: The bill would amend the Small Employer Health Insurance Availability Act. There is, in that act, a current requirement that every small employer carrier--that is, the insurance company--shall actively offer to small employees all health benefits it actively markets. The bill would provide an exception to that requirement for a health benefit

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

Floor Debate
January 28, 2009

plan marketed only through a bona fide association. That means that if the insurance company tailors their plans specifically for a particular bona fide association, the insurance company does not have to turn around and sell it to any other employer. This bill would also identify what a bona fide association is. Under the section dealing with examinations: The bill would allow the department greater flexibility in scheduling financial exams, with a maximum amount of time extended from every four years, to every five years. Additionally, the bill would increase the maximum amount of time for which licensees are required to retain market conduct records and financial records from four years, to five years, to correspond with the examination. The five-year rule would be the minimum standard, and the department can and it does intend to conduct examinations more frequently, and would continue to use the existing four-year schedule as a practical matter. The purpose of the proposed change is to allow the department to participate and coordinate multistate financial examinations. These are examinations of large companies with several insurance company subsidiaries domiciled in several states. These multistate financial examinations allow states to pool resources to get a better picture of the financial solvency of an insurance company and its place within a holding company organization. In order to participate, however, the Nebraska department needs the ability to have some flexibility, and this bill would provide that. This concludes this year's Department of Insurance update and housekeeping bill. If you have any particular questions, I do have the individuals who work for the Department of Insurance outside the glass doors if you have any questions that you would like to ask. Thank you. [LB192]

PRESIDENT SHEEHY: Thank you, Senator Pahls. You have heard the opening to LB192. Are there members requesting to speak? Seeing none, Senator Pahls, you're recognized to close. Senator Pahls waives closing. The question before the body is on the advancement of LB192 to E&R. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB192]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB192. [LB192]

PRESIDENT SHEEHY: LB192 advances. Next item, Mr. Clerk. [LB192]

CLERK: LB105, a bill introduced by the Natural Resources Committee. (Read title.) The bill was introduced on January 9; referred to Natural Resources Committee; advanced to General File. There are committee amendments pending, Mr. President. (AM6, Legislative Journal page 303.) [LB105]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Langemeier, you're recognized to open on LB105. [LB105]

SENATOR LANGEMEIER: Lieutenant Governor and members of the body, thank you. The Natural Resources Committee introduced LB105 on behalf of the Game and Parks

Floor Debate
January 28, 2009

Commission. It is the commission's catchall bill. It changes the number of statutes affecting the authority of the Game and Parks Commission. Primary, the bill establishes and revises penalties and minimum fees for violators of the Game and Parks' laws and revises the maximum permit fees. Also it allows to fish for unprotected species with a bow and arrow from a vessel using an artificial light. It adds identification requirements to boat leasing. It exempts accredited zoos from having to obtain captive animal permits. It authorizes spending authority for the commission. It clarifies nonresident and family membership permits and procedures. It prohibits certain drug administration without the commission's permission, to animals, and it revises changes for illegally selling, buying, and taking and possessing wildlife. There is a committee amendment to follow and I will stop now and talk about the committee amendment. [LB105]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. As was previously noted, there is a committee amendment from the Natural Resources Committee. Senator Langemeier, you're recognized to open on AM6. [LB105]

SENATOR LANGEMEIER: Thank you, Lieutenant Governor. AM6, offered by the Natural Resources Committee. The Game and Parks Commission requested this amendment be added to the bill. The amendment would correct an oversight dealing with resident landowner permits for elk, in dealing with the acres. It simply reinstates a provision allowing a resident landowner who leases 640 acres, to apply for a resident landowner's permit and clarifies the language that would allow a resident landowner who owns at least 640 acres to apply for a resident elk permit. With that, I would ask your support of AM6 and LB105. Thank you. [LB105]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You have heard the opening of AM6 to LB105. Members requesting to speak are Senator Rogert, followed by Senator Pirsch, Senator Stuthman, and Senator Lathrop. Senator Rogert. [LB105]

SENATOR ROGERT: Thank you, Mr. President. I was wondering if Senator Langemeier would yield to a question. [LB105]

PRESIDENT SHEEHY: Senator Langemeier, would you yield? [LB105]

SENATOR LANGEMEIER: Yes. [LB105]

SENATOR ROGERT: Senator Langemeier, I was looking at the committee statement, and I noticed there was a little opposition from the Nebraska Cattlemen. Can you address that for me? [LB105]

SENATOR LANGEMEIER: The Nebraska Cattlemen have testified, in my understanding, against any potential increased fees. They do have a number of members that are avid hunters, but they want to make sure the fees stay reasonable.

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

Floor Debate
January 28, 2009

[LB105]

SENATOR ROBERT: And did we make them... [LB105]

SENATOR LANGEMEIER: So I would classify it as mild opposition. [LB105]

SENATOR ROBERT: Did we make them reasonable fees and fines? [LB105]

SENATOR LANGEMEIER: We believe so. [LB105]

SENATOR ROBERT: Can you described bow fishing for me? [LB105]

SENATOR LANGEMEIER: Pardon me? [LB105]

SENATOR ROBERT: I believe you mentioned that there's a provision in there that talked about bow and arrow and fishing with an artificial light. [LB105]

SENATOR LANGEMEIER: Yes, there has been a request from a number of people out there that hunt with bow and arrows, that would like to use artificial lights from a boat. And maybe I would defer that question to Senator Flood. He actually has a constituent that is very, very interested in that component of it. [LB105]

SENATOR ROBERT: He's contacted me several times. So thank you very much, Senator Langemeier. Bow fishing is good. [LB105]

PRESIDENT SHEEHY: Thank you, Senator Robert. Senator Pirsch. [LB105]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I wonder if Senator Langemeier might yield for a question. [LB105]

PRESIDENT SHEEHY: Senator Langemeier, would you yield? [LB105]

SENATOR LANGEMEIER: I will yield. [LB105]

SENATOR PIRSCH: Very good. With respect to the fees, there's certain fee modifications within the LB105. That's correct, right? [LB105]

SENATOR LANGEMEIER: LB105 does not set the fees. It sets the higher parameter of the fees. The commission sets their fee within that lid. [LB105]

SENATOR PIRSCH: I see. It shall be...so the verbiage or the language within the bill is the fee shall be not more than, and then it's within the purview of the commission, you're saying to set the actual rate, is that correct? [LB105]

Floor Debate
January 28, 2009

SENATOR LANGEMEIER: Correct. [LB105]

SENATOR PIRSCH: Okay. Assuming that...and we wouldn't have any control of the rate they set, but assuming they set it at the maximum amount, would that take...I guess the question is, you know, we use...we hope to attract people to this state in terms of hunting and fishing and whatnot. The rates, even at their maximum, would still allow us to be competitive within the region in which we find ourselves. Is that fair to say? [LB105]

SENATOR LANGEMEIER: Oh, I think the Game and Parks' goal is to stay competitive. They are adamant that they want people to come and hunt in Nebraska. And in the testimony, if you look at the people that testified, we had representatives of the hunting communities support this bill and what it has in it. [LB105]

SENATOR PIRSCH: Okay. The increase in fees, would that, in turn, be used to help develop that particular sport? [LB105]

SENATOR LANGEMEIER: Correct. The fees are used by Game and Parks to further hunting ambitions across the state, whether it's recreational areas or preservation of animals. Yes. [LB105]

SENATOR PIRSCH: Okay. And are we...will we be competitive with surrounding states, then, after...I mean, assuming we're on the higher end of the scale. Do you know? [LB105]

SENATOR LANGEMEIER: You know, I don't know if an elk permit is \$100 in Nebraska and it's \$105 in Kansas. That I couldn't tell you. [LB105]

SENATOR PIRSCH: Okay. That's all the questions. I'd yield the balance of my time to Senator Langemeier if he would like them. [LB105]

PRESIDENT SHEEHY: Senator Langemeier, 2 minutes 45. Senator Stuthman. [LB105]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I would like to ask Senator Langemeier a few questions. [LB105]

PRESIDENT SHEEHY: Senator Langemeier, would you yield? [LB105]

SENATOR LANGEMEIER: Yes. [LB105]

SENATOR STUTHMAN: Senator Langemeier, in reading the proposed increase in the fees, and I will just use a couple examples that I've been working on. The resident fees

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

Floor Debate
January 28, 2009

on page 7, hunting was \$13 and now the maximum can go to \$21. That's a 61 percent increase. Fishing was \$17, and it can go to \$28; that's a 65 percent increase. But I understand that this increase can only go up 6 percent a year, am I correct? [LB105]

SENATOR LANGEMEIER: You are correct. [LB105]

SENATOR STUTHMAN: Are these fees at their limit right now--the hunting at \$13 and the fishing at \$17--are they at that already? [LB105]

SENATOR LANGEMEIER: No. [LB105]

SENATOR STUTHMAN: They are not at that already. But the situation that I'm concerned with is the fact that, yes, they want to set these limits high enough, but on the \$13 fee for hunting and going to \$21, that's nine years at 6 percent will get to the \$21 fee. Is this their intent to never bring this back for nine years? [LB105]

SENATOR LANGEMEIER: I don't know what their intent is, but the less often they have to bring it back is better. [LB105]

SENATOR STUTHMAN: Yes. Yes, that is very true. But the situation that I'm concerned with is why do you set it at a 60 percent increase when you can only increase it 6 percent and you're thinking out ten years? Why don't you just...why don't they just put it up to like \$17, or half that amount and get to that level, and then come back to the Legislature and hopefully get an additional increase in their fees. I'm concerned about that. But I do have one situation that I'd like to address with Senator Langemeier on page 21 of the bill. On page 21 of the bill, in line 9, the new language is, "Up to twenty-five percent of the money received from the sale of habitat stamps may be used to provide access to private wildlife lands and habitat areas." Explain to me why would you want to provide access to private lands? And they're going to utilize money that is generated from habitat stamps to provide an access to private lands. Explain that to me. [LB105]

SENATOR LANGEMEIER: Game and Parks would like to continue to expand the opportunity for you, as a hunter, and our children, for hunting. This would allow them the opportunity to contract with some private lands to allow you to come on and hunt. So they are trying to expand it for the hunting population. Let's say I have a big ranch but for \$1,000 I would open it up to the public for hunting, which I don't want to open it up to just somebody that knocks on the door. This would allow Game and Parks to facilitate some kind of an arrangement to open it up so more people could hunt. [LB105]

SENATOR STUTHMAN: But the situation...you know, in my opinion, that private land should already have some access. There should access to that private land. [LB105]

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

Floor Debate
January 28, 2009

SENATOR LANGEMEIER: Do you give access to your private farm that you own today? No. [LB105]

SENATOR STUTHMAN: To hunters? [LB105]

SENATOR LANGEMEIER: Right. [LB105]

SENATOR STUTHMAN: No. [LB105]

SENATOR LANGEMEIER: This would allow Game and Parks to come to you and--on your operation you have pheasants on your operation, I've been there--this would allow them to work with you. If you have a resource to allow hunting, they could make some arrangement with you to allow young children and hunters from Columbus to come out to your property and hunt. [LB105]

SENATOR STUTHMAN: But is this going to open it up to everyone when the Game and Parks provides the access to private lands? [LB105]

PRESIDENT SHEEHY: One minute. [LB105]

SENATOR STUTHMAN: I mean, are they going to say, well, Senator Langemeier, you've got 1,000 acres there and you've got 100 acres that is wildlife lands and habitat areas, and we're opening this up because Senator Langemeier is agreeable to let people on there--and he has 40,000 people that come onto that wildlife area. Is this going to create a major problem of providing access for the Game and Parks, or are they going to just allow John Doe and Alice to go onto it? [LB105]

SENATOR LANGEMEIER: If Game and Parks is involved in it, it would be my intent and my thought that if they're opening it up to the public, they're opening it up to everybody that has a license to partake in that particular hunting sport activity at any given time. I don't think Game and Parks would have any intent into going in and working with a landowner to open it up for one person to go in. That wouldn't make a lot of sense. But they would like to open it up. [LB105]

PRESIDENT SHEEHY: Time, Senator. [LB105]

SENATOR STUTHMAN: Thank you, Lieutenant Governor. [LB105]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Lathrop, followed by Senator Fulton, Senator Friend, Senator Langemeier, and others. Senator Lathrop. [LB105]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. I'm

Floor Debate
January 28, 2009

going to be opposed to LB105 and I'll tell you why. LB105 contains a variety of penalties, and we need those penalties. We have appropriate penalties in the form of identified consequences for various game violation. For example, if you discharge a gas-powered gun from a vehicle, it's a Class III misdemeanor. And that's fine. I appreciate that and we need those rules. But this bill goes a little bit further and imposes a mandatory minimum, and that, I believe, is unnecessary. It also...the federal courts have mandatory minimums for everything, and it's turned into a disaster. There are some laws I wouldn't say, as a blanket statement, that we should never have a mandatory minimum, but when you talk about a game violation and we make it a Class II or Class III misdemeanor, that should be enough. Leave to the prosecutor and the trial court the imposition of the penalty. If you have a mandatory minimum, and let's say some guy goes out and shoots the wrong kind of ducks. He shoots a bunch of hens instead of the drakes and he's got the wrong kind of ducks in his possession, or he shoots a bunch of ducks with lead shot instead of steel shot. Now we have to...now you're going to have difficulty with the prosecutor being able to work out a deal and avoid a trial and work out a plea arrangement because we've imposed a mandatory minimum for each one of these offenses instead of typically--and Senator Pirsch just helped me with this--a Class III misdemeanor carries three months in jail and a \$500 fine. That's what a judge could do to somebody for violating one of these rules. And to require that he impose--he or she--impose a mandatory minimum of \$100, I think is unnecessary. It's not the way we typically do things with our penalties; the exception being DWI statutes. But, generally speaking, we don't impose mandatory minimums. We just set what the level of offense is for a misdemeanor and we leave it to the sound discretion of the bench to impose the right fines. So with that, I appreciate your time. Thank you. [LB105]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Fulton. [LB105]

SENATOR FULTON: Thank you, Mr. President and members of the body. Would Senator Langemeier yield to a couple of questions, please? [LB105]

PRESIDENT SHEEHY: Senator Langemeier, would you yield? [LB105]

SENATOR LANGEMEIER: Yes. [LB105]

SENATOR FULTON: Senator, the cash funds that are associated with the given increases that are in the bill, can you give me some background on what...are the cash funds...is there a need for greater cash fund authority? I guess, have the cash fund balances been decreasing to the point that an increase in fees is necessary? Do you follow what I'm saying? [LB105]

SENATOR LANGEMEIER: No, I don't. [LB105]

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

Floor Debate
January 28, 2009

SENATOR FULTON: Okay. The fiscal note, there will be some cash fund expenditures, I assume to implement the intent of this bill, but there will be greater cash fund revenues that will be recognized. So we're increasing fees that will increase the amount of cash funds going into Game and Parks. [LB105]

SENATOR LANGEMEIER: Right. [LB105]

SENATOR FULTON: What was it that necessitated this bill? Was it a cash fund concern or was it more of an equality concern? I guess, what necessitated the bill itself? [LB105]

SENATOR LANGEMEIER: The number of hunters across the state and the issuing of permits is going down. So as that number goes down, they're going to have to raise their fees to keep providing this level of service. There is a provision in here, in a lifetime hunting permit. Right now, 100 percent of a lifetime hunting permit goes into a trust fund, and that trust fund (inaudible), right now, is on Appropriations. As you know, it's around \$10 million. So every time they come into Appropriations, they say, hey, you have all this money; use it. If you see, there's a provision in here to take a portion of those lifetime hunting permits, and put that over to their cash fund, which is going to generate an A bill because of that cash fund change, so there will be an A bill tomorrow to follow this if you do advance. [LB105]

SENATOR FULTON: Okay, and I'll look a little bit more into the cash funds themselves, but one of the questions I had, anyway. Secondly, and this is probably more general and more broad, I can see from the committee statement who is testifying as a proponent of the bill, and I'm curious what...were there hunters, individual hunters or individual fishermen that came in testify in any way, shape, or form on the bill? [LB105]

SENATOR LANGEMEIER: No, just the representative of the organizations that participate in hunting. [LB105]

SENATOR FULTON: Have you had any feedback? I haven't had any feedback from people so maybe this isn't a big deal. Have you had any feedback? [LB105]

SENATOR LANGEMEIER: I have had the opportunity to talk to my hunters in my area about it, and they are all supportive. They understand that they want to keep that right to hunt, and they're supportive of the fees being appropriate. And they were...and the people out in the industry, the hunters, as Senator Lathrop said so graciously--and I'm taking your time... [LB105]

SENATOR FULTON: It's all right. [LB105]

SENATOR LANGEMEIER: ...but they're very supportive of the minimum fees. Right now, when you say it's a Class III misdemeanor to go poach a deer, that doesn't mean

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

Floor Debate
January 28, 2009

anything. But when they know it's a minimum fine, which this bill would do, of \$200, they think they're going to think a little bit, because right now a good set of antlers will bring anywhere from \$100 to \$1000. So people are out there poaching them, cutting the antlers off, and leaving the carcass lay. And so they're trying to get some minimum fees out there so people say, hey, we know what we're going to get: Not just a slap on the hand. [LB105]

SENATOR FULTON: Okay. Okay, thank you, Senator. This is probably a good opportunity to point out that the relationship between average hunters and fisherman that are out in Nebraska seems to be pretty good with Game and Parks, because I haven't heard any feedback from individual hunters, fisherman, sportsmen, in my district or, probably more importantly, from back home--and usually I do when there's something that Game and Parks is doing. There wasn't any of that on this bill. So it seems that there's a pretty good relationship with the sportsmen in Nebraska, and Game and Parks, insofar as licensing and whatnot of any given game. [LB105]

PRESIDENT SHEEHY: One minute. [LB105]

SENATOR FULTON: I'm going to do a little more research, but answers the questions that I have concerns about for the average sportsmen out there, and it seems that there's at least...if there's not support, at least there's not opposition to the bill. So thanks, Senator. Thank you, Mr. President. [LB105]

PRESIDENT SHEEHY: Thank you, Senator Fulton. (Visitors introduced.) Speaker Flood, you are recognized for an announcement. [LB105]

SPEAKER FLOOD: Thank you, Mr. President and members. Given the number of bills that we're still continuing to receive in our office and with the Clerk's Office, we will be starting at 10:30 a.m. on both Thursday and Friday this week; 10:30 a.m., start time for Thursday and Friday. We will then resume our normal 10:00 a.m. time as we return next Monday for the first day of the week. Thank you, Mr. President. []

PRESIDENT SHEEHY: Thank you, Mr. Speaker. Again, for the courtesy of those that are involved in the floor discussion, if you could keep your side discussions to a minimum level. Thank you. Senator Friend. [LB105]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I just talked to Senator Langemeier. I am certainly not in a position where I believe, at this point, that I'm trying to poke him in the eye or even come close to poking the Natural Resources Committee in the eye. I understand exactly why this is happening, and I remember the last time it actually happened. I'm in support of AM6, by the way. I read that. It seems pretty innocuous and it needs to happen. So the committee amendment or AM6, the Natural Resources committee amendment, the underlying bill, the

Floor Debate
January 28, 2009

underlying effort, about three years ago Senator Schrock did some similar work the Natural Resources Committee, and this, a particular piece of legislation very much like this took forever. It took a long time. All right. Now, Chris just looked at me and kind of smiled. Well, Chris can smile. There's been good work done here. I don't even think that there's anything functionally wrong with this bill, but let me point out a couple of things. And again, this is the last time I'm going to say it. I'm not trying to poke the Natural Resources Committee or Senator Langemeier in the eye here. This may glide right through to Select File, and appropriately so. But yesterday we spent two hours on some significant...what could potentially be some significant public policy change in regarding to bonding and bonding authority. We've spent ten minutes on this bill. It's 68 pages long. I'm not going to ask for a show of hands but I'm curious as to how many people actually read and know exactly what this bill is going to do. Well, let me tell you something. I've known Pat Bourne for years now, and Pat, when he sat right down there, we had a really, really interesting--and I thought it was enjoyable--discussion, debate, argument, whatever you want to call it, about the difference between fees and taxes--the difference. Well, there are significant differences but there's also something that we have to keep in mind, I think, while we're moving forward here. Fees and certain types of taxes are very regressive. There's going to be a lot of people using these parks. These are tough economic times. We elected a new president because we didn't like the other one's ideas and we believe that previous administrations and the Congress got us into this mess. Well, look at the fiscal note on this bill, and tell me, after spending two hours yesterday on significant policy change--which was appropriate, by the way--spending two hours yesterday--and by the way, that bill moved to Select File, too, remember. But there's a lot of work left to do on it--a lot of work. That is nowhere close to the finish line. Well, this bill, after 15 minutes, we're all saying, well, you know, these are appropriate. Game and Parks needs to operate. Absolutely, Game and Parks needs to operate, and they don't have the General Fund help that a lot of other agencies and organizations have. And I would never try to mirror anything that Senator Bourne or Senator Chambers or anybody else tried to do here, but I think we need to step back and look at this thing, and I don't think Senator Langemeier would be upset by that. [LB105]

PRESIDENT SHEEHY: One minute. [LB105]

SENATOR FRIEND: He's prepared to go eight hours, ten hours, on this stuff. I've seen him do it. He can stand out here and do it. He's a big boy. The people at Game and Parks behind me, behind the glass, are going, oh, what is this guy trying to prove? Well, here's what I'm trying to prove. This is significant policy change. It was three years ago. They hammered Ed Schrock out here for at least five hours, and Ed was a big boy; he handled it. Everything went fine; there was some minor changes that were made. I'm not even proposing any changes here. I'm proposing that we step back and look at this thing and try to figure out exactly what we're going to do in a regressive way to our fee payers, to the people who are actually trying to get into parks, who are buying habitat

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

Floor Debate
January 28, 2009

stamps, who are using these services from the Game and Parks. I don't even think that Game and Parks would have a problem with that. [LB105]

PRESIDENT SHEEHY: Time, Senator. [LB105]

SENATOR FRIEND: Thank you, Mr. President. [LB105]

PRESIDENT SHEEHY: Thank you, Senator Friend. Senator Langemeier, followed by Senator Dierks, Senator Stuthman, Senator Rogert, and others. Senator Langemeier. [LB105]

SENATOR LANGEMEIER: Mr. Lieutenant Governor and members of the body, I like the discussion. One of my committee members that was new on, says, man, I didn't realize this was such a controversial committee on natural resources. And so they've gotten some...a taste of that. I rise to clarify one thing. The Nebraska Cattlemen gave me a note here. After further review on the bill, they made a mistake in their opposition. They don't have the opposition. There was a couple words in it that they, after rereading, they don't have. And I think it's crucial, as a body, that we take time. This shows that people have read these and have had some feedback on them. I don't think that's an issue and I think the discussion is good. One thing I do say is these fees out here are only on you if you decide to purchase a permit and participate; otherwise, these fees aren't affecting you. And so that's one little change in relation to the discussion we had the other day, and so, yes, I don't have a problem with the discussion. And with that, I'll conclude for now and again ask for the support of LB105 and AM6. Thank you. [LB105]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Senator Stuthman. [LB105]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I want to ask Senator Langemeier a couple more questions if he would respond. [LB105]

PRESIDENT SHEEHY: Senator Langemeier, would you yield? [LB105]

SENATOR LANGEMEIER: Yes. [LB105]

SENATOR STUTHMAN: Senator Langemeier, as we got cut short on the discussion when my time had expired, I want to discuss the fact of the private wildlife lands and the public access to that, and. [LB105]

SENATOR LANGEMEIER: Sure. [LB105]

SENATOR STUTHMAN: How does the Game and Parks determine what type of fee is to be given to that private person, say, you own the 640 acres and you've got the whole section. You've got four miles of road around it and it's public roads. But in the center of

Floor Debate
January 28, 2009

that section you've got 40 acres of wildlife habitat and good areas to hunt. How does the Game and Parks determine what they should pay you as a landowner to allow them to come into your farm place and travel through your farm place and get to an access to those 40 acres? [LB105]

SENATOR LANGEMEIER: Again, this isn't buying an access to that 40 acres. This would be allowing you to take that 160 acres that you have, and you have some pristine area that has pheasants or you have an area that really has deer, and you don't happen to hunt it. You're not a big deer hunter but it's a really good spot to deer hunt, and they want to come to you and lease that spot from you and open it up to the public. The intent of this...this isn't to buy a 66-foot-wide strip across your 160 acres to get access to a piece of ground they have. It's to try and get hunting on your property. [LB105]

SENATOR STUTHMAN: Yes. Yes, I realize that is true. The issue that I am concerned with is the fact that the driveway that goes into your farm place, and in my opinion it would be the Game and Parks coming to you, as a property owner, and saying, you know, would you allow the public to go to that 40 acres in the middle of the section and provide them access to come into your driveway, drive through your farm place, and go and hunt on that; and for that, in exchange, they're going to give you X amount of dollars. [LB105]

SENATOR LANGEMEIER: Well, that gets us in a whole different realm. You know, in Nebraska you can't landlock anybody, so now we're into the real estate which I happen to be involved in. Is if you have 40 acres that's landlocked, you have a couple options. You can go to the county and get access. You can try and negotiate with someone to get an easement across, and that typically is an arrangement we work out. Or if you go to the county, they hire me as an appraiser. I go in there and appraise what that 33-foot-wide strip or that 66-foot-wide strip is, and we have that process of buying an access in. [LB105]

SENATOR STUTHMAN: Well, I'm not saying that 40 acres that's got the wildlife habitat on is landlocked. That's part of your 640 acres that you already own, and there's 40 acres in there that's rough and it's hilly and it's a perfect place to hunt deer, and it's something that the Game and Parks would like to allow people to go on there. And in my opinion, they would have to negotiate with the landowner, that the landowner would allow the public to cross the land to get to that 40 acres that is considered the wildlife area. [LB105]

SENATOR LANGEMEIER: I see what you're saying. [LB105]

SENATOR STUTHMAN: And how does the Game and Parks determine what value would that be? Are they going to give \$1,000, \$10,000, \$50,000, or what are they going to do? And what are going to be the effects of allowing the public to cross over your

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

Floor Debate
January 28, 2009

lands and the liability and everything like that? [LB105]

SENATOR LANGEMEIER: I see what you're saying. So if you own 160 acres and it just so happens this pristine area that they want to hunt on is on the back corner... [LB105]

PRESIDENT SHEEHY: One minute. [LB105]

SENATOR LANGEMEIER: They're going to negotiate, number one, with you on letting them onto that pristine area, and the lease...the access is going to have to be negotiated with you. I don't think there's anything set in statute. They can't eminent domain a path into it, so they would have to negotiate that with the lease of your pristine hunting area. [LB105]

SENATOR STUTHMAN: But that would come down to just the agreement with the Game and Parks and the landowner to allow the public to cross through that individual's land to get to that very private wildlife area where they can hunt. [LB105]

SENATOR LANGEMEIER: Yeah, you're going to negotiate that. I mean, you as a landowner are not going to go to Game and Parks and say, hey, you can let public hunt this back 40 that I have, but by the way, I'm not letting you into it. That's isn't going to happen. [LB105]

SENATOR STUTHMAN: But then there's no way the public can get in there. But this is stating, you know, that is to provide the access, and they're trying to allow public to cross... [LB105]

PRESIDENT SHEEHY: Time, Senator. [LB105]

SENATOR STUTHMAN: Thank you, Mr. Lieutenant Governor. [LB105]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Rogert, followed by Senator Carlson, Senator Dubas, and others. Senator Rogert. [LB105]

SENATOR ROGERT: Thank you, Mr. President, members of the body. I don't know that I have any troubles with this bill and what we're doing on it either, but I did go through...it's a long bill. There's a lot of things it addresses. But I just went through and looked at a few of the changes on some of the fees for some of the permits that are going into effect if we do this bill. And I just want to bring out the fact that there are many states around us, we'll take South Dakota, for example, that a lot of folks...and Kansas--we'll use both of those--go to those two states to hunt from other states, and they buy nonresident permits. And I want to make sure that we're not discouraging economic activity into our state from those out of state that would come here to hunt. For example, a nonresident hunt and fish license is going to be \$200. A lifetime

Floor Debate
January 28, 2009

nonresident hunt and fish would be \$3,200. I don't know what it is in Kansas and I don't know what it is in South Dakota, but that's a significant dollar figure and it's a significant increase. Most of these fees are going up, not 10 percent or 20 percent, but 80 percent increases on a lot of these fees--anywhere from 50 to 80. If we need the money to run the Game and Parks Commission, that is completely fine. I understand it. But we need...you're going to get some calls and you're going to get some e-mails because this thing is going to hit the paper and they're going to say, my hunting license went from \$13 to \$21; that's a huge increase. My hunt and fish license went from \$29 to \$46, and my habitat stamp and my aquatic stamp all went up 50-60 percent as well. So now you're going to have \$100 wrapped up in a hunt and fish and two stamps. If that's fine and folks want to pay it, I have no problem with it, but we need to make sure we're not discouraging economic from within and from without our state's borders into these types of activities. I understand it costs a lot of money to run the Game and Parks Commission, and we're losing some of those funds to other areas and they're looking for ways to continue to run their operations, and I fully, fully support that. But everybody needs to be aware of what we're doing in this. And Senator Friend was right: This should take awhile. Everybody needs to look at this just a little bit and not just vote it onto Select File unless you're sure that that's what you want to do. And I have no problem with the bill. I'm going to support it. But I want everybody to understand what's going on here, because you're going to get called on it. Any time that I have left I'll give to Senator Langemeier. [LB105]

PRESIDENT SHEEHY: Senator Langemeier, 2 minutes 20 seconds. [LB105]

SENATOR LANGEMEIER: Thank you, Senator Rogert. I want to clarify one thing. As we talk about that going up 80 percent, it says in there you cannot go up more than 6 percent a year, so in many cases it will take ten years to get up that ramp. So yes, they are raised high; yes, they are going up, as Senator Rogert said--it's a very accurate statement--but they are limited to 6 percent a year. Thank you, and thank you, Senator Rogert. [LB105]

PRESIDENT SHEEHY: Thank you, Senator Rogert. Senator Carlson. [LB105]

SENATOR CARLSON: Mr. President and members of the Legislature, I'm going to make a couple of comments about some of the testimony that I've heard thus far. One of the things...and Senator Stuthman, a question about...well, I'd like to address Senator Stuthman if I could. [LB105]

PRESIDENT SHEEHY: Senator Stuthman, would you yield? [LB105]

SENATOR STUTHMAN: Yes. [LB105]

SENATOR CARLSON: You inquired and you used a couple of examples of, oh, the fee

Floor Debate
January 28, 2009

going from \$13 up to \$21, and then we've had discussion about it can only go up 6 percent a year. You did a little figuring. Did you say it would take 10 years or 11 years? I don't remember what you said. [LB105]

SENATOR STUTHMAN: According to the figures that I worked up, going from \$13 to \$20.73, using the 6 percent increase a year, is nine years it would take to get to that \$21. [LB105]

SENATOR CARLSON: Okay. And in reality, it's not really that way because it's a compound 6 percent, not just 6 percent. So every year it goes up 6 percent, then the next year you figure 6 percent, it's based on what the level is at that point. So I figured it out and it takes, from \$13 to \$21, about eight years. Well, if they only asked to go from \$13 to \$17, then in about three years they're going to come back and ask again. And so that's part of the reason that they asked for the rather substantial increase, is so they don't have to come back too often. And when you realize that it's a compounding amount, that makes a little difference. Thank you, Senator Stuthman. Senator Langemeier, if he were available, I would like to address him. [LB105]

PRESIDENT SHEEHY: Senator Langemeier, would you yield? [LB105]

SENATOR LANGEMEIER: Yes. [LB105]

SENATOR CARLSON: I've got two questions. As you addressed Senator Stuthman on the idea of leasing, and then I got distracted and didn't maybe hear exactly what was said, but if it's my land, I negotiate with Game and Parks whatever I want. Number one, they cannot come on my property unless I give permission; secondly, I can negotiate whatever price I think they're willing to pay, and if they agree to it that's what it is. Would that be correct? [LB105]

SENATOR LANGEMEIER: That is true, and if you don't agree, if you're too high, they're going to walk away. [LB105]

SENATOR CARLSON: Okay. Now, that 6 percent, is that in--I may not use the right terminology here--statute, or is that something that could change? [LB105]

SENATOR LANGEMEIER: It's in this bill. [LB105]

SENATOR CARLSON: Okay. So it can't change without legislative action. [LB105]

SENATOR LANGEMEIER: That's...I shouldn't say that. That's what...yeah, you said it correct. That's currently their policy. [LB105]

SENATOR CARLSON: Okay. That's their current policy. So they could change that

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

Floor Debate
January 28, 2009

policy. [LB105]

SENATOR LANGEMEIER: Everything is changeable; yes. [LB105]

SENATOR CARLSON: And, of course, if they did, they would be coming back to the Legislature and asking for another increase, and hopefully we'd remember that they changed their way of doing things there, and we might not look so favorably on it. Thank you, Senator Langemeier. I'd like to address Senator Friend if he would be willing. [LB105]

PRESIDENT SHEEHY: Senator Friend, would you yield? [LB105]

SENATOR FRIEND: Yes. [LB105]

SENATOR CARLSON: Senator Friend, you've given some indication about the increase in these fees and what it amounts to. What do you look at as sources of income for Game and Parks? What are the different possibilities? [LB105]

SENATOR FRIEND: Well, I know the main policy and I pointed out this out. It's my understanding that this is what they have to do. These are their...these fees...this is a cash...this is a predominantly cash-funded organization or entity, and so my idea is that they need these reviewed every three years, Senator Carlson,... [LB105]

PRESIDENT SHEEHY: One minute. [LB105]

SENATOR FRIEND: ...because this is what they live on. [LB105]

SENATOR CARLSON: Yeah, we're in agreement on that, and it puts them in kind of a difficult position. They're not asking for General Funds. We don't want them to ask for General Funds. They need to be self-sustaining but they've got to be careful about these increases so that they still remain in a competitive position. And certainly we want them to be improving habitat and doing the kinds of things that make the hunting and fishing and whatever form of recreation appealing to people. So it's a challenging situation and I think you and I agree on that. [LB105]

SENATOR FRIEND: Yes, we do; absolutely. [LB105]

SENATOR CARLSON: Okay. Thank you, Senator Friend. Thank you. [LB105]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Schilz. [LB105]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. I just want to address a couple of things. As I've seen...and I've done a little bit of research on this,

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

Floor Debate
January 28, 2009

most of these programs that the Game and Parks work out, they're obviously in cooperation with landowners, and that's what they're trying to do. They're trying to bring landowners together and provide some access on some private ground. A lot of this is moving to fee hunting, and they want to make sure that there's some places open. So I think it's a great opportunity. But the landowner does always have the final say in the programs that I've seen. So I think that that's something that this body should be supportive of, because it gives folks out there an opportunity that may not have opportunities to spend money to go on other private ground. And the other thing is, speaking to Senator Friend's remarks, out in western Nebraska and Lake McConaughy, a lot of those visitors that we have there are actually from out of state and they come along. And I can tell you this: The fees that are in Colorado on their recreation areas are much higher than the fees that we're paying here in Nebraska, and so when we see those guys come over the border, we appreciate that and we're not so worried about...we always want them to come back, obviously. But they don't even bat an eye when they pay those fees out there, so I just want to give a little perspective from the other side of the state and where that's going. And with that I'd give the rest of my time to Senator Langemeier. [LB105]

PRESIDENT SHEEHY: Senator Langemeier, 3 minutes 30 seconds. [LB105]

SENATOR LANGEMEIER: Thank you, Senator Schilz. I know there's a number of lights on, and if you look at the agenda, we don't have anything else to talk about so this isn't all bad. So I encourage the continued discussion and I think we're going to adjourn after this. But again, we'll be back to this tomorrow as we continue the discussion, and I appreciate the effort everybody has put in to read this and participate. Thank you. [LB105]

PRESIDENT SHEEHY: Thank you, Senator Schilz. Mr. Clerk, do you have messages, announcements on your desk? [LB105]

CLERK: I do, Mr. President. Your Committee on Natural Resources gives notice of hearings...series of hearings. Those are signed by Senator Langemeier. The Judiciary Committee, chaired by Senator Ashford, offers notice of hearing; Government, chaired by Senator Avery, gives me two notices. Committee reports: The Committee on Natural Resources reports LB5 and LB53 to General File, those signed by Senator Langemeier. Transportation reports LB28, LB48, LB204, LB331 to General File, and LB108 indefinitely postponed; those signed by Senator Fischer. Appropriations Committee reports LB135 to General File; that report signed by Senator Heidemann. Bills read on Final Reading this morning were presented to the Governor as of 11:02 a.m. (Re. LB1, LB2, LB3, LB61.) A series of name adds. Senators Dierks, Haar, Pahls, and Lathrop would like to add their name to LB92; Senator Howard, LB342; Senators Giese, Stuthman, and Coash to LB438; and Senators Giese and Stuthman to LB666. (Legislative Journal pages 317-319.) [LB5 LB53 LB28 LB48 LB204 LB331 LB108]

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LB135 LB1 LB2 LB3 LB61 LB92 LB342 LB438 LB666]

And, Mr. President, a priority motion. Senator Avery would move to adjourn the body until Thursday morning, January 29, at 10:30 a.m. []

PRESIDENT SHEEHY: You have heard the motion to adjourn until Thursday, January 29, 2009, 10:30 a.m. All those in favor say aye. Opposed, nay. We are adjourned. []