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Floor Debate  
February 03, 2009

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[LB5 LB74 LB83 LB87 LB90 LB105A LB105 LB116 LB142 LB158 LB167 LB168 LB189  
LB207 LB231 LB259 LB322 LB449 LB520 LB555 LB614 LR17]

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the nineteenth day of the One Hundred First Legislature, First Session. Our chaplain for today is Father Brendan Kelly of the Blessed Sacrament Church in Lincoln, Nebraska, from Senator Coash's district. Please rise. []

FATHER KELLY: (Prayer offered.) []

SPEAKER FLOOD: Thank you, Father Kelly. I call to order the nineteenth day of the One Hundred First Legislature, First Session. Senators, please record your presence. Record please, Mr. Clerk. []

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

SPEAKER FLOOD: Thank you, Mr. Clerk. Are there corrections for the Journal? []

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

SPEAKER FLOOD: Are there any messages, reports, or announcements? []

ASSISTANT CLERK: New resolution: LR17 by Senator Utter would congratulate Grant Eddy on achieving the rank of Eagle Scout. Committee report: LB142 is reported by the Committee on Agriculture to General File with amendments, as is LB231. Have a notice of committee hearing from the Nebraska Retirement Systems Committee. (Legislative Journal pages 351-352.) [LR17 LB142 LB231]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Wightman, for what purpose do you rise? []

SENATOR WIGHTMAN: I'd like a point of personal privilege, Mr. Speaker. []

SPEAKER FLOOD: You may proceed. []

SENATOR WIGHTMAN: I would like to let the body know I visited by telephone this morning with Senator, our colleague, Senator Bill Avery. He was doing well. He was taking breakfast. He said the nurses were about to take him out on his first walk down the hallway this morning, so great news. He seemed to be feeling in great spirits. Thank you, Mr. Speaker. (Applause) []

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

Floor Debate  
February 03, 2009

---

SPEAKER FLOOD: Thank you, Senator Wightman. We now proceed to the agenda, General File, LB259 introduced by Senator Utter. Mr. Clerk. [LB259]

ASSISTANT CLERK: Mr. President, LB259 introduced by Senator Utter. (Read title.) The bill was read for the first time on January 14, referred to the Banking, Commerce and Insurance Committee. That committee reports the bill to General File with committee amendments attached. (AM4, Legislative Journal page 311.) [LB259]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Utter, you're recognized to open on LB259. [LB259]

SENATOR UTTER: Thank you, Mr. President, and good morning, colleagues. LB259 is a relatively simple bill that seeks to clarify that for purposes of the requirement for a bank to provide security for public funds in excess of the amount insured by the FDIC, that the references to the amounts insured shall include the amounts guaranteed by the FDIC. The confusion has arisen in a number of the state statutes that refers to FDIC insurance that refers strictly to the insured amounts by the FDIC. Under the new regulations that came forth in October of this year, the FDIC insurance, of course, was raised to the \$200 and...from \$100,000 to the \$250,000, and there were several references included in those regulations that referred to the amounts guaranteed by the FDIC. All this legislation does is simply clarify that for purposes of the financial institution pledging for public fund requirements, references to the amounts guaranteed by the FDIC shall include the amounts insured by the FDIC, that the insured and guaranteed simply mean the same thing. That concludes my opening. [LB259]

SPEAKER FLOOD: Thank you, Senator Utter. There are committee amendments to LB259. Senator Pahls, you're recognized, as the Chairman of the Banking, Commerce and Insurance Committee. Senator Pahls. [LB259]

SENATOR PAHLS: Thank you, Mr. President and members of the body. The committee amendments to LB259 are clearly cleanup amendments. They were recommended by the Revisor of Statutes. After LB259 was introduced, two additional sections were found that should have been included in the bill in the first place. The committee amendments would insert and amend these sections so they would refer to the amounts of local subdivisions' public funds guaranteed by, as well as insured by, the Federal Deposit Insurance Corporation. Again, these are simply cleanup amendments. Thank you. [LB259]

SPEAKER FLOOD: Thank you, Senator Pahls. Members, you've heard the opening on AM4, committee amendments from the Banking, Commerce and Insurance Committee. Are there members wishing to speak on AM4? Seeing none, Senator Pahls, you're recognized to close. Senator Pahls waives his closing on AM4. The question before the body is, should AM4 be adopted? All those in favor vote aye; all those opposed vote

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

Floor Debate  
February 03, 2009

---

nay. Have all those voted who wish to? Mr. Clerk, please record. [LB259]

ASSISTANT CLERK: 42 ayes, 0 nays, on the adoption of committee amendments. [LB259]

SPEAKER FLOOD: The committee amendments are adopted. (Doctor of the day introduced.) Returning to discussion on LB259, there are no members wishing to speak at this time. Senator Utter, you are recognized to close on LB259. Senator Utter waives his opportunity to close. The question before the body is, should LB259 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB259]

ASSISTANT CLERK: 42 ayes, 0 nays, on the motion to advance the bill, Mr. President. [LB259]

SPEAKER FLOOD: LB259 advances to E&R Initial. Mr. Clerk, we now move to LB5. [LB259 LB5]

ASSISTANT CLERK: Mr. President, LB5, introduced by Senator Christensen. (Read title.) Bill was read for the first time on January 8 of this year, referred to the Committee on Natural Resources. That committee reports the bill to General File with no committee amendments. [LB5]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Christensen, you are recognized to open on LB5. [LB5]

SENATOR CHRISTENSEN: Thank you, Mr. President and colleagues. LB5 would repeal the current prohibition on trapping in county road right-of-ways which the Legislature passed in 2007 after an amendment was adopted to LB299 on Select File. Last session I introduced LB743 to repeal the ban. It advanced to General File. It was prioritized but failed to see any debate due to time constraints. LB5 would fix what I believe to be a poor public policy. The Legislature did not adopt the amended based on the broad picture of what is best and reasonable for the whole state, but drove a policy based primarily on a single incident that was already illegal. The ban on trapping in county road right-of-ways ignores the legitimate interest and needs of local government, wildlife management, rural economic interests, and agriculture. Instead, the ban evolved from what I believe is misinformed notion that the public was being exposed to too high a safety risk. I believe you will see that these facts do not support the conclusion. In the packet I've handed out are the regulations that were in place by Game and Parks prior to the ban in 2007. In addition, the packet has two pictures made to scale of two different types of traps. The first one is an illegal trap of the kind involved in the two instances used as a reason against LB5. The second picture is a trap that would have been legal prior to the ban. The current ban does nothing to stop those who ignore the

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

Floor Debate  
February 03, 2009

---

law and set illegal traps we have...as we have recently read about in the paper, but burdens those who do obey the law. Poorly thought-out laws create negative consequences. In this instance, some of the negative consequences are the loss of public services to local political subdivisions, the loss of property rights for owners who want to properly manage wildlife, the loss of income and economic activity, and an increase in damages to roads, crops, and other property. An example of this is a letter I received from Dawson County Board which was entered into the record at the hearing in Natural Resources Committee. If you look at what we done when we repealed this, you got to remember the policy that we set forth was because of illegal traps. You cannot regulate against criminals. If people are going to break the law, they're going to break the law at any time. That is a choice people make and that's why we have penalties. If we want to defer people from doing this, we need to look at harsh penalties because you cannot regulate against criminal activity. And so I want you to think about what we done when we had an illegal trap that killed a dog. We set up a policy that we were not going to allow trapping no more. That was not the policy and the direction I believe this Legislature intends on going. We need to set forth good policy that makes sense for the citizens of Nebraska that we can better serve them and not take away the rights of the innocent over someone using an illegal trap. Thank you. [LB5]

SPEAKER FLOOD: Thank you, Senator Christensen. Members, you've heard the opening on LB5. Mr. Clerk, are there amendments to the bill? [LB5]

ASSISTANT CLERK: Mr. President, Senator Campbell would offer AM132. (Legislative Journal pages 353-354.) [LB5]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Campbell, you're recognized to open on AM132. [LB5]

SENATOR CAMPBELL: Thank you, Mr. President. AM132 would allow the counties to opt in or out of illegal trapping, and I realize that as a body in the coming weeks many of us will be arguing on both sides of the issue of opting in or opting out as we look at policy across the state of Nebraska. I would ask each of us in the Chamber to think thoughtfully about opting in and out as a policy on each of the bills that will come before us. I am presenting this amendment because I believe that there are differences in counties across the state of Nebraska and what one county may need another county may not. I'm going to use the example of Lancaster County because that's the one I'm the most familiar with. In Lancaster County, we have had a ban on trapping for 20 years. In fact, it was one of the first issues that I faced as a county commissioner, so we think it was either passed in '87 or '88. In a growing county such as Lancaster, which is becoming more and more urbanized, we are having an increasing amount of acreages, very small agribusinesses all throughout the county. Therefore, we have many more people on the county roadway and many more people who have the potential of being involved in the county right-of-way. I would hope that you would look at this amendment

Floor Debate  
February 03, 2009

---

as a possibility to give the counties who may need to regulate trapping that ability, rather than to say, well, we can go across the state with a generalized policy. Thank you, Mr. Speaker. [LB5]

SPEAKER FLOOD: Thank you, Senator Campbell. You've heard the opening on AM132. We now return to discussion on the amendment. Senator Christensen, you are recognized. [LB5]

SENATOR CHRISTENSEN: Thank you, Mr. President. Reason I'm not in favor of opting out by counties is the fact that I don't think that's the direction that we want to go. I think there's a better way to handle the situation. I've got an amendment here that I'll be introducing here shortly, as I get down there, that allows metropolitan classes, primary class, and first-class cities to opt out within their extraterritorial zoning area. That would allow you to put in extra safeties for people that are walking along, cities, too, but it still allows the counties to take care of the problems like the letter that I handed out that have problems. They could allow some trapping to be done in just isolated areas of the higher traffic. I believe that is sound policy and that's why I have agreed to offer this amendment. I think it's a better direction to go than setting up where are we going to be trapping and allowing people to trap, because there is not markings everywhere. If you got this county is in, the one beside it is out, the lines aren't marked on every county road. Highways a lot of times are marked, but they're not marked everywhere. You're going to have people again not knowing what they're doing, where they're going. What's the best policy to set up? So that's why I've been working with a number of senators that had concerns around the larger cities, and this actually will take in any city from 5,000 and larger by throwing in first class, that within their zoning, which is three miles on the larger cities and two miles on the smaller one, they'll be able to opt out if they choose to, if they have a safety concern or they don't. What you need to remember on this trapping is there's not traps everywhere just because they're allowed. People set up traps because there's a problem. No one is going to go out, waste their time setting up a trap somewhere unless there's evidence that there's predators running around so...because trappers don't want to waste their time either. They're out there to make the extra cash, take care of problems that might be in the adjoining field, so they're out there taking care of a purpose, to take care of a problem that is observed. So you don't have to worry about that if you're going to be in that ditch that there's a trap every few feet or even in every mile around, because if there's no evidence of badger holes or beaver dams in creeks and streams that are close, then there's not going to be traps in that area because you'd be wasting your time. So I think when you look at this situation, the number of traps you're looking at is very minimal. They're not all over. Yes, there has been some illegal traps set. There's been a person caught, a dog killed. These things can happen but the number of instances are very small, and that's why I'm offering this next amendment that will allow to have... [LB5]

SPEAKER FLOOD: One minute. [LB5]

Floor Debate  
February 03, 2009

---

SENATOR CHRISTENSEN: ...some options out on the outside of cities, because I think that's good policy. That's what I'm asking everybody to think about here--what is good policy? Good policy is set up upon what the legal trappers are doing, not set up on emotion of illegal trappers. Thank you. [LB5]

SPEAKER FLOOD: Thank you, Senator Christensen. Returning to discussion, we have Senators Hadley, Stuthman, Haar, Lathrop, Wallman, and Dierks. Senator Hadley, you are recognized. [LB5]

SENATOR HADLEY: Mr. President and members of the body, I would just make a comment on AM132. Again, it concerns me when we set up a system where we have counties, cities that can opt in and opt out of things. We saw in the concealed weapon carry the problems we had when we had cities that could opt in and out. And I know it is hard at times for people to know where things are legal and not legal, and I think Senator Christensen made a good point of not knowing where county lines are and making sure that we make it a level playing field. So I have a concern about cities and counties opting out. Thank you, Mr. President. [LB5]

SPEAKER FLOOD: Thank you, Senator Hadley. Senator Stuthman, you are recognized. [LB5]

SENATOR STUTHMAN: Thank you, Mr. Speaker and members of the body. I would like to engage in a little conversation with Senator Christensen. [LB5]

SPEAKER FLOOD: Senator Christensen, will you yield to a question? [LB5]

SENATOR CHRISTENSEN: Yes. [LB5]

SENATOR STUTHMAN: Senator Christensen, in your discussion on the last time you were speaking on the floor you had stated that the people that trap in road right-of-ways, they trap there because there is a problem. Can you explain to me what you mean by there is a problem? [LB5]

SENATOR CHRISTENSEN: Well, they've seen evidence of animals running there. Okay, if you're after a badger or if you see the badger hole, then you know they're going after that. If there's a beaver dam blocking a tube, then they go after that. If they're looking for trapping coons, they're also looking for tracks that are left by these animals and you can see trails. That's why roadways work so well, is they...the animals are habits of running in the same spot, so that you can see where they've been. That's what I meant by evidence. [LB5]

SENATOR STUTHMAN: Yes, that is what I thought you meant by that, but that would

Floor Debate  
February 03, 2009

---

be the evidence. But is that a problem if a coon has a trail coming out of a field and across the road and down through the ditch and to the next field to some other habitat? Is that a problem? [LB5]

SENATOR CHRISTENSEN: Okay, that comes down to personal preference. If they're along my field it's a problem. I get tired of losing ears of corn, crop damage, and I'm one of those, I'll almost take the ditch to run over one, I hate them so bad, but that's beside the point. (Laugh) It's just the damage that they do, you know? And if you're out after the fur, you're looking for evidence that they're there to justify putting your trap there, and that was my point. [LB5]

SENATOR STUTHMAN: Okay. Thank you, Senator Christensen. And we was talking about that, the road right-of-way and he considered it a problem if the animal, the furbearing animal, was going across that road right-of-way and the trappers would then try to trap that animal in that road right-of-way. I want to give you a little bit of information as far as what I think about the whole situation. You have a road right-of-way, which is a 66-foot road right-of-way with a 26-foot top of a road, so you got about 20-foot of road ditch there left, anywhere from 30 to 40 feet of road ditch left where they're probably going to trap, unless it's under a bridge. But you take a section of ground of 640 acres where they can trap and you take 8 acres away for road right-of-way around the section, the complete four miles considering that it's 2 acres per mile of those 20 feet of road ditch. So I think these trappers have a lot of acres that they could trap on. Yes, they need to get permission from a landowner to trap on that, but what really difference is there that they have to...think they have to trap in the road ditch when they've got 632 acres to trap on in that one section and we're concerned about the 8 acres in the road right-of-way that they want to trap in because there's a problem area there? Well, if there's a problem area in those 20 feet, from 15 to 20 feet in the road ditch on each side of the road, you know, there must be a major problem in those 600 acres, 632 acres. I think the trappers, you know, I've been approached by some trappers saying that we need to be able to trap in that road right-of-way. Well, why can't they just go across the fence... [LB5]

SPEAKER FLOOD: One minute. [LB5]

SENATOR STUTHMAN: ...and get permission from the landowner to trap there? I am sure that trail comes further than fence to fence that they could trap there. And then there they don't have to worry a thing about, you know, they're in a road right-of-way, is somebody going to be driving through it, is somebody going to be taking the traps or anything like that that's in that road right-of-way. I'm thinking, you know, on Senator Campbell's amendment, but that does make it, you know, one county against another county and trappers do not know where they're at. You know, we worked very hard on this bill two years ago and I think we should stay with what we have, see how it works. We have never really given it an opportunity to work out yet at the present time. Thank

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

Floor Debate  
February 03, 2009

---

you, Mr. Speaker. [LB5]

SPEAKER FLOOD: Thank you, Senator Stuthman. Senators wishing to speak at this time include Senator Haar, Lathrop, Wallman, Dierks, Karpisek, Stuthman, Wightman, Christensen, and Carlson. Continuing with discussion, Senator Haar, you are recognized. [LB5]

SENATOR HAAR: Yes, thank you, Mr. President and members of the body. I have a couple questions for Senator Christensen. [LB5]

SPEAKER FLOOD: Senator Christensen, will you yield to a question from Senator Haar? [LB5]

SENATOR CHRISTENSEN: Yes. [LB5]

SENATOR HAAR: Thank you. First of all, a legal trap has to be tagged so we know who it is that put the trap. [LB5]

SENATOR CHRISTENSEN: Correct. It's got to have an identification tag on the side, yes. [LB5]

SENATOR HAAR: Okay. Now are traps...are legal traps hidden or are they in plain view? [LB5]

SENATOR CHRISTENSEN: They can be in plain view. [LB5]

SENATOR HAAR: Generally though, I did a little trapping when I was a kid, but we tried to hide the trap so that the animal wouldn't see the trap. So if I went down in a ditch, would I be likely to see a legal trap or not? [LB5]

SENATOR CHRISTENSEN: Probably not. It all depends upon the situation. We trap coons around our silage piles. We don't even cover them. They're abundant. They run over them. But most of them, yes, they're going to probably be covered. [LB5]

SENATOR HAAR: Okay. Well, I will support Senator Campbell's bill, but I just would like to relate a couple instances. When I was young and in love with this one young lady, we were driving back from Omaha on a country road and there...it was late fall, there was a beautiful stand of scarlet sumac and so I said, let's stop and take your picture. So she went down in the ditch and I took her picture and it was a great picture, and later we fell out of love. But anyway, (laughter) I had no idea, number one, which county I was in and, number two, that I might have been sending my girlfriend down to step in a trap. And it may not have killed her or hurt her seriously, but that could have ended things sooner I think. There was another time when I was backpacking in Fort Robinson, which

Floor Debate  
February 03, 2009

---

is a great place to backpack, by the way, and I was coming back and I saw some small foxes, I guess they're called kits, were out playing and this was right near the edge of the road. I stopped my car a little ways ahead and I tried to sneak back to get a picture. I walked through the ditch to get a picture, but I wasn't...you know, they saw me coming, they ran down the hole. But my point is, first of all, I used the public ditch, I used the right-of-way and I'm not sure what county I was in at all. Another instance: as you can tell, I've used the ditches pretty often in Nebraska--a number of times I've seen inmates out along the road collecting trash and they're walking in the ditch. Again, if the traps had some clear indication that they were there, that wouldn't be a problem. But as Senator Christensen said, usually they're hidden. My administrative assistant said that she sometimes rides her horses in that right-of-way along the county road. I've seen Boy Scouts and Girl Scouts down in the ditch collecting trash, and again we've heard that most often the traps will be hidden. And then the thing that makes it very emotional for me is--I live out in the country near Branched Oak Lake now--is that occasionally I've sent my grandchildren down into the ditch to pick up trash or pick up weeds or pick up plums or things like that, and in that case I knew I was in Lancaster County but this could have also been almost anywhere and I wouldn't know which county it is. So obviously I'm against traps in the right-of-way. I will vote for Senator Campbell's amendment because... [LB5]

SPEAKER FLOOD: One minute. [LB5]

SENATOR HAAR: ...I think it's a step in the right direction. Thank you. [LB5]

SPEAKER FLOOD: Thank you, Senator Haar. Senator Lathrop, you're recognized. [LB5]

SENATOR LATHROP: Thank you, Mr. President. Ken Haar, that was a great story. (Laugh) I'm standing in opposition to LB5 and I want to give you a different perspective because this has turned into kind of the sportsmen's debate and it's a question of whether you're kind of one of these city guys or you're with the sportsmen. And I'll give you a different perspective because almost since I was old enough to climb in the pickup truck I started hunting quail and pheasants with my father. I still hunt quail and pheasants with my brother. And we do that with a dog, Pointers primarily and some other dogs over the years, and these traps, these traps are going to snare dogs, they're going to break legs. And let me tell you kind of how that works because you can...and typically, if you're going to go hunt quail, which is what I do mostly and a lot of people in this state do and this is...a lot of people hunt pheasants in this state and this is a draw to the state relative to tourism. You show up, you get permission, you get the dogs out of the back of the pickup truck, and they don't just sit there like your house pet. The first thing that they do is run up and down the road and then, as they are...instinctly do, they run through the ditches and all while you're putting shells in your gun and getting ready to cross the fence. You cannot take a Pointer or a Brittany or any other pointing dog, a

Floor Debate  
February 03, 2009

---

Lab, and have them sit someplace and not run up and down these ditches. And these traps are going to trap dogs and injure them, and for what purpose? Why are we...why are we having a debate about letting people trap in the right-of-way? We have the entire state of Nebraska minus the right-of-way to trap in, and now we got to have...stick our spear in the ground on the right-of-ways. I will tell you that when you change a tire you could step into one of these traps in the right-of-way. I have also ridden horses in the right-of-way. When I was a young man, we'd ride horses a lot when I was growing up and we'd typically, to not be in the way of traffic, we'd ride those horses in the right-of-way. We are setting up traps. We are setting traps that dogs, animals, people can be caught up in, and for what purpose? Take them on the other side of the fence where you have permission, take them out of the right-of-way. This bill doesn't even stop somebody from setting up a trap in the middle of the road. It's part of the right-of-way, right? So we could set a trap up in the middle of the road and do it lawfully, now that this is no longer a prohibition. We can set them up in the right-of-way along Dodge Street. Okay? There are people that are changing tires and walking through there. There are people that walk in right-of-ways. There's no limitation on this. I appreciate the amendment offered by Senator Campbell and I've had a conversation with her about this. I am not going to support the amendment because I think it makes the bill a little easier to vote for. I'm going to oppose or vote against AM132 so that I can put and leave, at the time of our vote, LB5 in its raw, unadulterated authorization for people to set traps for anything that walks by. There's no requirement that there be a flag, so if you're dropping your hunting dog near a field you don't know if there's a trap in there, the dog doesn't know there's a trap in there. You can't take any precautions if you're riding a horse in that ditch. If you are out in the ditch to take a picture of your girlfriend next to the sumac, you don't know that that's there. And people are in those ditches... [LB5]

SPEAKER FLOOD: One minute. [LB5]

SENATOR LATHROP: Thank you, Mr. President. There are people in those ditches for a lot of different reasons, many of which are lawful--picking wild elderberries, picking wild plums, hunting, access to fields. You can have a lot of lawful reasons to be in that ditch and now you're subject to being trapped by a trap that is concealed and could just as easily be on the other side of the fence, which is private property, not in the right-of-way. And I think this isn't about stopping predators. It's about getting skins from something like a raccoon, and that's fine. I understand it and I don't mind it. And we've tried to get permission to hunt fields and the farmer will say, no, I'm not going to let you in there, you got bird dogs and I have traps in there. Thank you. You know, I don't want to hunt in your field if you got traps in them, but it's your field, you can trap in it. But you're going to have...I'm telling you, you're going to have every yahoo from Omaha out in counties all across the state... [LB5]

SPEAKER FLOOD: Time, Senator. [LB5]

Floor Debate  
February 03, 2009

---

SENATOR LATHROP: ...dropping traps. Thank you. [LB5]

SPEAKER FLOOD: Thank you, Senator Lathrop. Continuing with discussion, senators in line to speak: Senators Wallman, Dierks, Karpisek, Stuthman, Wightman, Christensen, Carlson, Dubas, Schilz, Lautenbaugh, and others. Senator Wallman, you are recognized. [LB5]

SENATOR WALLMAN: Thank you, Mr. President. I'd like to ask Senator Christensen a question. [LB5]

SPEAKER FLOOD: Senator Christensen, will you yield to a question from Senator Wallman? [LB5]

SENATOR CHRISTENSEN: Yes. [LB5]

SENATOR WALLMAN: Yes. Do you know if there's live traps available that you can trap live animals? [LB5]

SENATOR CHRISTENSEN: Sure, there's live traps made, yes. [LB5]

SENATOR WALLMAN: Do you think that's a more humane way to go with trapping? [LB5]

SENATOR CHRISTENSEN: It all comes down to what you're trying to catch and whether they can be utilized. When you get a visual trap, it's more difficult to trap certain types of animals. That's why they're not used, because they're...if you got a big cage, it's easily seen. That's the reason for that. [LB5]

SENATOR WALLMAN: Thank you. I have a person in my district that makes traps and also I got a lot of hits with the way I voted last time on this trapping bill, because they do a lot of trapping and they catch live animals. And he moves them to different areas where...or he kills them. And we have way too many skunks and possums and, you know, raccoons and badgers. And I live in the Three Rivers area where there's a lot of woods, so we have lots of wild animals, but they can be trapped live. Then you can shoot them or euthanize them somehow, you know. So if we vote for a trapping bill, the trappers, they will adapt, I think, and I am for trapping, plain and simple. I think we need to trap, whether it be the roadside or whether it be the field. But with their cattle, people in my area have dogs that drive cattle, there's concern about--they let me know last night--they're concerned about the dogs getting in the trap. And I used to drive cattle myself with dogs, so...but I still think I like Senator Campbell's amendment. Thank you, Mr. President. [LB5]

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

Floor Debate  
February 03, 2009

---

SPEAKER FLOOD: Thank you, Senator Wallman. Senator Dierks, you're recognized. [LB5]

SENATOR DIERKS: Thank you, Mr. Speaker and members of the Legislature. I'd like to...I'd like to ask Senator Christensen a question, please. [LB5]

SPEAKER FLOOD: Senator Christensen, will you yield to a question from Senator Dierks? [LB5]

SENATOR CHRISTENSEN: Yes. [LB5]

SENATOR DIERKS: Senator Christensen, I noticed by the committee statement that the Nebraska Association of County Officials objected to this legislation. Can you tell me why that was? [LB5]

SENATOR CHRISTENSEN: They come in and they testified. They said they had a long discussion on it. They...it was probably the most neutral opposition testimony ever had. They said it was a very split discussion for the...the weighing factor was they thought there maybe was some safety issues, was the reason that they opted. But they said they had counties in support, they had counties in opposition, and that they had to take a formal stance and then they went to the opposition. [LB5]

SENATOR DIERKS: Thank you. I've had some observations of my own concerning this. I, as a practicing veterinarian, I was able to or asked a number of times to take care of animals that had been caught in traps in the right-of-way before the legislation was passed a year ago. And so I mean that, I know it's going to happen. It probably could happen even without the traps. They could get caught in the field. But the owners were pretty upset about this. They couldn't understand why they couldn't have access to these roadways without having their animals hurt. The other thing I was going to tell you is that we have a law on the books that says the right-of-way of all county roads and ditches have to be mowed every year. I don't know how many of you people buy guards and sickles for mowers but I do and they're pretty expensive. And you go mowing into one of those traps, you're going to lose a sickle or at least a section. And there's a lot of reasons I think that we should not approve this legislation and I, for one, am not going to support it. Thank you. [LB5]

SPEAKER FLOOD: Thank you, Senator Dierks. Senator Karpisek. [LB5]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. Listening to the discussion, Senator Stuthman stole most of my questions and comments, but as I've been listening I think this comes down to one side of the state preferring to trap the ditches and another side not. I think Senator Campbell's amendment does make it much easier to pass this bill and I will be voting for it. I think it's a good way to make it easier,

Floor Debate  
February 03, 2009

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let the local people decide how they want it and where they want it. The argument about not knowing where the county lines are doesn't do much for me. When I go pheasant hunting or did go pheasant hunting, a lot of the people had maps drawn where they could hunt, where they couldn't hunt, where they had to ask permission, not ask permission. I think that's just a good businessperson that knows that and knows where things are. You can't tell me that most people that live out in a county don't know where the county line is. That doesn't fly. I also like the local control. Let them decide if they want it, if they don't want it. I do think that it is dangerous to have a trap in a ditch. It's called the public right-of-way. To me, it says enough in its name of what it is. I don't think we can set a tent up in it, we can't go camping in it, but there are some things that you can do in a public right-of-way. Means the public can go in there, which also means trappers could go in there, I guess, but it's something dangerous. So I will be voting for Senator Campbell's amendment. I think it's a great compromise on this bill. I know that it does put some people in a tougher spot. I agree with Senator Wallman. I'm not antitrapping at all and I think that it's much needed, but I think that it can be done in a field where we don't expect the public to be. Thank you, Mr. President. [LB5]

SPEAKER FLOOD: Thank you, Senator Karpisek. We have Senator Stuthman now. You're recognized. [LB5]

SENATOR STUTHMAN: Thank you, Mr. Speaker and members of the body. First of all, I would just like to mention, I would like to thank Senator Lathrop and the comments that he had. A thing that I've been thinking about is we have this public right-of-way. We've got the county right-of-ways and that's for people to utilize in traveling from one place to another or doing other activities, such as cleaning up the road ditches, taking care of the road right-of-ways. And what this bill would do is, you know, allow trapping to take place. How many traps in a road ditch? It doesn't say. There could be 40 or 50 traps. People want to walk along there, they're cleaning up the junk and the trash that's in the road right-of-way and they step in a trap. I don't think we should have a public right-of-way that has traps in it to trap somebody or trap something. I don't think that's right. I think that should be the public right-of-way. And like I had stated before, there's plenty of other acres that they can trap on. And these animals, these furbearing animals, yes, there are some in the road ditches and some of them by the bridges and stuff like that, but the majority of them are out in the fields, out further away from the road right-of-way because there's no traffic or anything going by and they're living in their little community in their peace and quiet, these animals. Another thing that I would like to mention is that in a road right-of-way that if an individual has a car that breaks down, he pulls off the side of the road, and I've seen this many, many times, people will leave that abandoned vehicle there for several days. What happens in this situation? Law enforcement comes. They put the old red ticket in the windshield or somewhere stating that this vehicle must be removed by a certain time or so many days. And we've had in our county where they weren't removed and the county has had to pay for removing that vehicle out of the road right-of-way. Why don't we just leave it sit there,

Floor Debate  
February 03, 2009

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leave it sit there for a month, just like that trap is there? No, we have regulations on things that are in the county road right-of-way. So I just think that we're going in the wrong direction. We have worked very hard two years ago to pass the bill that would only allow certain things to be trapped in road right-of-ways. But let's think about the situation is, what are road right-of-ways utilized for? They're for the public. They're for the public to travel down them. In cattle country, they drive cattle down these road right-of-ways. That is what they're utilized for. The road ditch there is utilized for drainage of the water that comes off of that roadbed. That's what it's used for. People can, you know, walk down there and there are a lot of people that are walking, bicycling and go down the road right-of-way, aside of the road or into the road there. I want to talk a little bit about some of the e-mails that I had received. I got some from my constituents and I will read one of them: County road...county right-of-ways are heavily trafficked by nontrappers, utility workers, for example, who generally have no idea that traps may or may not be set just a few feet off of the side of the road. These are roads that people walk their dogs on and today's extendable leashes can allow dogs to go 20 or 30 feet into the road ditch and they're... [LB5]

PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR STUTHMAN: ...still under the leash. But I did get some e-mails from Georgia saying that we need to have this bill. And in my opinion, that e-mail doesn't carry any weight with me. If the people in Georgia are concerned, why aren't they taking care of their own business in Georgia? Why are they trying to convince me up here in Nebraska as to how to vote on this bill? I think I just...I don't appreciate that at all. I just think it's an issue that the furbearing...the Trappers Association in the United States is trying to set the regulations for Nebraska, and that is my concern. I think we know what we need here in Nebraska and what we need in the rural areas. Thank you, Lieutenant Governor. [LB5]

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

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. Been an interesting debate today. I thought Senator Lathrop had some very good points. I'm concerned when we start talking about the right of 100 trappers, maybe, in a county, and I'm guessing there probably might be that many in Dawson County, a county of 25,000 people, and the fact that their right, unfettered right to trap within this road right-of-way trumps the interest of 25,000 people, which is about the size of Dawson County, who might use that right-of-way. Now, I like Senator Campbell's amendment better than the bill, but even it, I think, it may be broader than I would want to consider allowing trapping. And here I'm faced, of course, with the handout that all of you received by the Dawson County Commissioners, but I think it might be considered a

Floor Debate  
February 03, 2009

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little bit of overkill to say that just because there were some beavers out there and they were damming or causing damage to the roadbed that we ought to allow everybody within the county to hunt that or to trap in that road right-of-way. And has been discussed by Senator Haar and by Senator Lathrop, we are talking about traps that would normally be hidden. You don't put them right out where the animal that you're trying to trap is going to see them. I do think we need some exceptions to an absolute prohibition. I think that the counties could very easily provide for trapping, either by themselves or by Game and Parks or by individuals within a small area. But I think if that was done, the area of the roadway that could be trapped, that you could have trapping in could be designated by some flags. You know, these waterways that would attract beavers probably are a relatively small area of the county. There might be a few miles of them in a given county, and those could be, it seems to me, readily marked by perhaps some sort of sign saying there is trapping within the next mile or two of that particular roadway. But I know some of the communities in my district have road pickup of litter. Scout troops, various volunteer groups within the county go out and walk those road right-of-ways. There are all sorts of reasons that you might be in a road right-of-way. Now I'm not quite up with Senator Haar. I know maybe my grandkids think I'm not nice to him but...sometimes, but so far I've never been accused of ditching my grandchildren. Now he talks about taking his down to the ditch. But I think that's a legitimate reason, that your grandkids may be out there playing. There's all kinds of activities that could take place or do take place in road right-of-ways. It really bothers me that, say, the rights of 100 trappers, if there are 100, and probably that's long if anything, trumps a right of the public to use this road right-of-way. It was acquired by the county. It's maintained as part of the road system. And to give an unfettered right to trap within that area to satisfy 100 people is a real concern to me when there are so many uses that could be made of that road right-of-way. Thank you, Mr. President. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Additional members requesting to speak on AM132 are Senator Christensen, followed by Senator Carlson, Senator Dubas, Senator Haar, and others. Senator Christensen. [LB5]

SENATOR CHRISTENSEN: Thank you, Mr. President. I'd like to address a few of the comments that have been made here. You know, when the comments are made, people are going to set traps in the middle of the road, there's no common sense to that. For one, somebody would steal it. Somebody would drive over it. I mean that makes no sense. And I'll ask you, which is going to cause more harm to your horse or your livestock that's been talked about, a badger hole and multiple badger holes and having them step in it and break a leg or stepping on a trap that won't even go around the foot of that cow or horse, things this way? You know, if you read the regs on it, it can only be up to five inches when it's open. On the county road right-of-way, Conibear traps with jaw spreads larger than five inches can only be used when placed underwater or at least six foot above the ground. And it's illegal to...unlawful to set any traps for

Floor Debate  
February 03, 2009

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furbearing, for coyotes or things this way, along the right-of-ways because they're larger traps. Trapping is not permitted within 200 yards of a dwelling, feedlot, livestock crossing, bridge, in other words, your entrances. Permission of the landowner or operator is required for trapping on the private land or on the public right-of-way where the title is not held by the county. There's a lot of regulations already set up by Game and Parks for the protection. I ask you to think about, I drive cattle down the roads, too, and I've got a whole lot more risk and I've had it happen where I've had a leg broke stepping in a hole. I have yet to have a trap get caught around a calf's foot. I asked the county officials, NACO, when testifying...or I didn't ask, I asked them afterwards that testified, I said how many people do you know that have been caught in traps? Zero. I've went around and asked, when legal traps are used, how many people know of people who have been caught in traps? It's amazing the answer I get time and time again. Illegal traps? Yes. That's how we set this policy, but policy has got to be set on sound principles, not on emotional what if, what could happen, what if somebody illegal is there. We've got to think about setting the policy that is going to be good for the state. And there's a trapping season, November through February. How many people do you know schedule trash pickups November through February? You've got to plan these events. You don't know how cold it's going to be, windy it's going to be, so they avoid the trapping season. People have talked about having to mow and getting caught. You don't mow in November through February, you know? There think about the policy that you want to set forth here. It only makes sense to allow Game and Parks to set the rules up for this like they had been before, to allow it, to get rid of the predators that are bad that are causing problems. You know, I've heard comments that every local person knows where the county line is. Why, I have run a lot of hunters off that didn't have a clue where the county line was. [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR CHRISTENSEN: I've run people off my fields that didn't even know whose field they were on. And I've run people off that aren't from this area. So people don't always know where the line is so think about this as you're deciding on this issue. Yes, it's an emotional issue. Yes, there's a lot of what-ifs, but what makes good fiscal policy, good thought-out policy for the state when we're thinking about setting up trapping? Thank you. [LB5]

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

SENATOR CARLSON: Mr. President and members of the Legislature, I see Senator Campbell in the back and I would like to address a question to her, if she would find a close microphone. [LB5]

PRESIDENT SHEEHY: Senator Campbell, would you yield for a question? [LB5]

Floor Debate  
February 03, 2009

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SENATOR CAMPBELL: I apologize. Yes, of course. [LB5]

SENATOR CARLSON: Senator Campbell, on your amendment which would allow counties to opt, you used the terminology, in or out but it's really an amendment to allow a county to opt out, correct? [LB5]

SENATOR CAMPBELL: Correct. [LB5]

SENATOR CARLSON: Okay. In Lancaster County we have a lot of people but there's a lot of rural area in Lancaster County so it's probably a circumstance, on a county opting out, that it's a majority really overwhelming the minority that would like to trap in some place or another. My question to you is, what is stronger about your amendment than Senator Christensen's amendment that would allow metropolitan cities, primary or first class, to opt out and it's the two- or the three-mile rule? [LB5]

SENATOR CAMPBELL: That's an excellent question, Senator. A couple of points on that amendment: First of all, if you use the example in Lancaster, it would include the city of Lincoln which has a three-mile zoning. There are a number of acreage developments, recreational areas beyond that three-mile within the county and that is part of what I think, at least in Lancaster County, the board would be concerned about, that it would not include enough protection for where there may be acreage areas or areas near to trails where people may be on the county right-of-way. The second point is I know that several senators have brought up, well, where would you know where the county line is. It makes it even more difficult with Senator Christensen's proposed amendment to even know where that three-mile line might be or, in some cases, where there's a mile zone jurisdiction. So, Senator Carlson, I think it might make it more difficult to know where you could or could not trap. [LB5]

SENATOR CARLSON: Okay. Thank you, Senator Campbell. I don't know where Senator Christensen...I'd like to address a question to him, if I could. [LB5]

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

SENATOR CHRISTENSEN: Yes. [LB5]

SENATOR CARLSON: Senator Christensen, this bill, in a sense, gets at some freedoms and some loss of freedoms. If we're talking about roadway, who has the right now to make a decision on what takes place in the right-of-way? [LB5]

SENATOR CHRISTENSEN: The landowner. [LB5]

SENATOR CARLSON: Now is it illegal then for somebody, if LB5 passes, is it illegal for somebody to set a trap in a roadway without the permission of the landowner? [LB5]

Floor Debate  
February 03, 2009

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SENATOR CHRISTENSEN: Yes. [LB5]

SENATOR CARLSON: All right. If it's illegal to set a trap in the right-of-way without the permission of the landowner, I think that's a significant point. The other thing is, how much freedom does a landowner have then to take care of predators that he believes are prevalent in that particular area more so than the rest of his land? And without this, Senator Christensen, it would be illegal for him to trap on his own land. [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR CHRISTENSEN: That's correct. [LB5]

SENATOR CARLSON: Okay. Thank you. I'm enjoying the discussion on this. Again, it gets...we're concerned about public safety. We're also concerned about freedom of managing the property that is ours or that we have jurisdiction over, and I don't think we should lose that point. Thank you, Mr. President. [LB5]

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

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor. With or without this bill, anyone who enters a road right-of-way should do it at their own risk, because with or without this bill there are still going to be illegal traps. There's still going to be that risk that you'll take by entering that road right-of-way. What we're talking about this morning is legal versus illegal, and we can pass all the laws we want and the people who are going to do it right are going to follow the law, but there's always going to be that certain segment of the population who will not follow the law and put the rest of us in jeopardy. There are very good guidelines in place for legal traps: number one, needing permission of the landowner; the requirements, the trap has to have an ID on it, if it's of a certain size it has to either be submerged underwater or it has to be above the ground so it can be seen. Senator Christensen brought out some of the other points about, you know, 200 feet away from dwellings or feedlots or bridges, those types of things. I'm a landowner. I am responsible for my road right-of-way. If a hunter or trapper comes to me and wants to be on my land or on the right-of-way that I'm responsible for taking care of, number one, I probably...I don't know that I'd even let them put it on my road right-of-way because I walk often and I walk with my dogs, so I don't know that I'd want a trap. But if I did allow them, I would make sure that there were certain things put in place, and I think most landowners are going to be responsible. We recognize our neighborhood and how the road right-of-ways are used and what would happen. So, you know, I think there would be that personal responsibility on the part of the landowner as to how those traps would be set and what would happen. If I thought for one minute that this bill would prevent...or by not passing this bill that it would prevent no injuries from here on out, our dogs would be protected, our citizens would be

Floor Debate  
February 03, 2009

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protected, I wouldn't have a problem. But that's not what this bill will or won't do because we're still going to have that segment of the population who are going to go out and ignore laws that are put in place for our public safety and put us in jeopardy. So I think that's the question we really have to weigh this morning, the legal versus illegal, and what will this particular piece of legislation do or not do to stop the illegal actions from happening? And with that, I would yield the rest of my time to Senator Nantkes. [LB5]

PRESIDENT SHEEHY: Senator Nantkes, about 2 minutes. [LB5]

SENATOR NANTKES: Thank you, Senator Dubas. Thank you, Mr. President. I was hoping Senator Christensen would yield for some questions. [LB5]

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

SENATOR CHRISTENSEN: Yes. [LB5]

SENATOR NANTKES: Senator Christensen, I think that we've had a really good dialogue this morning but I guess the lawyer in me has a few questions that haven't been addressed yet. I'm wondering, is trapping traditionally classified as a commercial activity or a recreational activity or could it fall under both categories? [LB5]

SENATOR CHRISTENSEN: I guess I don't know for sure how to answer that. I'd have to... [LB5]

SENATOR NANTKES: Okay. [LB5]

SENATOR CHRISTENSEN: ...read on their permit, because I assume it's recreational but I don't know. [LB5]

SENATOR NANTKES: And if it is, in fact, considered recreational, have you had a chance to analyze any potential implications for the newly adopted Recreational Liability Act? [LB5]

SENATOR CHRISTENSEN: Well, it's going to be no different from what it was prior to repealing this in '07. [LB5]

SENATOR NANTKES: Uh-huh. So, for example, if a dog or a horse or a person were injured by a roadside trap then, is the landowner, is the trapper, or both then strictly liable for compensating for that loss? [LB5]

SENATOR CHRISTENSEN: I cannot answer that. I can go ask. [LB5]

Floor Debate  
February 03, 2009

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SENATOR NANTKES: Okay. And I don't know... [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR NANTKES: ...who you might ask about that, but isn't it also true that in terms of our Game and Parks laws that we have, for example, different bag limits and different size limitations and different state park areas for outdoorsmen to go out and participate in those kinds of activities, and people seem to understand and adhere to those different kind of parameters that are out there? Isn't that right? [LB5]

SENATOR CHRISTENSEN: Yes. [LB5]

SENATOR NANTKES: So I guess I'm trying to understand why it would be so different in the trapping situation. It seems to work well in terms of fishing. [LB5]

SENATOR CHRISTENSEN: Correct, and I don't know that there's any limits or anything different here. They're still going to follow it if they're a legal trapper. [LB5]

SENATOR NANTKES: Sure. But if we had different rules in different counties, it probably would work pretty seamlessly, just like we have different limits for different fishing activities in different areas. [LB5]

SENATOR CHRISTENSEN: You can make anything work but it's never as easy when you have a multiple opt out. [LB5]

PRESIDENT SHEEHY: Time, Senator. [LB5]

SENATOR NANTKES: Thank you. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Nantkes. Members requesting to speak: Senator Haar, followed by Senator Hadley, Senator Nantkes, Senator Gloor, Senator Lathrop, Senator Nelson, and Senator Schilz. Senator Haar. [LB5]

SENATOR HAAR: Mr. President and members of the body, thank you. First of all, I haven't ditched my grandchildren. I appreciate that comment from Senator Wightman though. But I guess not...about a year ago some people stopped on my county right-of-way. They had run out of gas and the kids piled out of the car into the ditch, which they probably shouldn't have done in the first place. But the point I guess I'm trying to make is that most people, most city dwellers, are unaware that they could be stepping into a trap by going into the ditch. We've looked into...I've tried to find out...well, and I guess the point here is that we're one state. People in, you know, the whole thing of equalization of taxes, of school taxes and so on says we're one state. There really aren't city people and country people. We all use this state together. And I

Floor Debate  
February 03, 2009

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would submit, again, that most people have no idea that there may be a trap waiting in the ditch. We tried to find out what some of the purpose for the right-of-ways, according to the counties, was, and they gave us reasons like for the road itself, as a drainage ditch, for utilities. And then we said, what...and this was the Lancaster County people we talked to. We said, what can you not do in the right-of-ways? Well, you can't build any structures, even if it's your own property, for example, they mentioned a brick mailbox, because it's dangerous. If a car runs off the road, then the county could actually be sued if they hit a brick mailbox in the right-of-way. There can't be any trees or bushes because that creates danger. There can't be any advertising because that creates danger. And, of course, people aren't supposed to hunt in the right-of-way. So the point I guess that I'm trying to make is that there are other dangerous things that are not allowed in the county right-of-way and I contend that a hidden trap in a county right-of-way is a danger. We also asked the Attorney General's Office for some decisions on this and I'm not a lawyer so I can't interpret this fully, but in answer to one of them they said, a trapper who places a trap along the general right-of-way of the county road or any other area used for either foot travel or for general maintenance could be cited for criminal assault, if an injury occurred therefrom, or for criminal mischief. I think this raises a real question as to, you know, even if the trapper signs a statement, this would seem to imply that there could be criminal liabilities involved. And again, it says, however, anyone seeking to trap along a county road may be subject to the potential civil and criminal liabilities mentioned above. It's been brought up that we can't get rid of illegal activity. Of course we can't, but we still pass laws, all kinds of laws. It was mentioned that, you know, how many people do you know who have stepped in a trap in the county right-of-way. I don't know of any. I've only lived in the country for...since 2000 now. But I would submit that most everybody who's an urban dweller in this state has no idea that there can be traps in the right-of-way. They look at the term "right-of-way" and they treat it accordingly. A trap, five-inch trap, may not hurt a horse. It may not even hurt my four-year-old... [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR HAAR: ...grandchild, but it could sure scare the hell out of them. And so, again, I'm not sure anymore that I will vote for Senator Campbell's amendment because I do believe it makes it easier to vote for this bill, and I think this bill needs to be defeated. Thank you. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Haar. Mr. Clerk, you have items for the record. [LB5]

ASSISTANT CLERK: Mr. President, I do. Thank you. Your Committee on Enrollment and Review reports LB105, LB105A, LB189, LB74, and LB87 to Select File. Committee on Judiciary reports LB90 and LB83 to General File. Committee on Government reports LB167, LB168, LB207, LB322 to General File, and LB116 is indefinitely postponed.

Floor Debate  
February 03, 2009

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Notice of committee hearing from Natural Resources, and a motion to withdraw LB614 offered by Senator Howard. That's all I have at this time. (Legislative Journal pages 354-357.) [LB105 LB105A LB189 LB74 LB87 LB90 LB83 LB167 LB168 LB207 LB322 LB116 LB614]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Resuming floor discussion on AM132 to LB5, Senator Hadley. [LB5]

SENATOR HADLEY: Mr. President and members of the body, would Senator Christensen yield to a question or two? [LB5]

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

SENATOR CHRISTENSEN: Yes. [LB5]

SENATOR HADLEY: This may have been brought up, but the information we received from Dawson County, it says that Dawson County is in violation of this statute if we try to eliminate the beaver problem, and they go on to talk about a problem caused by these burrowing animals. Is it correct that basically there is no way to solve the problem of the burrowing animals, as far as roadway being softened and water being collected and such as that? [LB5]

SENATOR CHRISTENSEN: With the law as currently stated, yes. [LB5]

SENATOR HADLEY: Well, it seems to me that this is an important point that we're maybe missing now. If we have a problem and the counties have a problem with damage to the right-of-way and we have not given them any solution that they can solve the problem, it seems to me that that is a problem. Would that be correct? [LB5]

SENATOR CHRISTENSEN: Yes. [LB5]

SENATOR HADLEY: Secondly, I would like to ask a question about hunting. We don't allow hunting on the right-of-way because of the danger. Is it inconsistent to allow trapping, which to me is a form of hunting except you use a trap instead of a gun? [LB5]

SENATOR CHRISTENSEN: The reason the difference is, when you're using a gun, it's going to travel a long ways. You could step in a hole, turn, shoot, hit somebody on the road. There's that hazard at any point in time but it's worse alongside of a road. When you're using a trap, it's isolated to one small area where it's placed so you don't have the risk of hurting somebody up on the road. [LB5]

SENATOR HADLEY: Okay. Thank you. One last thing: I guess I'm in a little bit of a quandary because I think we need to give the counties some means of solving a

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Floor Debate  
February 03, 2009

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problem. If they have a problem with damage to the roads and such as that because of burrowing animals, it seems to me that we owe them some way to solve the problem. I'm opposed to counties opting out completely from the process, but maybe we need some kind of special ability that a county could designate an area as a problem area and trap until that problem is taken care of, and then not...no longer trap in that area. But I am concerned about having some way to help the counties that have this problem right now. Thank you, Mr. President. [LB5]

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

SENATOR GLOOR: Thank you, Mr. President, members of the body. I've been very judicious in rising to address this body and I have risen because I have given this an awful lot of thought. I've read all the material that's been sent to me and e-mailed to me, that's been dropped off at my desk. I've listened to the debate. I liked Senator Campbell's amendment initially and then, the more I thought about it, one word that Senator Karpisek brought up struck home with me and that is the word "public." We have a lot of public places in Nebraska. We have public libraries. We have public power, for which we take great pride. We have public schools. We have public hospitals. And we have public rest rooms, something I am very happy about as I get older. (Laughter) We do not expect surprises when we go to those public places because they are open and available to all Nebraskans. And when I think of the word "public right-of-way," I think we should provide public things, including public right-of-ways, that are, to the extent possible, free of unpleasant surprises. I understand the legal argument, however, there are a lot of things that we have laws that cover, like speed limits where we know people will break speed limits, writing bad checks where we recognize people will continue to write bad checks. But we think in the best interest of society, of our citizens, that it is still appropriate for us to have laws and I think this particular bit of legislation that exists is there because it makes sense and, again, it makes sense because we are here to protect the public. Thank you. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Mr. Speaker, you have a motion on your desk...or, Mr. Clerk, excuse me. [LB5]

ASSISTANT CLERK: Mr. President, I have a priority motion. Senator Friend would move to bracket LB5 until June 2, 2009. [LB5]

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

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. Let me explain quickly, and I'm not being condescending here. A bracket motion until June 2, 2009, kills this bill, okay? This is...I just talked to Mark briefly, this is something I probably won't even take to a vote unless he actually wants it taken to a vote. I'll give

Floor Debate  
February 03, 2009

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him that choice. I don't really care. But I think what's important to understand is, after a certain...after a certain time, you see the way the discussion ends up going and I think you can take motions, at least I've seen people do this in the past, you can take motions, you can take items, you can get votes on them and see where you actually stand. You can try to figure out where the votes are. Twenty-five people standing up saying, well, this might be a good idea but it might not be, I've done it over and over again. I debate myself out on the floor if nobody else is out here willing to discuss it with me. So all that being said, we can do that amongst ourselves for an hour and a half, two hours, three hours. Mark is not going to know whether he's any closer to actually having enough votes to get this bill to pass. Okay, so don't get me wrong, I'm not doing Mark a great favor here. This motion would kill his bill. But there's another important...and, by the way, it's on...it's Rule 6, believe it's on page...on page 38 (sic) of your rules, subsection (e), "At any stage of consideration," by the way, I get ten minutes here so sit back, relax. I'll probably take all of it. "At any stage of consideration of a bill, a motion to bracket or to bracket to a day certain or to unbracket shall, if made by the primary introducer of the bill, require a majority of those voting. If made by other than the primary introducer," moi...I lost my place, "If made by other than the primary introducer there shall then be required a majority vote of the elected membership. In any event, such motions shall alternatively be passed by unanimous consent of the body." If there were 25 amendments on here, it would be called a filibuster, correct? If there were an IPP motion, I think there is an IPP motion, but if there were an IPP motion at the end along with 20 amendments, it's officially a filibuster. That's not what I'm doing here. The only reason I bring that up, as I said the other day, two days ago, it's not really in my nature, but I think what we can do is we can start asking ourselves whether a bill like this is actually necessary. One of the things that I mentioned the other day that I like to do when I look at these pieces of legislation is to try to figure out whether the discussion is going anywhere as to allow us to understand whether a bill like this was necessary. And I got to be honest. I've listened to 90 percent of this debate, I've read the bill, I don't know why this piece of legislation is necessary. Senator Christensen has done a pretty decent job trying to explain what he feels is the legitimate reason, but I'm not sure that I buy it. I think, in general, if I rolled down the window of my car...I mean, I remember when I was a kid and I'd go hunting with my dad. We couldn't shoot varmints in the roadside when I was with him at that time. We're talking 30-35 years ago. How come I can't shoot something in a roadside but I can go ahead and set some sort of weird, dangerous trap? Here's the point--common sense Senator Christensen says. Well, really? Let me tell you something. I can shoot better than I can trap. I shoot. I can shoot what I'm aiming at. You put a trap down in the grass, what are you aiming at? You see the problem here? A varmint, you're aiming at a varmint. I got varmints in my yard and I can't trap them. I'm not talking about my dogs. See, I...they are varmints, by the way, and I don't know why I have them but because they're lovable. The kids love them. I...look, all kidding aside, I did tell Senator Christensen I would pull this bracket motion but I think he's going to learn by the end of the...he may not learn by the end of today, he may learn by the end of the week whether or not he's got the votes to actually move

Floor Debate  
February 03, 2009

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this to Select File, because my gut tells me this. I don't think there's anybody out here that wants to say, well, we'll work on this; let's move it to Select File and then we'll, you know. No, I think we understand. You want to trap on a roadside or not? Should we have the ability to trap on a roadside or not, in a county roadside? And I don't know that a lot of us are going to change our minds on that subject matter. I guess he can take my advice with a grain of salt. I'm going to leave this up here for awhile because it does another thing, too, by the way. It gives you all three more opportunities to talk. (Laugh) This is a new motion. Do with it what you will. The ultimate call is mine, along with Senator Christensen's, but I don't think we're getting off this bill today. And I think there's enough consternation or enough questions that need to be answered that goes all the way back to the very beginning about why I throw a bracket motion like this to begin with. Why do we need legislation like this out here? Let me ask you this question. Everything you see on the agenda right now is from General File. That's all that's on General File? Is that a good thing? Is that question rhetorical? Is that a good thing that everything we see on General File right now is on the agenda? If you look at both worksheets, you'll see what I'm talking about. Last year at this time, good, bad or otherwise, there was a backlog you couldn't...I mean, it would choke a dinosaur. I think this is bad. So you want to know my underlying motive? There's not enough stuff on General File yet. And the reason we're dealing with LB5 is because there's not enough stuff on General File. No offense to Senator Christensen, I've seen, you know, this type of discussion before as far as the traps on the roadside, but let's be honest. This bill wouldn't have seen the light of day, it wouldn't even be out on the floor and we wouldn't have to be talking about it if we had a justifiable amount of bills on General File. That's my view. I don't think that's humorous. I can leave the bracket motion up and we can vote on it and I can change my mind and say, guess what, I changed my mind, I don't think it's up to Senator Christensen anymore. But here's the thing. I am being somewhat reasonable. I think it's his call. But if in the next 25 minutes I get irked, I may have everybody vote on it. And I may come up again with my next 5 minutes and say this bill is garbage, and then I may come up again and throw 20 amendments on it and then it is a full-blown filibuster. So therein lies the rub--what ticks Mike off? I don't know, let's find out. I think Senator Harms knows. He's kind of smiling. How much time do I have, Mr. President? [LB5]

PRESIDENT SHEEHY: Two minutes. [LB5]

SENATOR FRIEND: Oh. That's why I love bracket motions. Look, I think what's important to understand about all of this stuff, it was almost 10:20, a little after 10:20 when I started this. We all have important things that we want accomplished. Senator Christensen believes this is very important. I'm not downplaying that. But I think you need to go again full circle and ask yourselves why are we doing this? Ask him the questions. With geometric logic, or try to come up with it, why is this bill necessary right now? And further, if this bill doesn't pass, what happens? What happens to trappers? Are they losing money hand over fist? I haven't heard any of that discussion yet. Are

Floor Debate  
February 03, 2009

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they losing money because they can't trap in roadsides? I mean, I'd feel bad about that. [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR FRIEND: I haven't heard that piece of the discussion yet. Every year are we encroaching on the places where gainfully employed trappers can go? The answer may be yes. I haven't heard anything about that yet. We've been talking about this for an hour and a half and I'm not sure the right questions have come up for me to say, you know what, gosh, LB5, yeah, it should probably move forward. And by the way, AM132, maybe not really a bad idea but that kind of goes up in flames, too, if the bracket motion passes. So the debate continues. The bracket motion stays up. I'll talk to Senator Christensen. I know there's others that wish to speak. I'm sorry for jumping in front of you. And if you remember, I believe there is an IPP motion here at the end. Mr. President, that's all I had at this moment. Thank you very much. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Friend. Members requesting to speak are Senator Lathrop, followed by Senator McCoy, Senator Christensen, Senator Stuthman, Senator Price, Senator Haar, and Senator Louden. Senator Lathrop. [LB5]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I support the motion to bracket and obviously because I've opposed LB5. And I want to begin my remarks by complimenting Senator Gloor on his observations. I...honestly, I can't think that anybody has put it better than that. This is a public place. People have a right to go there. And they have a right to not expect surprises and to have traps, literally to have traps that harm and hurt and can possibly kill in the right-of-way seems hard for me to imagine. Today we are embarking on a question about what's the policy going to be across the state. And it isn't...and maybe there's a lesson in this. We just had one from Senator Friend. And maybe there's a bigger question here and that is, when we look at an issue like this it's not just about what's going to happen in my home community. It's not about what's going to happen in my district. So if you live in the Sandhills where nobody is in your ditches that doesn't mean that this is good policy because we're also legislating for what goes on in Douglas and Lancaster and Platte County. And this is a bad idea. It might work out in the northwest corner of the state, but it is not going to work in a lot of the state. And that should be our first consideration. We have not...Senator Nantkes brought up some of the liability considerations. And I would say that if this bill is intended for, and we probably have a lot of trappers watching right now, if this bill...and you believe this bill is intended to help you and it's intended to be a bill that will promote trapping, I've got a couple of ideas for you. One is you put that in a right-of-way, and you put a little grass over it and you wait for some animal to come over and get caught in it, you're going to have liability. I can tell you, you will have liability for every other animal you hurt that you don't intend to hurt. When that hunting dog walks through and gets caught and breaks a leg or has to be destroyed because you've had your trap in the

Floor Debate  
February 03, 2009

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right-of-way, you will be responsible for it because you don't have any more business there than the hunting dog does that's stretching right before it goes into the field. That would also be true if you were going to...the idea of a trap is that you conceal something and something unsuspecting walks across it and gets snared, hurt, injured or killed. And everything else that you didn't intend to trap that gets caught up in that is going to be your liability. And if it has value you're going to have to pay. This is not a favor to trappers, it is a liability trap for the trappers who could just as easily be doing this activity off the road and out of the right-of-way. Back when we used to have a numeral 1 on Douglas County license plates and I was a younger man, I would go into places like Auburn County and Senator Heidemann's district to try to pursue my interest in hunting quail with a hunting dog. And I'd pull into the farmyard to ask permission and they'd look at that number 1 on my license plate and they'd say, sorry son, not today. There is a population of hunters that come out of the urban areas. They don't have a place to hunt. They don't own land out in the country and they have to get permission. And then there are those that don't get permission, and they're the guys that jump out of their car and shoot pheasants on the road, and they're the ones that jump out of the cars and hunt in the ditches. And if you pass a bill, as Senator Christensen has proposed, where we now allow trapping in the right-of-ways, the people that are going to be trapping... [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR LATHROP: ...in the right-of-ways are going to be the very guys who are now running out into the country with no property and no permission and shooting pheasants in the ditch. I think this is a bad idea at so many levels. It's dangerous, it's going to be used and abused by urban people coming out into the country with no permission and no property. It's going to create liability issues for the guy who's trapping and the person that gives permission. There is no limitation on who can trap now, if this passes, in the county right-of-way. If it's not a right-of-way with a county easement but rather the county owns the property, you'll have everybody who doesn't own property and doesn't have permission trapping in those ditches. And it's going to turn into an Omaha and Lincoln hunter, trapper bill, and I don't think that's what you intend. So for those reasons I support the motion to bracket. Thank you. [LB5]

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

SENATOR McCOY: Thank you, Mr. President and members of the body. I rise this morning in opposition to the motion to bracket and in favor of LB5. You know, it was brought up earlier this morning that this is really about property rights and that as property owners we are responsible for these right-of-ways. Something else that I believe needs to be brought up this morning as well on Senator Christensen's handout from this morning is that we already have in regulation or I should say we already regulate against the larger Conibear traps that initially created this whole environment two years ago. If an illegal Conibear trap is placed illegally in the road ditch and either a

Floor Debate  
February 03, 2009

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hunting dog or person steps in that trap, the statute as it stands now doesn't...can't legislate against that if it's an illegally placed trap and it's an illegal trap. However, a legal trap, a 5-inch or smaller Conibear trap isn't harmful to a person. That doesn't cause an issue. And I would yield the remainder of my time to Senator Christensen, if he would so wish. [LB5]

PRESIDENT SHEEHY: Senator Christensen, 3:30, and then it will be your time. [LB5]

SENATOR CHRISTENSEN: Thank you. Thank you. Thank you. I'll address the impact that Senator Friend brings up a little bit. There was a loss to more than 900 trappers for pelts in the first year of the bans for more than \$189,000, this is according to a Game and Parks survey. I'll take another stab at the economic loss. And with the loss of road ditch trapping it decreased the amount of coons got by 9 percent. You take 160,052 coons, reduce it by 9 percent, is 14,046 coons. One coon can eat 12 bushel of corn, so that's 168,552 bushel of corn. If you use a \$3.50 corn price, which it was \$7 for a while this last summer, that's a \$589,932 loss to farmers. I can tell you firsthand experience, most of my ground is along the rivers. We have extensive loss. That's why people laughed when I said I'd almost wreck my vehicle and take the ditch to kill a coon. I have no use for a coon, let me tell you. But the fact is we are talking about...we set up bad policy two years ago over emotion of an illegal trap. There's a gentleman out here, Steve Riley, called me and said, come out. He said, I've had my hand caught in one of them 5-inch traps. It snapped on him, didn't break anything. You got to remember the reports you have heard have been from illegal traps. That's why I sent out that package that shows you the difference in the size of them traps. There's a big difference in the size and there's a big difference in the damage it will do. So I want you to think about this as you're going through this. You know, I want to clarify one other thing. I went out and talked to Larry Dix from NACO. [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR CHRISTENSEN: Said they didn't know of any...he said, they don't track them either, but he didn't know of any. So I just bring that clarification up because I want everything I'm giving you to be accurate. You know, the liability issue that Senator Nantkes brought up, you know, Game and Parks regulates recreational things. So there's...unless there is neglect, there is really nobody that's going to come down liable. Now that's where typically lawyers come in. They can take it up if they'd like to and that's part of our system the way it is right here in Nebraska now. So I just continue to ask you to think about the policy that you want to set forth. Do we want to take away them rights... [LB5]

PRESIDENT SHEEHY: Senator, you're now on your time. [LB5]

SENATOR CHRISTENSEN: Thank you. Think about if you have a problem in your area,

Floor Debate  
February 03, 2009

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people wanting to walk dogs, exercise kids, things this way, have you ever thought of just asking the farmer to notify you if there's any there? He has to give permission for them. The rules and regulations are there. And how many of you just thought about if you're wanting to walk out there and you're concerned about this or you want to ride a horse out there and you're concerned about that, make a simple phone call and ask. They'll be able to tell you. I'm here to tell you the traps are there for a very short time of the year, during the winter as I've said before. We have no history of having problems. Think about why this hasn't been done before. This was done over emotion of an illegal trap and it caught fire. As Senator Friend said, you never know what's going to happen on this floor. A bracket motion might catch momentum, an IPP might catch momentum, you may find out there's no momentum for them. But we've had great discussion out here. I continue to ask questions. I didn't want this debate to be all about economic impact, that's why I hadn't brought this up, but I had the materials because I think this is a policy debate. And I was disappointed two years ago in the policy we set forth over an illegal trap. I'm telling you, you can't legislate against criminals. And in my book, anybody that traps without permission, uses an oversized trap, they're breaking the law, that makes them a criminal. And I don't care what you write, you're not going to be able to get them to stop. If you want to make an impact on them when they're caught, raise the penalties for it. When the dog was killed from...that brought this on two years ago when we passed the legislation, they had not caught the criminal. He's been caught, he's been prosecuted, he's been fined. That's the policy that we use in this state. I used the example, my closing in committee, I said, I had a 26-year-old young mother killed on a country road by a drunk driver. She pushed her 3-year-old daughter in the ditch and saved her life. She was killed. Did we outlaw cars from county roads? No. We prosecuted the criminal. It was a sad day, the people that seen the wreck were harvesting on our land, had to go over there. That was a sad day. But we didn't take vehicles off county roads. But when we get an animal caught, we took trapping off county roads because of a criminal. Think about the policy you're writing here. [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR CHRISTENSEN: Are we going to make policy based off of emotion? Are we going to make policy based off of criminals? Are we going to set forth good policy? We can be the laughing stock or we can do what is right. So I just ask you to think about what is the policy that you want to set forth here. We all have the opportunity right now to set forth policy. Thank you. [LB5]

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

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I've been listening very close to the discussion and the debate here this morning. There is one thing that does bother me a little bit, and I had wished that the senators in the body would refer to that animal as a raccoon. I think if you would go to the transcript,

Floor Debate  
February 03, 2009

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you know, it hasn't been identified that way in certain instances. And I just think that we should identify that animal as a raccoon. I would like to ask Senator Christensen a question. [LB5]

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

SENATOR CHRISTENSEN: Yes. [LB5]

SENATOR STUTHMAN: Senator Christensen, if a furbearing animal is caught in a trap and he's still alive, what is usually done to that animal before you can let the trap go? [LB5]

SENATOR CHRISTENSEN: You have to kill the animal. [LB5]

SENATOR STUTHMAN: What would be the method of killing the animal? [LB5]

SENATOR CHRISTENSEN: Honestly, I've never trapped. But I assume they club it. [LB5]

SENATOR STUTHMAN: Could it happen that they would shoot the animal with a gun? [LB5]

SENATOR CHRISTENSEN: That would be breaking the law, Senator. [LB5]

SENATOR STUTHMAN: Yes, that's what I'm referring to, the fact that, you know, you can't shoot in a road right-of-way. And I'm sure a lot of people carry their pistol with them, whether they have a concealed carry permit or not, to shoot those animals when they are caught in a trap. Senator Christensen, what is a trap made for? [LB5]

SENATOR CHRISTENSEN: To catch animals. [LB5]

SENATOR STUTHMAN: Is it made for...to catch, cripple, or kill an animal? [LB5]

SENATOR CHRISTENSEN: It's to catch them. [LB5]

SENATOR STUTHMAN: It's to catch them. But it's not to kill them? [LB5]

SENATOR CHRISTENSEN: Well, it may kill them. But you got to remember, we regulate the size of it by Game and Parks so much, you're probably not going to kill them. Just like, I use Steve as an example, he got his hand caught in one. Didn't break, harm anything. [LB5]

SENATOR STUTHMAN: On some of the instances have you ever seen the fact that an

Floor Debate  
February 03, 2009

---

animal that is trapped or caught in the trap and they will chew their leg off and then take off running with three legs? [LB5]

SENATOR CHRISTENSEN: I've heard of that, yes. [LB5]

SENATOR STUTHMAN: Do those animals survive? [LB5]

SENATOR CHRISTENSEN: Most likely yes. [LB5]

SENATOR STUTHMAN: The situation that you also talked about was the fact that you had a lot of property by the river and that's where the animals came out and got into your cornfield and probably ate a lot of ears of corn. And the fact that, you know, can people trap in that area by the river? [LB5]

SENATOR CHRISTENSEN: If they have permission of the farmer. But you got to remember, coons come out of pastures. I can show you tracks where they come up and over county roads. It's much easier to trap them where you have an obvious track, and that's the advantage of the right-of-way. [LB5]

SENATOR STUTHMAN: Would you say these animals are more likely to be by the river or would they be a half mile up the road in the road ditch? [LB5]

SENATOR CHRISTENSEN: Honestly, Senator, I find them all over. I don't know what you're trying to draw me to, but I find them along the river, I find them along the county roads, and... [LB5]

SENATOR STUTHMAN: But I think the people that are going to be trapping these animals are going to be trapping them in the area where the majority of them would be. And we have property that's closer to creeks and stuff like that. And the animals do come out because they live where there is water so they can get water. And I think that's the area where the people would trap. I don't think they will go... [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR STUTHMAN: ...go into an area where there is, you know, not any water and it's a half mile away from water and in a road ditch for trapping these animals. I am...I do support the motion at the present time to bracket it until June. And as far as I'm concerned, you know, we have 70 or 71 days left and, you know, we'll be on this until noon for sure. And in my opinion, we could be on it for another week. But I do think that, you know, I do support the bracket motion. And we need to find the votes there at that time. So thank you, Lieutenant Governor. [LB5]

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

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Floor Debate  
February 03, 2009

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SENATOR PRICE: Mr. President, members of the body, thank you very much. I'd like to ask Senator Christensen a question or two, if I may. [LB5]

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

SENATOR CHRISTENSEN: Yes. [LB5]

SENATOR PRICE: Thank you, Senator. I have a question. One of the prevailing arguments here seems to be a matter of public safety. Would you agree with that? [LB5]

SENATOR CHRISTENSEN: Correct. [LB5]

SENATOR PRICE: And also safety of, as you said, cattle or whatever or the farm product. [LB5]

SENATOR CHRISTENSEN: Yes. [LB5]

SENATOR PRICE: Thank you very much. I have a general question for the body, if they would, if anyone wants to answer I'd be really happy to know. But do we use any other methods to remove hazards of animals and pests? The reason I ask this, and I'll pull over our high-tech, fancy laptop computer here for a moment. From the Lincoln Journal Star, Sunday, January 25, there's an article in there, if I haven't turned it off, but it talks about using poison to control prairie dogs. Now is it possible that poison could be picked up by a dog and eaten by a dog? It is a bait. It's a poison bait. It's made to look like and smell like something you'd want to eat. Now we've agreed to allow poisoning of animals, and your dog can eat the poison and it could enter the ecosystem that way, through various methodologies. Yet we hear no outcry on poisoning. So I am suspect that the issue is public safety when you have pervasive government-endorsed, government-paid-for at the federal and state level to remove a pest that can cause breakage of animals' legs, you can get your child's foot caught in it. And if anybody has ever turned an ankle out there, I would say that hurts. So again, I really take issue and it's an umbrage to think that it's a matter of public safety that trapping has risen to such a high issue when there is poison laid all about our state. Thank you. [LB5]

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

SENATOR HAAR: Mr. President and members of the body, thank you. I think Senator Hadley had a concern about, you know, if some critter is burrowing under the road and the county being able to do anything. Well, you know, I think there are legislative ways to allow for that to happen. For example, on my road there's been some erosion, just water erosion. And the county has special markers out there until it gets fixed. But I would like to go back to the whole concept of safety because for me it is a matter of

Floor Debate  
February 03, 2009

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safety. I would...you know, I have no statistics on this. But I would be sure that the majority of Nebraskans, especially those who live in the cities, have no idea that there can be traps in the right-of-way. And I thank Senator Gloor for his insight. And it's really what I've been talking about all along. There should be no surprises in public places. And traps, if they're going to be effective, would most likely be hidden. That would very much be a surprise. Now the argument about one place...one part of the state being different than another, well, I would hope that safety really has the same meaning across the state of Nebraska. There are recreation areas all over this state that I've used. And I would hope that I'm as welcome to drive on county roads in Sheridan County as I am in Lancaster County or Douglas County. So I believe it is a matter of public safety. And frankly, I think safety trumps economics, especially again when it's the safety of my grandchildren. So with that in mind, I would support the motion to bracket until June 2, 2009. Thank you. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Haar. Other members wishing to speak on the motion to bracket until June 2, Senator Louden, followed by Senator Schilz, Senator Campbell, Senator Friend and others. Senator Louden. [LB5]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I've listened to this debate all morning, I think back on what...how we got to this point here a couple or so years ago. The part in legislation now that does away with trapping in the right-of-way was not a bill that was heard or brought before a committee. That was a floor amendment that was put on the cleanup bill of the Game and Parks cleanup bill. And that's how it went through. It was not a bill that had debate or had any kind of hearings. So that part is how we got to where we are today. Some of the questions that are around here, I think, as Senator Lathrop talked about letting his dog out while he was getting ready with his shooting iron to go hunt a bird or whatever he wanted to do and his dog was running around. In Nebraska, whether you're hunting with hounds or whether you have a dog or you have walking dog or a bloodhound, you have to have control of that dog at all times. You're responsible for everything that dog does. If you don't believe it, just have a hound or something go out and run a deer down and see what the Game and Parks does about that. Didn't make any difference whether you shot it with a gun or whether your dog run it down, you're still responsible for that. So that part, when you get on a county road or wherever you are, you have to have control of your animal at all times. When Senator Price mentioned about scattering poison all over the state of Nebraska for prairie dogs, that poisoning for prairie dogs is specifically for that type of animal. It's put in the hole. It's...regulations on how and where you can put that poison out and what type of poison you can use. At the present time, if you want to know what they use for prairie dogs, it's a type of poison that they eat it and it bloats them up and it busts them. Now that's what they use for killing prairie dogs nowadays. Believe it or not, they're supposed to go boom, I guess. But it used to be when we had poisoned milo or something like that then you could drop it down the hole. But that wasn't specifically for prairie dogs. And birds could get it, so that has been outlawed

Floor Debate  
February 03, 2009

---

long time ago on how you handle that. There's gopher poisoning on how you handle gophers. You have to put it in runs underneath the ground with a machine that lays out the runs. So those are all ways that that's handled. And one thing that we are failing to remember is that we're talking about something that is controlled by the Game and Parks. Trapping is a...is commercial or recreational, however you want to describe it, no different than fishing can be commercial or recreational. But the Game and Parks are the ones that control this, and they're the ones that set up the regulations, and there are regulations for it. And as Senator Christensen pointed out, our problem hasn't been with those that do everything legally. Our problem has been with the illegal traps and the illegal sets that they have there. Senator Stuthman talked about animals that would chew their legs off and that sort of thing. Usually nowadays, they have what we call the wide-jaw trap. And I've probably caught as many coyotes as anybody in the Chamber here. And we use a wide-jaw trap so they don't chew themselves off. And what that is it doesn't go clear shut tight on their foot. You could actually let a coyote go out of there and he could take off running 40-miles-an-hour on all four legs and the same way with a dog or anything. Now I don't know how many of you have dogs that dig in your wife's flower garden or something like that. But we do that many times around the ranch if we have our dogs... [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR LOUDEN: ...we'll set muskrat traps in the flower garden for the dogs to step on so they'll stay out of there. And it never bothers them. Same way with a cat. A cat can get caught in some of those traps. You just go open the trap up and turn him loose and he goes on. Now the live traps, we've caught a lot of coon in our area. We have problems with coons coming into our feed barns, our feed where our horse feed is. And we'll set live traps in there. A coon isn't that hard to catch with a live trap. You put some peanut butter and honey and there's going to be a lot of peanut butter available evidently from listening to the news. And I gave all you guys some honey, so you can go right out and start trapping coon tomorrow, if you want to, with a live trap. They're not that hard to catch. You can catch a tom cat right along when you catch your coon, because they like some of the same bait. So part of the reason, I think, has been a lot of... [LB5]

PRESIDENT SHEEHY: Time. [LB5]

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

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

SENATOR SCHILZ: Mr. President, thank you very much, and members of the body. I stand today in opposition to bracketing this bill. As I sat around and listened, I'd like to thank Senator Louden for letting everyone know that finally this bill has got a chance to

Floor Debate  
February 03, 2009

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be debated on the floor as it should have been a couple of years ago. So I...you know, I commend the body for at least bringing this forward for that reason. You know, as I look at stuff and listen to the good Senator Lathrop, back here, talk about his hunting dogs and stuff, I mean, let's be honest, guys. When you let a dog out into the right-of-way, you have hazards such as broken bottles, you have hazards such as aluminum cans, you have hazards such as wire that's been stuck there from who knows how long ago, and all of that is a problem in the right-of-ways. I mean, I think we can all agree with that. And so as I looked at that it's just one of many hazards that you have when you have an area that is somewhat like a right-of-way. So I think we need to keep that in mind. I think to...also as a landowner myself, if I know that there's somebody trapping on my land and a hunter comes and asks me for permission, which all of the honest ones do, which we're all talking about here is those honest, upstanding citizens, I let them know, and hey, you know, there's traps out there. I'm not exactly sure where they are, but you might want to keep that in mind when you let your dog out. Then once you know that, then it's up to you what you want to do. And I think that's the proper way to go there. And then the other thing that I would just have everyone consider is that the state of Nebraska has many public hunting places that are out there. And as far as I know, this would do nothing to that. Everyone that wants to can place a trap on public grounds as well, which any dog could be running out in, any children, anyone could be out hiking or backpacking or anything like Senator Haar said before. So I think that there's just certain things that you have to contend with as you move forward. So maybe it would be, you know, one of those things where we should think about it. At least when you are on private property, at least when you go to ask permission, you know what's going to happen there. So I'd be against the bracketing here. And I'll give the rest of my time to Senator Christensen, if he so pleases. [LB5]

PRESIDENT SHEEHY: Senator Christensen, 2:30. [LB5]

SENATOR CHRISTENSEN: Thank you, Senator, and thank you, Mr. President. Just to speak to Senator Stuthman a little bit about his comment. You know he said, most of the animals that are of a concern are going to be along the water, trees, right-of-way, things that way. And he's correct. The roadway, as I mentioned, affected the amount trapped 9 percent. So that plays perfectly in my point. There's not the risk of a high amount of traps on that right-of-way. They're going to go, as I said, they're going to see evidence that there's tracks of animals there before they're going to go trap there. So he plays right into my point exactly. Most of the traps aren't in the right-of-way. It's not a huge concern. It's not going to hurt your hands. I said a year ago in committee, if they'll allow it, I'll step on a trap in committee. Let it shut on my hand. It's not going to break anything. So the thing is you've got more risk in that road ditch for your pets than that trap. As Senator Schilz said, you've got the glass, you've got the cans, there's all kinds of wire and things in that ditch. [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

Floor Debate  
February 03, 2009

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SENATOR CHRISTENSEN: So that's a lot more of a concern to you than that trap is going to be. If you know what trappers are looking for, the paths of them animals, you're going to know where to look for that trap. It's a matter of time and economics, the reason why they're going to follow them indicator tracks, markings, things that direction. Same way when deer hunters look for ruts on trees, they're looking for something obvious to tell them that there is something in that area. So you can use the same thing when you are out exercising or taking care of things. And I thank Senator Louden for his comments. You know, you need them animals on a leash too. They are liable for their damage. So it works both ways. And I appreciate the time. And I will be against the bracket but... [LB5]

PRESIDENT SHEEHY: Time, Senator. [LB5]

SENATOR CHRISTENSEN: Thank you. [LB5]

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

SENATOR CAMPBELL: Thank you, Mr. President. I, first of all, would like to say that I appreciate all the questions and comments from my colleagues and certainly the good advice that I have had this morning. I introduced the amendment because I had concerns about LB5 and I continue to have those concerns increasing to the point where I certainly would support the bracket motion. Thank you, Mr. President. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Additional members requesting to speak, Senator Friend, followed by Senator Nelson, Senator Nantkes, Senator Christensen, Senator Hansen, Senator Sullivan, and Senator Haar. Senator Friend. Senator Friend. [LB5]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I apologize. I was working with Senator White on a different subject and we've gotten closer to resolving it. I'm sure you're very interested in that. I'm not wasting time here, per se. I'm going to reiterate a little bit about what value a bracket motion provides again here. And forgive me if I'm being redundant. Senator Christensen, I guess, we've come to the conclusion, at least I feel like I've come to the conclusion that I'd like to take this to a vote. And I think Senator Christensen may agree that, if we can figure out, you know, where we're at as far as the numbers are concerned. Bracket motions are great for that. I mean, I've seen people do it over and over again to try to figure out exactly where they're positioned and, you know, maybe how much more time that they're going to end up having to take, or whatever the case might be. But there's a risk. If you believe this bill should move forward, if you believe this bill should move to Select File do not vote to bracket the bill. If you believe this bill should die in its tracks, no pun intended, vote for the bracket, because by June 2 the fat lady is singing, the game is

Floor Debate  
February 03, 2009

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over. June 2 we're looking for what legislative party we have to go to and everybody pats us on the back and tells us what a great job we did. That's June 2 and this bill will be a distant memory. Okay. Enough said. Here's what I've heard from Senator Christensen since our last visit--yeah, there's some economic impact here. And I think...I'm glad he brought that up because it's very important to me to understand what kind of economic impact there would be. Hey, I think I understand exactly where he was going with this. It was a matter of common sense. We didn't want to drag economic impact into it but I think you have to because that's the reason a bill like this is out here to begin with. There's economic impact for folks that earn their living trying to gather fur. Let's call it what it is. If they can't trap in roadsides, they're having trouble finding other places to trap. It's a financial issue. They are statutorily able to go out and earn a living with their trapping, except in the places where the varmints hide or the valuable fur sometimes hides, right? Well, that's the common sense piece, but it has to do with economics. Here's my answer to that. We do all kinds of things all the time that limit our economic growth or limit our economic output because it just makes absolutely no common sense to do it. The question that we have in front of us now is, does the common sense that Senator Christensen is promoting outweigh the common sense that others have promoted out on the floor? Like why do you have to lay a trap on a county road... [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR FRIEND: ...where somebody could be walking, I mean public right-of-ways, where somebody could be walking and could end up getting hurt? You see this here? I mean, I don't know that there is a really right answer here. I don't know if there's a right answer here. But here's what I know, is the only thing that I feel, I should say, I believe. I am not probably going to vote to move this bill forward because I haven't become comfortable with the idea that we need it yet even though Senator Christensen did a really good job of addressing at least one of the issues I brought up during the bracket motion diatribe that I went through. I'm going to let this bracket motion go to a vote and then let's see what happens after that because my sleeves are almost empty. I don't have anything else up them, except one more thing. And I may surprise you with it. [LB5]

PRESIDENT SHEEHY: Time, Senator. [LB5]

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

PRESIDENT SHEEHY: Thank you, Senator Friend. Senator Nelson. [LB5]

SENATOR NELSON: Thank you, Mr. President and members of the body. I think we are here for a reason today. I think we're here because we made a mistake two years ago. We had an emotional issue, it was brought as an amendment to the cleanup bill

Floor Debate  
February 03, 2009

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from the parks commission. I think we voted on it with about...without a lot of information that we're getting here today. And I commend Senator Christensen for bringing LB5 forth, which I do support. I stand in opposition of the motion to bracket. I have some concern about AM132 because I think if we were going to allow opt-outs, then it probably should be better done by cities and municipalities with a three-mile rule than to subject them to the jurisdiction of a county, countywide. I want to support the comments of Senator Dubas and Senator Schilz. As a practical matter, a ditch is a ditch is a ditch. What we've heard today you would think that people never use the highway itself, that they drive down the ditches, they walk down the ditches all the time to get from one place to another. You enter a ditch or a right-of-way at your own risk. It's already been mentioned about all of the things that you can encounter. I could include snakes. I think the most serious thing is that you can step in a badger hole. If you're going to ride a horse in the ditch, if you're going to walk it, you're one thing, if you're going to ride through fairly high grass in a ditch or right-of-way sooner or later you're going to break that horse's leg because it's going to step in a badger hole that we might have been able to eliminate with a trap. I have yet to hear of any injury to any human being, any serious injury, any breakage, anything of that sort. We've already heard what the size of the traps are confined to. This is a conservation management vehicle because all ditches eventually go to a lower point where you have a waterway going underneath the roadway. And those are the logical places and the more convenient places to catch animals that you do want to trap. If we find a rat in our home and we're able to catch it, we don't have any compunction whatsoever about clubbing it to death or drowning it or doing whatever is necessary to get rid of it because it's a varmint. My esteemed colleague from Omaha talks about all the yahoo's that are going to go from Omaha and Lincoln and go out and begin trapping. I say, to what end? They weren't doing that two years ago prior to the time that we passed the bill prohibiting. Maybe I'm not aware of the fact that coonskin caps are coming back into vogue or something like that. But what are they going to trap for? They're not going to use the skins. They're not going to eat the meat. I don't see any danger of that happening at all that we're going to have a big influx out of our cities if we permit people to do the trapping again. I would like to ask a question of Senator Christensen, if he would yield. [LB5]

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

SENATOR CHRISTENSEN: Yes. [LB5]

SENATOR NELSON: We have talked a little bit about the economic impact. And I received a lot of e-mails from trappers, from people who do this part-time and the amount of additional money they're able to earn. If you would address that a little bit from your knowledge. And also what is the stance of the Game and Parks Commission? They testified at your hearing. And I haven't heard anything about what their position is. So I ask those two questions of you. [LB5]

Floor Debate  
February 03, 2009

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SENATOR CHRISTENSEN: Game and Parks testified in favor of the bill. [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR CHRISTENSEN: They believe that we need to bring this back. They're...constantly every year they look at regulations, you know, if somebody wanted something different you're always free to ask them to bring up different regulations. That's where the size comes in. They have altered different traps and things that have been allowed before. That's why you're not allowed to use a gun in the ditch and things, that's their rules. It's not rules that we've set up here. That is the proper channel to go to deal with issues is to deal with them first. And if you don't agree with what they've done, then you go to the Legislature. Unfortunately, when we done this bill last time, Senator Hudkins didn't go to them, which could have been a county could have opted out of it then. Now, statutorily, we have set it so we must deal with it. And as far as the economics again depends if you want to just look at the pelts, \$189,000 that's been lost, or if you want to look at the impact to the damage. [LB5]

PRESIDENT SHEEHY: Time, Senator. [LB5]

SENATOR CHRISTENSEN: Thank you. [LB5]

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

SENATOR NANTKES: Thank you, Mr. President. I was hoping Senator Christensen would yield to some questions this morning. [LB5]

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

SENATOR CHRISTENSEN: Yes. [LB5]

SENATOR NANTKES: Senator Christensen, I was wondering if we could continue our earlier dialogue and if you had a chance to check into any of those liability issues I had asked you about earlier? [LB5]

SENATOR CHRISTENSEN: Yes. Game and Parks, they deal with recreational activity, so it's recreational liability. [LB5]

SENATOR NANTKES: Um-hum. [LB5]

SENATOR CHRISTENSEN: And right now there is...if your dog was harmed in the ditch, it's going to be your responsibility. So if you want someone else to be liable, that's going to take that lawsuit. [LB5]

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Floor Debate  
February 03, 2009

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SENATOR NANTKES: I guess, just to be clear for the record, Game and Parks does a great job for our state and they are charged with a broad jurisdiction. But they don't set our tort liability parameters, is that right? [LB5]

SENATOR CHRISTENSEN: Correct, correct. [LB5]

SENATOR NANTKES: Okay. I just wanted to give you a chance to clarify that because I think maybe you were confused about that point. I guess the other question I had in terms of your amendment is, jurisdictional. How can a municipality regulate beyond a three-mile area in addition to where their city limits are set? I mean, really, wouldn't that be within the counties' purview? [LB5]

SENATOR CHRISTENSEN: Well, we have...give them zoning regulate...they're able to zone out them three miles. So what I was doing was putting it statutorily you could allow them to restrict trapping in that area. That would be the amendment that could come up here. [LB5]

SENATOR NANTKES: Okay. I know that your aide had a chance to bring over some information in regard to the liability questions I had asked earlier. And he offered as some background information an Attorney General's Opinion from 1987. But that really does nothing to alleviate some of my concerns in regards to the most recently adopted Recreational Liability Act and the interplay with this type of legislation in regards to that act. So have you had a chance to analyze that or talk to anybody about that? [LB5]

SENATOR CHRISTENSEN: I haven't, and the people from Game and Parks I talked to could not answer the question. [LB5]

SENATOR NANTKES: Okay. Well, I think that those are some pretty serious concerns. And I'll tell you, I'm supportive of Senator Campbell's amendment and, if adopted, will probably vote for LB5. But I think that it would behoove you to do some additional research before bringing a piece of legislation like this to the floor. Thank you. [LB5]

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

SENATOR CHRISTENSEN: Yes, thank you, Mr. President. Would Senator Haar yield to a question, please? [LB5]

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

SENATOR HAAR: Yes. [LB5]

SENATOR CHRISTENSEN: What I'd like to ask, since there is a trapping season, which is November through February, how often do you take grandkids out during that time of

Floor Debate  
February 03, 2009

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year to play in the ditch? And if you do, are you concerned about the broken glass and wire and things out there also? [LB5]

SENATOR HAAR: You bet, you bet. Well, first of all, late November is sometimes one of the prettiest times of the year to collect things like weeds and flowers, not flowers anymore but obviously weeds and those kinds of things. So I might very well take my kids out, my grandkids out in November. And certainly there are some other hazards. When we've gone to collect stuff, we talk about that beforehand that there are cans, you know, and don't pick up broken glass and things like that. But I've never known to have to tell them and you may have a hidden trap that you can't see. [LB5]

SENATOR CHRISTENSEN: Do you realize you could ask the landowner before you went out there if there was any traps there? [LB5]

SENATOR HAAR: Sure, except when you're out, let's say, taking a drive on the county road, it's a county right-of-way. And maybe I'm mistaken in all of this in terms of the definition of a right-of-way, but my assumption is a right-of-way is a right-of-way is a right-of-way, there's a right to be there. [LB5]

SENATOR CHRISTENSEN: Well, do you know who owns that land out to the center of the road? [LB5]

SENATOR HAAR: Yes, yes, because I live out near Branched Oak Lake and there's that property that belongs to me. [LB5]

SENATOR CHRISTENSEN: And do you pay taxes on it? [LB5]

SENATOR HAAR: Yes, I do. [LB5]

SENATOR CHRISTENSEN: That's correct. And that's the reason why that you're to ask the adjoining landowner. And it's just like you can have, let's say there's not a fence at the end of the right-of-way, a lot of fields do, lot don't. If you have a pet out there running or a grandkid, are they going to know where that imaginary line, since it's not marked, is so they will run up to it and stop so the trap on the other side that's hidden or anything else they won't get into? [LB5]

SENATOR HAAR: Of course there is no physical line. But I think when I've taken them out the ditch is a clear demarcation that that's a right-of-way, it's next to the road. And so, I think, you know, that part is clear. [LB5]

SENATOR CHRISTENSEN: You know, it may be clear where...if there's large embankments that they can run down to the bottom of the embankments. But, you know, I doubt very many people know even that it's 66 foot from the center on most

Floor Debate  
February 03, 2009

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roads, but some vary from that. There is different regulations on how wide the right-of-way is depending upon the area. And so it's not easy to realize where that imaginary line is. And the risk of stepping into a trap is just as bad an inch over the line as it is on the right-of-way. So I'm not sure with all the comments that we're hearing and the concerns about these traps are valid. Because if there's not a boundary marked, then you're really not going to know how far you have to go. And... [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR CHRISTENSEN: ...so at that point in time we don't have any statute if we adopt this to continue to prohibit in county right-of-ways, have anything any more clear for children running, for dogs running, for horses riding than we did before. That's part of the reason I say we got to set good policy. We don't know where that line is for sure. I don't think you can walk down, say, within an inch, kids, you can go to this point. And the sad part is even if you know exactly where it is, a dog, a child probably is not going to stop right there. They could step across that line and hit the same trap that some of you are concerned about. So I just want you to think about this a little bit, what is the policy we're going to set. There are areas it makes sense to restrict it. That's why I said I would even offer the amendment next to the cities. [LB5]

PRESIDENT SHEEHY: Time, Senator. [LB5]

SENATOR CHRISTENSEN: Thank you. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Members requesting to speak on the motion to bracket: Senator Hansen, followed by Senator Sullivan, Senator Haar, Senator Lathrop, and Senator Stuthman. Senator Hansen. [LB5]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. Just a real quick geography lesson, to go back to what Senator Campbell has offered as an amendment. In Lancaster County there are 847 square miles, 847 square miles. In Lincoln County, my district, there are 2,560 square miles or about three times the size of Lancaster County. But in Lancaster County there are six senators representing approximately 34,500 voters per district, much more heavily populated than, of course, you would expect Lincoln County to be. On page 15 of the handout that Senator Christensen had, if you turn, it's a couple pages back but it has a raccoon at the top of the page. You go down a couple of paragraphs there and what he's done is highlighted that where trapping is permitted. And allow me to read that, please. The permission of the landowner or operator is required to trap on private land or on public road rights-of-way where the title is not held by the county. Senator Christensen made the question to Senator Haar just a few moments ago, who owns the road. In the counties, at least in my county and I think it's most of the counties in the state, the landowners adjoining that road own the land to the center of the road. We're not taxed for it but we

Floor Debate  
February 03, 2009

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do own it. The county has the right-of-way. So according to the rules and regulations the Game and Parks has come up with in past years, you have to have permission of the landowner to have traps in the right-of-way. I have never found a legal trap in the right-of-way on my property because I don't give permission for them, not on my property on the right-of-way of the road. So what do I do? You know, I lean down off my horse and pull the trap or else get off and move the trap so it's not there. But it wasn't a legal trap when I pulled it, I know that. I'm in favor of the underlying bill, LB5. I'm also in favor, I mean, I'm from western Nebraska, I understand there's a difference between Lincoln County, Lancaster County, Douglas, Sarpy County of the population that's there. I am in favor of Senator Campbell's amendment and I won't vote to bracket the bill. I do want...would like the body to understand that hunters and trappers fulfill the mission of Game and Parks. They are the ones that control, that make the state livable through harvesting of animals through...during a particular part of the year. And I think that furbearing trapping should be allowed, is allowed on private land and it should be allowed on rights-of-way of county roads and certainly not the middle of the Interstate probably. But it still belongs...the county roads belong to the landowners. And those are the people, I think that should have the right to say whether the traps are set there or not. So it's an issue that I think we need to pass. And I do favor the bill, favor the amendment and I will not vote to bracket. Thank you, Mr. President. [LB5]

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

SENATOR SULLIVAN: Thank you, Mr. President and members of the body. We may think all the questions have been answered but I still have a couple for Senator Christensen, if he would yield please. [LB5]

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

SENATOR CHRISTENSEN: Yes. [LB5]

SENATOR SULLIVAN: Okay. First of all, prior to the legislation that prohibited roadside trapping, how long had we had legalized roadside trapping in Nebraska? [LB5]

SENATOR CHRISTENSEN: At least 40 years. [LB5]

SENATOR SULLIVAN: And in that time I assume you've done quite a lot of research under the history of this. Do you know how many incidences have we had of problems with trapping in roadsides? [LB5]

SENATOR CHRISTENSEN: According to Game and Parks they have none on record. [LB5]

SENATOR SULLIVAN: I, myself, am not a trapper so this has been a real learning

Floor Debate  
February 03, 2009

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experience for me. But tell me a little bit more because the inclination is or the indication has been given that maybe there is sort of indiscriminate placement of these traps. Typically, where in roadsides are these traps placed? [LB5]

SENATOR CHRISTENSEN: Okay. Depends what animal they're going after. You know, if they're after a badger, it's going to probably be inserted in the hole. If they're after a raccoon, they're probably going to have her covered up down near the fence line. Most of them tend to keep it to the bottom side of the right-of-ways for the reason it's not as handy for somebody to steal it. It could be up towards the right-of-way, you know, but it's a common sense thing. Somebody is not going to put it on the road or immediately beside the road where it is...where you'd be changing a tire because somebody is going to steal it. [LB5]

SENATOR SULLIVAN: Thank you for answering those questions. And lastly, this is a follow-up to some of the comments that have been made with respect to public areas. I think we have to keep in mind that with respect to public areas perhaps the main standard to reach is accessibility because we certainly can't remove risks in all instances. Thank you. [LB5]

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

SENATOR HAAR: Mr. President and members of the body, I'd like to ask Senator Christensen a few questions. [LB5]

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

SENATOR CHRISTENSEN: Yes. [LB5]

SENATOR HAAR: Thank you. You have said a couple of times that these smaller traps really aren't dangerous. Would you allow, I don't know what age your kids are, but would they hurt the hand of a 7-year-old child? [LB5]

SENATOR CHRISTENSEN: I'm sure they're going to scream. Is it going to break it? I would doubt it, but you can never say without... [LB5]

SENATOR HAAR: Um-hum. [LB5]

SENATOR CHRISTENSEN: ...doubt that it couldn't happen. You know it's...I wish I could bring one on the floor and illustrate the snap of what they have legally accepted because Game and Parks has studied the issue and that's why there's less traps allowed on right-of-ways when the bill went out than there was previous years... [LB5]

SENATOR HAAR: Um-hum. [LB5]

Floor Debate  
February 03, 2009

---

SENATOR CHRISTENSEN: ...because they realized there is some danger so they have altered the regulations. [LB5]

SENATOR HAAR: Okay. Okay, thank you for that. Senator Nelson, I'm sure you didn't mean this as a put-down to my constituents, but if somebody from the Highlands takes a ride in the country they're not a yahoo. (Laugh) This is a...I mean, it's a common kind of thing, I think, for people, for some of my constituents from the Highlands, for example, to take rides in the country. And again, my supposition here is that they would have no idea that there may be a trap waiting for them in the ditches. And so it's...in that regard I would argue that parts of the state are not that different because I think Nebraskans should be welcome in any part of the state along any roads. We take care of each other, we're one state. Thank you. [LB5]

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

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I would like to engage in a little conversation with Senator Haar. [LB5]

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

SENATOR HAAR: Yes. [LB5]

SENATOR STUTHMAN: Senator Haar, have you ever set a mousetrap? [LB5]

SENATOR HAAR: Yes. [LB5]

SENATOR STUTHMAN: And do you ever fear that when you're clicking that in that the trap would release and come down on your finger? [LB5]

SENATOR HAAR: Yeah, in fact I've done that. [LB5]

SENATOR STUTHMAN: Did it hurt at all? [LB5]

SENATOR HAAR: It hurt. [LB5]

SENATOR STUTHMAN: It hurt. And, you know, they...and what you was referring to before, you know, these traps that are in the road ditch are a lot bigger. And I am sure, you know, like you said, I'm sure they're going to hurt, you know, the hand or the foot of a small child, a 7-year-old child,... [LB5]

SENATOR HAAR: Um-hum. [LB5]

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

Floor Debate  
February 03, 2009

---

SENATOR STUTHMAN: ...I think it really would. Because those traps are, you know, they're hard to set, first of all, to get them set. And when they release, you know, I'm sure that they could really cripple a child, in my opinion. And I respect you for that comment. [LB5]

SENATOR HAAR: Thank you. [LB5]

SENATOR STUTHMAN: The other question that I have is, you made the statement that on your property, you own the property to the center of the road. [LB5]

SENATOR HAAR: That's correct. [LB5]

SENATOR STUTHMAN: And you've given up the county, that right-of-way, those 33 feet of right-of-way. [LB5]

SENATOR HAAR: It's an easement, yes. Yeah. [LB5]

SENATOR STUTHMAN: It's an easement. [LB5]

SENATOR HAAR: Yeah. [LB5]

SENATOR STUTHMAN: But you stated that you pay taxes on that. Are you sure? [LB5]

SENATOR HAAR: Well, (laugh) when I look at my tax bill I assumed I'd paid taxes on those. But Senator Langemeier is shaking his head "no." [LB5]

SENATOR STUTHMAN: Yeah. [LB5]

SENATOR HAAR: So I feel a little better. (Laugh) [LB5]

SENATOR STUTHMAN: Well, you know, as a county supervisor, you know, and going over that, and we've had a lot of people in my county said, well, by gosh, I own that to the center of the road and I pay taxes on it. But they don't. They need to...they need to go to the assessor and on that tax statement it will have those 33 feet,... [LB5]

SENATOR HAAR: Okay. [LB5]

SENATOR STUTHMAN: ...you know, a quarter mile, will be road right-of-way, one acre per quarter mile. And then it will be nontaxed. [LB5]

SENATOR HAAR: Um-hum. [LB5]

SENATOR STUTHMAN: Yes, you own it to the center of the road but you're not taxed

Floor Debate  
February 03, 2009

---

on it because you're not receiving any revenue off of that road. So the statement of a lot of people saying that, you know, I pay taxes on it to the middle of the road, that is incorrect. But I'm not sure what all counties do. But I'm sure that they follow the same procedures. I know in my county,... [LB5]

SENATOR HAAR: Sure. [LB5]

SENATOR STUTHMAN: ...Platte County, any parcel that you go to it has that road right-of-way. But there are some instances where there is not a road... [LB5]

SENATOR HAAR: Um-hum. [LB5]

SENATOR STUTHMAN: ...and you own it there. And you can utilize it, you know, then you do pay the taxes. But wherever there is a road right-of-way designation, you know, it will have road right-of-way and you don't pay taxes on that. So I tried to clear that up because there's been a lot of misinformation as far as, you know, that they're paying taxes on the road that they're not able to use because they've given up the right-of-way. But I think that it is covered in their valuations. And you need to...it will not be on your tax statement, I don't think. But when you go to see your tax schedule it will have the acres of the designated irrigated crop ground, farm place, buildings, one acre where the house is situated on, as far as the value is concerned, and then it will have the no value right-of-way part of it and nontaxed on that. [LB5]

SENATOR HAAR: Okay. [LB5]

SENATOR STUTHMAN: I do support the bracket motion at this time. So I think we need to wait until we get to that part and take a vote on it and to see where we're at. Thank you, Mr. Lieutenant Governor. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Any additional requests to speak? Seeing none, Senator Friend, you're recognized to close. [LB5]

SENATOR FRIEND: Perfect timing, exactly how I planned it. No, I didn't plan any of this. I didn't wake up this morning saying, oh, LB5 is on the agenda, let me see how I can mess with Senator Christensen. I think what happens, though, when you go...and we all feel like this now or at least we all feel like we understand why you would dance or sing on a bill like this for two hours. Senator Langemeier and I had a discussion a few days ago and we both remembered that when we came in here I made it clear to myself and he made it clear to himself, however people do that, I made it clear to myself that I don't care, really don't care if I ever passed a piece of legislation in this body. I guess I consider myself a lawmaker. I have passed legislation, the Governor has signed it. But the success and failure of a lawmaker doesn't hinge on that. LB5, there's been...Senator Nelson, Senator Christensen, Senator Nelson, Senator Hansen have made the most

Floor Debate  
February 03, 2009

---

legitimate arguments I've heard out here to actually move LB5 forward. But operating under the premise that I've always operated under, I can realize that I can wake up tomorrow and if this bill dies, the birds will sing and the sun will come up and everything will be just fine. And there will be more birds singing because they won't be caught in traps on the side of a road. (Laughter) Look, you ask yourself what happens if a bill like this doesn't pass. What happens if the bill two years ago that everybody was criticizing didn't pass? I think the answer to all of that is nothing. If we bracket this bill and kill it, the world will still turn and everything will be just fine. And that's my take. And you want to do that to one of my bills, be my guest. But you better come with guns blazing and you better tell me why the bill is not necessary, because I've heard two hours of discussion here. I've heard three halfway decent arguments and none of them have convinced me that this bill is worth anything. With that I will give the rest of the time to Senator Christensen to finally tell...to finally put me in my place and have us all vote against this bracket motion. [LB5]

PRESIDENT SHEEHY: Senator Christensen, 2 minutes. [LB5]

SENATOR CHRISTENSEN: Thank you. One of the first things...reason why I'd like to have you vote against it, many people, if you read the handout from Dawson County on problems they have, they can't even go address the road damage they have because of the law we put in place two years ago. That right there is a very solid reason to take this on and finish it, so we give the counties the ability to take care of issues where they have them because they're statutorily locked out right now. Another reason is economics. There is a lot of dollars to be saved, more saved than there is earned trapping. But it all has the net effect of adding up to supporting the state. Again, I want to mention there's no record of damage when this law was in place to allow roadside trapping. No one has been reporting problems. You got to remember there's a season, it's only... [LB5]

PRESIDENT SHEEHY: One minute. [LB5]

SENATOR CHRISTENSEN: ...part of the time. So...and they are regulated on the size of traps. I think we got to be real careful there. I do want to thank Senator Stuthman for bringing up he says I was wrong on we pay taxes to the center. I've tried to keep everything here very honest. And I will have to check my own statements. I'm going to take his word on it for right now until I learn differently. I thank him for the correction. But again, I wanted to keep everything honest, above the table. I'm going to ask you to vote against this bracket measure. Thank you. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Friend and Senator Christensen. You have heard the closing. The question before the body is on the motion to bracket LB5 until June 2 of '09. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. Senator Friend. [LB5]

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

Floor Debate  
February 03, 2009

---

SENATOR FRIEND: Mr. President, could I have a call of the house and a roll call vote in reverse order. [LB5]

PRESIDENT SHEEHY: There has been a motion for a call of the house. All those in favor to place the house under call vote yea; opposed, nay. Please record, Mr. Clerk. [LB5]

CLERK: 40 ayes, 1 nay, Mr. President, to place the house under call. [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 Friend, all members are present or accounted for. You've requested a roll call in reverse order. Please continue, Mr. Clerk. [LB5]

CLERK: (Roll call vote taken. Legislative Journal page 358.) 18 ayes, 27 nays. [LB5]

PRESIDENT SHEEHY: The motion to bracket is unsuccessful. The call is raised. We will now return to floor discussion on AM132 to LB5. Senator Haar. [LB5]

SENATOR HAAR: Mr. President and members of the body. Again I would like to suggest that most people have no awareness of this, that if trapping goes back in effect they'll have no awareness at all that the trap could be in the ditch. But I would also like to thank Senator Friend for being my teacher. And I'm going to be careful that he doesn't trap me in the future. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Haar. Are there additional members requesting to speak on AM132? Seeing none, Senator Campbell, you're recognized to close. [LB5]

SENATOR CAMPBELL: Mr. President, I just want to note that we have had examples in Lancaster County with problems with traps along the roadsides, and definitely had problems that were brought to our attention by the Capital Humane Society because they have the contract with the county and in which they would have to go out and pick up the animals that were often left in these illegal traps. So I would encourage you that if you feel that there should be an option with the counties that you would support AM132. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Campbell. You have heard the closing. The question before the body is on the adoption of AM132 to LB5. All those in favor vote yea; opposed, nay. Please...Senator Campbell. [LB5]

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

Floor Debate  
February 03, 2009

---

SENATOR CAMPBELL: Mr. President, I'd like a call of the house, please. [LB5]

PRESIDENT SHEEHY: There has been a request for a call of the house. All those in favor of placing the house under call vote yea; opposed, nay. Please record, Mr. Clerk. [LB5]

CLERK: 40 ayes, 1 nay, Mr. President, to place the house under call. [LB5]

PRESIDENT SHEEHY: The house is under call. All unexcused senators please report to the Legislative Chamber. All unauthorized personnel please step from the floor. The house is under call. Senator Campbell. [LB5]

SENATOR CAMPBELL: Mr. President, I would request call-in votes. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Campbell. All members are present or accounted for. There has been a request for call-in votes. Please proceed, Mr. Clerk. [LB5]

CLERK: Senator Fischer voting yes. Senator Friend voting yes. [LB5]

PRESIDENT SHEEHY: Please record, Mr. Clerk. [LB5]

CLERK: 25 ayes, 17 nays, Mr. President, on the amendment. [LB5]

PRESIDENT SHEEHY: AM132 is adopted. The call is raised. Mr. Clerk, next amendment. [LB5]

CLERK: Senator Christensen would move to amend, AM153. [LB5]

PRESIDENT SHEEHY: Senator Christensen, you're recognized to open on AM153 to LB5. [LB5]

SENATOR CHRISTENSEN: I think, unless some...I hear...I'm going to just pull that amendment. [LB5]

PRESIDENT SHEEHY: AM153 is withdrawn. [LB5]

CLERK: Mr. President, the next motion I have, Senator Stuthman would move to indefinitely postpone. Senator Christensen, you have the option to take the motion up at this time or lay the bill over. [LB5]

SENATOR CHRISTENSEN: Take it up. [LB5]

Floor Debate  
February 03, 2009

---

PRESIDENT SHEEHY: We have a request to take it up. Senator Stuthman, you're recognized to open on MO7. [LB5]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. It is my plan to take a little time and discuss several of the things that I am very concerned with as far as the trapping on the county right-of-ways. Yes, it's been discussed today the fact that, you know, trapping season is from November to February, March. I'm not aware of the trapping season because I do not do any trapping. I've got...I used to have several of the children and the grandchildren would trap, and they were very aware of when the trapping seasons were. And I truly respected that. But there is also the situation in county right-of-ways where, in our county and in a number of counties, where county workers during that time frame, when the weather is good, when they do work in county road right-of-ways. And I'll give you a little bit of an illustration of what that is. There are trees, there's brush in road right-of-ways that is trimmed out. What it is, is it gives the county employees something to do when they're not pushing snow. And there are a lot of days when they're not pushing snow. And to tell you the truth, I wish they wouldn't have to push any snow. I think snow is worthless, it absolutely has no value. It's in the road ditches so that the grass can grow taller, the weeds can grow taller. It blows off of the fields anyway. A lot of people are concerned about, yes, it's moisture, yes, it's moisture. But that little bit of moisture that's in the snow really doesn't amount to much. It usually freezes out anyway. But as I stated, in my county, the county workers do clean up road right-of-ways, trim the trees out of it, run them through a shredder. Most counties have shredders, maybe some of the smaller counties don't have brush shredders. But they shred the brush right into the road ditch and spread it out for mulch. I think that's a good idea. Also I think that there are enough acres besides that little 20-foot of road ditch where the people can trap. And I'm sure that they can get enough animals trapped that it really, in my opinion, is no or very little of an economic impact. I think there is so much area in private people's property where they can hunt, I mean hunt and trap, we're concerned about the trapping. They can trap. There are "creekways" that, you know, they trap. They trap muskrats, they trap beavers. And the majority of the time they trap the beavers where the beaver dams are. In my county I have never seen a beaver dam in a culvert or in the road ditch. I've seen beaver dams within 100 feet of the road ditch and it builds up the water. We have that situation right in some of the property that I have. But I think you trap those where the beaver dam is. You don't trap them in the road ditch where there is no beaver dam. You have to get where they're living, you trap them there. I think this bill is a bill that to me opens up a real can of worms. I think this bill should be defeated and I think we should indefinitely postpone this bill. I think there are places where trappers can trap, all they have to do is get permission. They need to get permission from private property owners. And if there is a real impact where these furbearing animals are destroying property, property owners would invite people to come and trap. We have people in the area that, you know, it's almost their wintertime profession to trap. But they get permission from property owners to trap in their property. A lot of them are very successful in trapping.

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

Floor Debate  
February 03, 2009

---

But I think we need to trap. But why are we really concerned about those 20 feet in a road ditch where the public has access to that we have to trap in that area? Sure, there are times when I drive down the road where there is a pile of dirt in the road, and it came from a badger, dug a hole right in the middle of the road. You know, most times the dirt gets shoved back in there and they leave shortly. They don't stay around very much. And I think the fact that, you know, there's a lot of traffic on these roads and they don't want to have their activity where there's vehicles traveling back and forth a lot. I think the majority of the animals, the wild animals go to an area where it is quiet, peaceful, undisturbed, and that's where they are and that's where they need to be trapped. I just think that we have a public road right-of-way. And by the word "public" that means the public can utilize that right-of-way. If a private person wants to use that right-of-way to engage in an activity, and I will give you an illustration, that activity would be run an underground water line to the property across the road. In order to accomplish that you must go to the county board of supervisors, get permission, designate where you're going to do it and when you're going to do it. The county highway superintendent will come out and tell you if you have the right to do that. The board will vote on it and then you get permission to do it. That is so that the county knows that there is a utility or a line or a water line in their right-of-way. I would suggest that we consider indefinitely postponing this because I don't think this bill is worthy of being passed. So with that, those are my opening comments, Mr. Lieutenant Governor. [LB5]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. You have heard the opening on the motion to indefinitely postpone. Mr. Clerk, you have items for the record? [LB5]

CLERK: Mr. President, hearing notices from the Education Committee and Health and Human Services Committee signed by the respective chairs. Name adds: Senator Giese to LB449; Senator Harms to LB520; and Senator Mello to LB555. (Legislative Journal page 359.) [LB449 LB520 LB555]

And I have a priority motion. Senator Utter would move to adjourn until Friday...I'm sorry, (laughter) Wednesday morning, February 4, at 9:00 a.m. []

PRESIDENT SHEEHY: You have heard the motion to adjourn until Wednesday, February 4, 2009, at 9:00 a.m. All those in favor say aye. Opposed, nay. We are adjourned. []