

February 7, 1996 LB 584

SENATOR CROSBY: All right. May we record the question first? Record, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Madam President, to cease debate.

SENATOR CROSBY: Debate does cease. And would all the senators please check in. Senator Dierks has asked if everyone would do that, so that we know who's here. And we are under Final Reading, you should be in your seats. Senator Coordsen, would you like to close while people are coming back.

SENATOR COORDSEN: Thank you, Madam President. I think I would really appreciate the opportunity of closing on the motion to return to Select File for the purpose of an amendment. I don't believe that Senator Beutler intended to do anything contrary to current practice. I think with a number of amendments and, as Senator Wickersham cited to you several, several pending bills that were put into various positions, and bits and pieces from one was put into another, and I don't think that the Natural Resources Committee really had the intention of doing what the language in LB 54 (sic), on page 26, lines 7 through 13 came out. Senator Wickersham shared with you railroad fencing law, the rest of the story, as someone on the radio uses from time to time, is in Article 15, recreational trails, 37-1507, boundary fences. Whenever abandoned railroad right-of-way trails are developed pursuant to the Trail Development Assistance Act, boundary fences shall be constructed and maintained as required for railroads in Section 74-601 to 74-604, unless such construction and maintenance is waived in writing by the affected adjoining property owners. Such fences shall be deemed to be manifestly designed to exclude intruders for the purposes of subdivision (1)(c) of Section 28-521, and I believe that to be trespass, but I didn't double check on it. What in the world does all of this mean? It means that when you convert from a railroad to a trail you have changed liability, you have changed liability. The railroad was supposed to put up a fence because they were liable for damage to the farmers' livestock, their horses, their cattle, or sheep, their pig, it even says something in there about sheep type. When you put, convert that railroad right-of-way to a recreational trail and you are going to have, and I hope that Senator Beutler is absolutely right that we have hundreds of thousands, if not millions of dollars brought to the general economy of the state of Nebraska by people who use trails. But in liability statutes and in case