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Natural Resources Committee
January 30, 2008

[LB743 LB805 LB865 CONFIRMATION]

The Committee on Natural Resources met at 1:30 on Wednesday, January 30, 2008, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB805, LB865 and LB743 and gubernatorial appointment. Senators present: LeRoy Louden, Chairperson; Carol Hudkins, Vice Chairperson, Tom Carlson; Mark Christensen; Annette Dubas; Gail Kopplin; and Norman Wallman. Senators absent: Deb Fischer. []

SENATOR LOUDEN: Okay, if you will take your seats please we will get this committee hearings in progress. This is the Natural Resources Committee for the state of Nebraska. I'm Senator LeRoy Louden. I'm chairman of the Natural Resources Committee. And first off, I'll introduce the senators that are here. To my far right is Senator Wallman from Cortland; next to him is Senator Tom Carlson from Holdrege; and next to him is Senator Gail Kopplin from Gretna; to my left is Senator Carol Hudkins, from Malcolm, vice chairman of the Natural Resources Committee; on the end there is our clerk, Barb Koehlmoos; and to my right is committee counsel, Jody Gittins. The page we have is Kristen Erthum. She's from Ainsworth and she's a sophomore at Doane College. I'd ask that you'd put your cell phones on silence so that there isn't any disturbance in the room. And with that, those wishing to testify on a bill should come to the front of the room when this bill is to be heard. As someone finishes testifying, the next person should move immediately into the chair at the table. If you do not wish to testify but would like your name entered into the official record as being present at the hearing, there is a form by each door that you can sign. This will be part of the official record of the hearing. This year we are using a computerized transcription program and it is very important to complete the green sign-in sheets for testifiers prior to testifying. They're on the tables by the doors and need to be completed by all people wishing to testify including senators and staff introducing bills and people being confirmed. If you are testifying on more than one bill you may need to submit a form for each bill. When you do come up to testify, place the form in the box by the committee clerk. Do not turn in the form in before you actually testify. Please print and it is important to complete the form in its entirety. If our transcribers have questions about your testimony, they use this information to contact you. As you begin your testimony, state your name and spell it for the record even if it is an easy name. Please keep your testimony concise and try not to repeat what someone else has covered. If there are large numbers of people to testify, it may be necessary to place time limits on testimony. If you have handout materials, give it to the page and she will circulate it to the committee. If you do not chose to testify, you may submit comments in writing and have them read into the official record. No displays of support or opposition to a bill will be tolerated, vocal or otherwise. And if you need a drink while you're testifying, why please ask the page. With that I've mentioned that we've been joined by Senator Mark Christensen from Imperial. And anything else? I guess with that we're ready to do the confirmation for Lynn Berggren for the Game and Parks Commission. Please come forward, Mr. Berggren, and tell us something about

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yourself. []

LYNN BERGGREN: (Exhibit 1) Good afternoon, Senators. My name is Lynn Berggren, L-y-n-n B-e-r-g-g-r-e-n. I was born and raised in Grand Island, Nebraska. Upon...graduated from Kearney State College in 1973. My wife and I, Jeannie, got married and looked for a place to move to. We decided on Broken Bow to start a construction company completely from scratch. We are still in the construction business in Broken Bow. I've lived there 35 years. Have one son that is involved in the business with us, a daughter that works for Sam Adams Brewery and a son that works in the corporate office for Cabela's in Sidney. I am very much a hunter and a fisherman. Love to camp. I spend all my weekends in the outdoors in the state of Nebraska and I am very honored to be asked to take this position as a commissioner and I have already set forth with the One Box Hunt in Broken Bow of hit the ground running to try to come up with more pheasants in Nebraska for looking at primary as economic development. Thank you. [CONFIRMATION]

SENATOR LOUDEN: Questions for Mr. Berggren? Senator Carlson. [CONFIRMATION]

SENATOR CARLSON: Senator Louden. Mr. Berggren, why do you think you were asked to serve on the commission? [CONFIRMATION]

LYNN BERGGREN: I think I was asked to be on the commission, I've known some commissioners. Being in business, self...starting a business completely from scratch 35 years ago, I saw the downturn in the mid '80s. I made it through there. Eleven years ago I was appointed to a bank board in Broken Bow. I sit on a bank board, Custer Federal Savings and Loan and people tell me...a lot of times they give me an inch worth of paperwork to look at and I'll look at it and I'll go through it and yet, I feel I'm very good at making a gut decision from what I feel from the heart and from my gut, and I think I did that here just three weeks ago on the muzzle loader bill that it passed, but I voted against it in my first meeting. [CONFIRMATION]

SENATOR CARLSON: Thank you. One other question. This isn't anything serious. It's because I'm interested. What's your connection with Norrie Marshall?
[CONFIRMATION]

LYNN BERGGREN: My connection with Norris Marshall is Norris came and hunted in the One Box Hunt seven years ago and we shook hands as we did with many people here today. Four years ago I sat on the One Box board of directors and for the past eight years, I'm done now, I sat on the One Box financial board of handling all the money for that. And Norris was asked three years ago to sit on this same board. And Norris is just like me. He hunts pheasants but he is not a big pheasant hunter. He is a very avid waterfowl hunter as I am myself and Norris and I have become very close friends because of that. We talk on the phone, during hunting season we talk on the

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phone every day. We try to make it a point that Norris and I hunt together once a week.
[CONFIRMATION]

SENATOR CARLSON: Okay. Thank you. I grew up around the Marshalls. They're good people. Thank you. [CONFIRMATION]

SENATOR LOUDEN: I might mention now for the record that Senator Annette Dubas from Fullerton has joined the committee. What's your position, Lynn, on ownership of land by the Game and Parks Commission? Do you think they should continue to acquire land or what's... [CONFIRMATION]

LYNN BERGGREN: I have already been in...you know, on some of the issues of the Game and Parks with land with Halsey National Forest. Senator Carlson asked this about the Marshall issue. I do not like the state owning class one land that farmers are bidding for but we must continue to find places for our younger generation to hunt. And as long as it's not developable land for hunting and fishing, I do not think that this is a bad thing. [CONFIRMATION]

SENATOR LOUDEN: Okay. Then do you have any kind of a position of where the Game and Parks perhaps probably try to have some kind of a lease arrangement for places for people to hunt or fish rather than purchasing that land? [CONFIRMATION]

LYNN BERGGREN: Senator, I have not been in this long enough to make a valid opinion on that. [CONFIRMATION]

SENATOR LOUDEN: Okay. Thank you. Other questions? Senator Hudkins.
[CONFIRMATION]

SENATOR HUDKINS: Thank you. Mr. Berggren, going back to the pheasant hunting. South Dakota has a pretty good pheasant hunting season. How do we improve Nebraska's pheasants? [CONFIRMATION]

LYNN BERGGREN: Senator Hudkins, right now I hit the ground running. I've spending three to four days a week on that. I've been to Tekamah, Sacramento Refuge, I've been up to Bassett talking to our biologist. Pheasant hunting can be a very big economic boom to Nebraska. However, we have such good farm ground here, we're farming for 200 bushel corn, and South Dakota is farming for pheasants. We're never going to change that but I think, and I really hitting the ground running on this, all the land that the game commissioner owns I want to make as much of it accessible and raise as many pheasants as possible. [CONFIRMATION]

SENATOR HUDKINS: Thank you. [CONFIRMATION]

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SENATOR LOUDEN: Other questions? Seeing none, thank you for your testimony, Mr. Berggren. [CONFIRMATION]

LYNN BERGGREN: Thank you. [CONFIRMATION]

SENATOR LOUDEN: Are there those that wish to testify in favor of Mr. Berggren's appointment? [CONFIRMATION]

JOE HERROD: My name is Joe Herrod, H-e-r-r-o-d. I'm here representing the Nebraska Counsel of Sportsmen's Clubs. Lynn Berggren and I have known each other through Ducks Unlimited for 25 years. His memory is a little better about it all than I am but Ducks Unlimited is a group of about 15,000 Nebraskans, and we're coming real close to spending about \$20 million in the state. And anybody that's involved with Ducks Unlimited is got to be a great guy (laughter) and so we're very supportive of him. We're really looking forward to working with him. He's the kind of guy that's... and when he mentioned being involved in camping, I think that's really great because we haven't had a commissioner for a long time that, I think, has really been involved with camping and some of our state parks and things. And I think this is going to be a real good thing and so I'm just tickled to death that we're really getting a bunch of good commissioners and very happy with it. And Senator Hudkins, there's almost a book written that I'll get you a copy of it. It's written by Pete Birthelsen about why South Dakota has the pheasants that they have and why we don't have. And I've spent a lot of time in South Dakota and I'll tell you what, that there's a lot that...we can't change the latitude and longitude of anything else to get what they've got but I'll tell you what, they see weeds as money. Because that's what brings the pheasant hunters and that's what brings the pheasants so we've got a long ways to go and I'll be glad to track Pete down and get the copy of that so. [CONFIRMATION]

SENATOR LOUDEN: Questions for Joe? Seeing none, thank you. Next person to testify in favor of Mr. Berggren? Anyone testifying to oppose his appointment? Anyone testifying in the neutral? Seeing none, then I guess that closes the confirmation hearing for Mr. Berggren. With that, we'll go to LB805. Senator Wallman, is that...yeah, will introduce it. [LB805]

SENATOR WALLMAN: Good afternoon, Chairman Loudon, members of the esteemed Natural Resources. And for the record my name is Norm Wallman and I represent District 30, which is south of here and we do have pheasants. But LB805 is a very simple straightforward bill. It would allow the Governor to appoint a nonresident of Nebraska to fill the propane equipment manufacturer and distributor member category on the Nebraska Propane Education and Research Council. Due to shifts in the industry very few propane equipment manufacturers and distributors reside in Nebraska. This proposal opens up this membership category to out-of-state representatives. And if you have any questions, I would be happy to try and answer them. Otherwise, I have people

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behind me that are more experts in this. [LB805]

SENATOR LOUDEN: Questions for Senator Wallman? I guess we'll go to the people behind you. [LB805]

SENATOR WALLMAN: Thank you, Chairman. [LB805]

SENATOR LOUDEN: Okay. Thank you. First proponent for LB805, please. [LB805]

DENNIS BARNARD: (Exhibit 2) My name is Dennis Barnard, D-e-n-n-i-s B-a-r-n-a-r-d and I live in Beatrice, Nebraska, and I represent...I'm currently on the board of directors of the Nebraska Propane Gas Association and I am vice president of Ag Energy for Sapp Bros. Petroleum in Omaha. We currently serve over 14,000 propane customers residentially, commercially or for agricultural applications in the state of Nebraska. And we operate out of 16 locations in Nebraska. I am testifying in support of LB805. As Senator Wallman stated, it does allow the Governor to appoint an out-of-state representative to fill the equipment manufacturer and distributor group on the Nebraska Propane Education and Research Council, called NPERC. Since the Legislature...the PERC act was passed by the Legislature in 1988, our industry has changed. A lot of company consolidation, equipment distributors are covering larger regional areas and recruiting for this member category is limited to only a, actually a few potential candidates that are located in Nebraska. Therefore, we feel it's important that the law be revised to allow a person from another state to serve for this group. NPERC is a nine member council and it's important that we can continue to find quality representatives in each of the categories. And this provides NPERC with quality leadership necessary to fulfill the mission which is to educate the industry and consumers about propane safety. The NPERC program is valuable to our company and all Nebraska suppliers. Since its inception in 1998, it has advanced the safety of the Nebraska propane industry. With the passage of LB274 last session, NPERC provided our company with 14,000 container shut-off valve warning labels to be placed on our consumer tanks. And each year it provides us a minimum of 6,000 safety warning brochures which we distribute to our customers. Our employees must be certified for propane operations in accordance with state fire marshal regulations and NPERC holds 30 to 40 industry certification and recurrent training sessions each year. In 2006, to increase the value of the training, NPERC partnered with Central Community College, Hastings campus, and constructed a hands-on training lab. This allows our employees to perform required hands-on skills for job certification. NPERC works with the state fire marshal's training division to teach local fire departments to safely respond to propane emergencies. In closing, we encourage you, I encourage you, to advance LB805 and I thank you for your time and consideration. [LB805]

SENATOR LOUDEN: Questions for Mr. Barnard? Senator Carlson. [LB805]

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SENATOR CARLSON: Senator Louden. Mr. Barnard, in your testimony here, company consolidation and equipment distributors covering larger regional areas, which is kind of saying they're not staying in Nebraska or they're not coming to Nebraska and from economic development viewpoint, why not? Is there something that we're not doing that we should do or why is this? [LB805]

DENNIS BARNARD: I guess I don't feel it's not anything that we're not doing. It's...you know, in Nebraska we probably only have possibly three equipment suppliers. Fairbank Equipment in Grand Island, for instance. They have two sales staff that cover four states and getting somebody out of their office is pretty hard to do to get on a committee like this. The people are out traveling the country, the sales staff that know what's going on and see everything and how things have changed or evolve, are probably a better prospect and probably a better person for that committee. But the other two that I can think of off hand, don't have a very big presence and it's kind of always been that way but it's just that everybody...they're, you know, they're reducing staff and it really reduces our efforts in Nebraska to get somebody on here. Number one, you've got to have someone that wants to serve, you know, and somebody that has an interest in the organization, what's going on in the industry, I guess is my thought. [LB805]

SENATOR CARLSON: Okay. Thank you. [LB805]

SENATOR LOUDEN: Other questions? I have a question. If...this has to be a person from the manufacturing of equipment, right, that is what you want to serve on that board? [LB805]

DENNIS BARNARD: From the...yes. From the propane manufacturing or distributor, yes. [LB805]

SENATOR LOUDEN: Okay. Now what do they do? Do they give workshops or what would that person do on there, on that board? [LB805]

DENNIS BARNARD: I would probably refer more of that to maybe, Michelle, our director, if I could, sir. [LB805]

SENATOR LOUDEN: Okay. Because I'm wondering if there was something that someone else could do or if it had to be a person from that equipment manufacturing to serve on that board. I guess that's where my questioning was going if it was...if it's hard to get those kind of people on the board, do we have to have them on the board and what do they do? [LB805]

DENNIS BARNARD: I believe there is one. I think we have to have one of the equipment. I'm not positive on that. We have to have a supplier and then other dealers, you know, people who are out here in the industry. [LB805]

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SENATOR LOUDEN: And you have somebody that can answer that question for me?
[LB805]

DENNIS BARNARD: Yes, I do. [LB805]

SENATOR LOUDEN: Okay. Thank you. Other questions? Thank you for your testimony then. [LB805]

DENNIS BARNARD: Thank you. [LB805]

SENATOR LOUDEN: Next testifier for LB805. [LB805]

MICHELLE SWERTZIC: Good afternoon, Senator Louden and members of the Natural Resources Committee. My name is Michelle Swertzic, that's M-i-c-h-e-l-l-e S-w-e-r-t-z-i-c and I'm executive director of the Nebraska Propane Association as well as the NPERC program, and we're also in support of LB805. And just to address a couple questions that Senator Carlson and Senator Louden had. Essentially, we have not that many equipment manufacturers in our state but we have other ones in surrounding states that have warehouses in their distribution areas. They're located outside of the state of Nebraska because they've closed some of their distribution areas within our state. And it's basically because of consolidation both by the marketers, retail marketers have consolidated. Our industry's made up of primarily ag cooperatives and then your independent petroleum dealers. And so with their consolidating there's fewer people to sell to in our state so they've taken those sales people that used to be in our state out and a lot of them are living in surrounding states and covering, you know, maybe five, six, seven different states. So that's the reason. But it is important, I think, our statutes do require us to have someone from this category, and I think it's still important for us to have someone from this category because they're out with the marketers talking to them on a, you know, on a daily basis, whether it be from their office or traveling the state to their locations. So I think the value that they bring to the NPERC program for all the programs that we run is very important and they're also very good experts technically because they're selling all those technical, all the technical equipment, the hoses, the regulators, so they're very good to have on this board from that technical standpoint. [LB805]

SENATOR LOUDEN: Okay. Questions for Michelle? Senator Wallman. [LB805]

SENATOR WALLMAN: Thank you, Senator Louden. Yeah, Michelle, thank you, you and Dennis for coming and is there a big time commitment on this board? [LB805]

MICHELLE SWERTZIC: Generally we have four meetings a year. Our meetings are held...we hold them where our lab is at Central Community College in Hastings and

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they're usually about five to six hour meetings. And then we have conference calls and things throughout and we try to handle things through conference calls as well so. [LB805]

SENATOR WALLMAN: I'm a propane user myself, so thank you. [LB805]

MICHELLE SWERTZIC: Thanks. [LB805]

SENATOR LOUDEN: Other questions? Well, I get back to the questions I have. What does that person that comes from this part or on the board, equipment manufacturer now, do they have their meetings to go over to see if there's some of the controls or equipment or do they go over that operate these gas heaters and stoves and stuff or do they go over equipment that's used to deliver the fuel or what do they do, when you say equipment manufacturer? That covers a lot of country. [LB805]

MICHELLE SWERTZIC: Yeah. Essentially the council's made up of nine members. Four of those are retail marketers. One is a public member. One's an academic member and one's from equipment manufacturer sector. One's from the wholesale sector and then one is the state fire marshal or his or her designee. So those members decide with these funds. NPERC is funded through two-tenths of 1 cent for every gallon sold in the state of Nebraska. Two-tenths of 1 cent go to this funds. So that nine member board decides how those funds are disbursed and spent for the programs like Dennis had mentioned. All the safety and educational programs. We have all the training sessions that we hold throughout the state both for their initial certification, their recurrent training as well as all the consumer warning information that we distribute. We also do training for the fire emergency, local fire departments on handling propane emergencies and programs like that. So they decide, they govern that board essentially. [LB805]

SENATOR LOUDEN: Okay. Now see if I understand this then. Is that board, are they mostly set to decide how to spend the money? [LB805]

MICHELLE SWERTZIC: Yes. [LB805]

SENATOR LOUDEN: Okay. Then who gives these workshops and that? Do you hire people then to do the workshops or do some of these board members do the workshops? [LB805]

MICHELLE SWERTZIC: No, they do not do the workshops. We hire an instructor, a certified instructor that goes around and holds these certification... [LB805]

SENATOR LOUDEN: To the fire halls and different places like that? [LB805]

MICHELLE SWERTZIC: Uh-huh. [LB805]

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SENATOR LOUDEN: Okay. Then the only reason then you have the equipment manufacturer there is why? [LB805]

MICHELLE SWERTZIC: Like I said before, the equipment manufacturer since they are out and about traveling with all the different equipment and all the different parts of the industry, they bring to the table what kind of training we need to have, you know, where issues that come up. If there's a piping issue that's going around that's coming up, they say, you know, we should hold a special training session on this and things like that. So they bring a level of expertise to that board on directing the training and the workshops and things that we hold. [LB805]

SENATOR LOUDEN: I see. And then they...how many, you meet four times a year you say? [LB805]

MICHELLE SWERTZIC: Um-hum. [LB805]

SENATOR LOUDEN: How often do those board members have to come to that meeting? Or how many meetings do they have to attend? [LB805]

MICHELLE SWERTZIC: They have to attend at least three of those four meetings. [LB805]

SENATOR LOUDEN: All four of them? [LB805]

MICHELLE SWERTZIC: And we usually have really, maybe usually one person gone but for the most part because we have to have a quorum to hold those meetings so we have real good attendance with that. [LB805]

SENATOR LOUDEN: You don't have, if they miss two meetings you drum them out of the corps, nothing like that? [LB805]

MICHELLE SWERTZIC: We don't really, haven't had that problem and that's why it's important to, I guess, recruit people that want to serve instead of trying to, you know... [LB805]

SENATOR LOUDEN: Well, I'd just question if you get somebody out of state there's going to be somebody that's going to be traveling farther than what they have been and that's the reason I was wondering if they had to be there at so many meetings or if that was required. [LB805]

MICHELLE SWERTZIC: That's a good point and we do have currently for the wholesaler category, that person is from out of state from Yankton, South Dakota. And

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we haven't had any problems with that because they usually want to come and see the customers in the area and so they make a whole, you know, trip out of it to see their customers in the area as well as attend the meeting so that hasn't been... [LB805]

SENATOR LOUDEN: Did I understand you correctly, you say you have board members now that are from out of state? [LB805]

MICHELLE SWERTZIC: Just on the...and which is allowed by statute, we have one person from the wholesale category and that person is from out of state. Otherwise, all the rest... [LB805]

SENATOR LOUDEN: Was there a law passed so you could get that person on there? [LB805]

MICHELLE SWERTZIC: That was in the original statute. In the original statute we didn't anticipate not having a lot of the equipment manufacturers living in the state but with the industry changes and the consolidation, now a lot of those don't live in our state. So that's why we need to revise this particular section. [LB805]

SENATOR LOUDEN: Okay. Thank you. Other questions? Seeing none, thank you, Michelle. [LB805]

MICHELLE SWERTZIC: Thank you, Senator. [LB805]

SENATOR LOUDEN: Next proponent for LB805. Are there opponents for LB805? Those wishing to testify in the neutral? Seeing none, I close the hearing on LB805. Oh, do you want to close, Senator Wallman? Sorry about that. [LB805]

SENATOR WALLMAN: I would urge the Resources Committee to forward this bill, to make it a bill and put it on the floor, so thank you. [LB805]

SENATOR LOUDEN: Okay. With that we will close it now on LB805 and the next bill is LB865. Senator Hudkins will introduce that bill. [LB865]

SENATOR HUDKINS: Thank you, Senator Louden, and good afternoon members of the Natural Resources Committee. My name is Carol Hudkins, C-a-r-o-l H-u-d-k-i-n-s and I represent the 21st Legislative District. I'm here today to introduce for your consideration LB865. LB865 authorizes the Game and Parks Commission to allow the live trapping of raptors within a county road right-of-way. Now, you're asking yourself, okay, what's a raptor. Well, I didn't know either so I looked it up in the faithful Webster's dictionary and a raptor is the name of an order of bird of prey including an eagle, a hawk, an owl, a buzzard, etcetera. Juvenile raptors are caught by individuals who are licensed to engage in falconry and testifying somewhat after me, is at least one individual who

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engages in falconry, who will be better suited to explain exactly how this is done, how the birds are caught, how they're trained, etcetera, but I'll give you the Cliffs Notes version. A person who has a license to capture a raptor will first identify a bird that he or she wishes to capture to use to hunt. Once the raptor is identified, a trap is placed that if the raptor takes the bait, will result in the bird being caught in a non-life-threatening manner. The trap is under constant supervision of the trapper. Once the raptor is caught, the trapper returns to the trap, removes the bird from it and places the bird in containment devices to transport home for training. I believe that because the trap is a live trap and is not designed to injure, maim or kill, and is under the constant supervision of the trapper, that it is a sport that is consistent with other uses that occur in the county road right-of-way. As such, I believe that the Game and Parks Commission should be authorized to further review the process and draft the appropriate rules and regulations for this activity to occur, if the commission agrees that it is an activity that can safely be done in the county road right-of-way. I thank you for your time and I would ask that you give attention to Mr. Ingram who will be one or two behind me and how this whole process takes place. And once again, when we passed a bill last year to prohibit trapping in the road right-of-way, we asked the Game Commission, you know, are there other ways that rights-of-way could be used safely. And the falconry people came forward and said the way the bill is currently written causes us a great deal of problems. So if this bill is passed, then that would allow them to continue with their safe trapping in the right-of-way. Thank you. [LB865]

SENATOR LOUDEN: Okay. Do you want to take questions? [LB865]

SENATOR HUDKINS: Sure. [LB865]

SENATOR LOUDEN: Okay. Questions for Senator Hudkins? Seeing none, thank you, Senator Hudkins. (laughter) Next proponent for LB865. [LB865]

JOEL JORGENSEN: (Exhibit 3) My name is Joel Jorgensen. I'm the Nongame Bird Program Manager with the Nebraska Game and Parks Commission, J-o-r-g-e-n-s-e-n. Chairman Louden, Senator Hudkins and distinguished committee members, I want to thank you, on behalf of the Nebraska Game and Parks Commission for the opportunity to address the amendment to LB865. The Nebraska Game and Parks Commission does support the amendment to LB865 or LB865 which does allow falconers to capture raptors within the county road rights-of-way. Falconry is the art and sport that uses trained raptors to hunt game. Falconers are highly trained and dedicated to their sport and are also dedicated to the welfare of their birds. Falconry is strictly regulated by both the Nebraska Game and Parks Commission and the U.S. Fish and Wildlife Service. A person interested in becoming a falconer must complete a rigorous training process before obtaining a falconry permit. This includes a written examination, inspection of their facilities, and having a sponsor who is a falconer of either the general or master class. The sponsor provides additional training and support during the apprentice

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falconer's first two years. Currently Nebraska has approximately 30 active falconers, a very small number and a small proportion of those falconers will actually be conducting roadside trapping during any one season. Falconers monitor their traps and do not leave them unattended for extended periods. We believe the dedication and commitment of falconers to their sport and their birds, falconry's strict regulations, the likely small number of birds that are actually going to be trapped during any one season, and the attendance of traps while in use, are all compelling reasons to support this bill. In addition to my written testimony, I also provided a one-page sort of quick summary of what falconry is all about in case some of the senators may not be fully aware of what this sport entails. But with that, I thank you for your attention to this important issue and your commitment to Nebraska's wildlife and natural resources. [LB865]

SENATOR LOUDEN: Questions? Senator Kopplin. [LB865]

SENATOR KOPPLIN: Thank you, Senator Louden. Joel, 30 active falconers, what kind of a licensing program do you have? Do you have to have a license to be a falconer or just to trap or what? [LB865]

JOEL JORGENSEN: Well, you do have to be a falconer, a licensed falconer to be able to trap the birds. And again, it's a rigorous process. You have to complete the written test. You have to have a sponsor. You have to have your facilities inspected even before you get your falconry permit. And in addition to the state permit, you also need a federal permit. So and when you're an apprentice falconer you don't have all of the...you don't have, you're restricted even more so. After those first two years when you're...after you're an apprentice you're able to have a little more leniency in some of the things you do but when you're an apprentice falconer you're only able to have one bird. [LB865]

SENATOR KOPPLIN: What kind of a fee do you have on these type of places? [LB865]

JOEL JORGENSEN: I think right now an apprentice falconer is, and I would have to check to be completely accurate, but I think it's around \$70 if I...and Jim may, who will be testifying after me, may precisely know that since he has to pay it so. [LB865]

SENATOR KOPPLIN: Okay. Thank you. [LB865]

SENATOR LOUDEN: Other questions? Senator Dubas. [LB865]

SENATOR DUBAS: Thank you, Senator Louden. Thank you, Mr. Jorgensen. I didn't know this sport even existed in our state so if I'm understanding right, they have to have a permit, go through a process in order to do this sport, trap this bird, and then they would receive an additional permit to do the actual hunting? [LB865]

JOEL JORGENSEN: No, they don't need an additional permit to do the hunting. [LB865]

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SENATOR DUBAS: Okay. It's all in one. Okay. What types of prey do these birds hunt? [LB865]

JOEL JORGENSEN: Well, primarily the roadside hunting it's either red-tailed hawks and that's going to be the primary species and that is the most common raptor in Nebraska. They can only catch young of the year birds during that initial...with roadside traps or they can also take, legally take birds from a nest, one or two birds, but they have to leave two birds in the nest if they do that, and there are a variety of restrictions when they do that as well. But red-tailed hawks are going to be the vast majority of birds taken from the roadside. [LB865]

SENATOR DUBAS: Okay. And so then once they get these birds, what are they training these birds to do? [LB865]

JOEL JORGENSEN: Again, Jim, Jim Ingram may be able to speak to some of this a little bit more, a little bit better but they'll train them to hunt game. That's what falconry is. They use their birds to legally hunt game within the state of Nebraska and they have to follow those regulations too. But they'll train them over a period of time and then use them to hunt game and then I believe they can, in many instances, they can either keep the birds or they can release them back into the wild. But there are restrictions to all of these steps that they do. There's a reporting process they have to keep both Game and Parks and Fish and the Wildlife Service abreast of what they're doing with their birds at all time, so. [LB865]

SENATOR DUBAS: Okay. Thank you. [LB865]

SENATOR LOUDEN: Senator Christensen. [LB865]

SENATOR CHRISTENSEN: Yes, thank you, Chairman Louden. Are the rules in such a way these traps have to be watched or can they be unwatched? [LB865]

JOEL JORGENSEN: I don't...I can't speak specifically in regards to the statute or the regulations but I think, you can't just simply leave the traps unattended. It would defeat the purpose of being able to try to capture the bird in a safe manner without any harm to it so. [LB865]

SENATOR CHRISTENSEN: But the rules don't say they must be watched or do you know? [LB865]

JOEL JORGENSEN: I don't know off the top of my head. I'm sorry about that. [LB865]

SENATOR CHRISTENSEN: Thank you. [LB865]

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SENATOR LOUDEN: Other questions? Senator Wallman. [LB865]

SENATOR WALLMAN: Thank you, Senator Louden. What kind of game would these birds hunt? [LB865]

JOEL JORGENSEN: Well, with falconry in general they can hunt any of the legally hunted species and it somewhat depends on the birds that they're using in regards to the game that they're going after, because each bird has it's own natural history and abilities to hunt specific animals which they would naturally do in the wild. With red-tailed hawks, I would suspect that they're primarily going to be hunting small game, cottontail rabbits. And again, they have to abide by the regulations of Game and Parks. [LB865]

SENATOR WALLMAN: I'm not exactly a hawk fan because I think that's why we're getting our pheasant populations going down, you know, quail population. Thank you. [LB865]

SENATOR LOUDEN: Questions again? How do you trap one of these birds? [LB865]

JOEL JORGENSEN: They use a combination of essentially a noose trap and I think Jim has an example, Jim Ingram, a falconer, who will be testifying after me, has brought a trap in to show you. Essentially, you bait a trap and it has nooses on it and the birds get caught with their feet into the trap and it's a well...it's a method that's used in a number of different areas for trapping birds, whether it be for scientific reasons but generally the birds are unharmed when these traps are used or I say, they're essentially unharmed in all instances. [LB865]

SENATOR LOUDEN: Now when you hunt with them, then, you got to hunt whatever's in season? [LB865]

JOEL JORGENSEN: That's correct. [LB865]

SENATOR LOUDEN: How do you keep one from, if you want to hunt grass, how do keep them from catching a pheasant or vice versus? [LB865]

JOEL JORGENSEN: I would defer that question to Jim Ingram. I'm not sure how you actually train the birds to do that. [LB865]

SENATOR LOUDEN: Okay. Thank you. Other questions? Seeing none, thank you for your testimony. [LB865]

JOEL JORGENSEN: Thank you. [LB865]

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SENATOR LOUDEN: Next proponent for LB865. [LB865]

JAMES INGRAM: My name is James Ingram, J-a-m-e-s I-n-g-r-a-m. I want to thank the committee for allowing me to testify as a proponent for this bill. And I am a physician in Omaha, Nebraska, and I have been a falconer for about ten years and a master class falconer. And I hunt with birds of prey for enjoyment and falconry is the oldest sport in the world, dating back some think to 4,000 years, 4,000 years ago. We have about 30 falconers in the state and nationwide there's about three to four thousand falconers. There's an international association of falconry as well around the world in every country, you know, has falconers in it. I'm representing Nebraska Falconers Association as well as Wild Raptor Take Conservancy for which I'm the president and it's an international organization. And I wanted just to discuss a little bit about how we trap birds but just to reiterate, I think Joel did a great job just kind of giving a synopsis of falconry. In order to become a falconer you have to take written tests. You have to have your facilities inspected. You have to have a federal and state license and as an apprentice, you have to be an apprentice for two years under another falconer, general or master class. And then after that...and then during the first two years as an apprentice you're only allowed by law to take a juvenile red-tailed hawk to trap and train and hunt with and you may release it each year if you like. Many master class falconers hunt with red-tailed hawks. Probably 50 percent of the birds used in falconry in the United States, it's actually more than that, about 57 percent, are red-tailed hawks which is the most common raptor in the United States. It's only found in the United States as well and it's a great game hawk. After your apprentice year, two years, you're then allowed to try different types of birds of prey. You can trap them. There's cooper's hawks available around here. Northern goshawks that migrate through here and also in other states. You can go to other states and trap other birds. You can trap merlin falcons along the coast or in the central part of the United States. There's prairie falcons in Nebraska that you can use for hunting. You can also buy captive bred birds. The peregrine falcon which was endangered in the 70's and 80's came off the endangered species list in 1999. That bird we were only allowed to use if it's been bred, captive bred by another falconer. Prior to that time, prior to the endangerment from DDT, that was a very common bird to use in falconry, the peregrine falcon which we all know is down on the Woodmen Tower and hunts primarily bird species or exclusively bird species really. And then there is gyrfalcon which is...migrates sometimes down this far down south and they're from the Tundra, you know, up in Canada. So there's all different species of birds. There's kestrel too that's native here. It's a small falcon that you can use to hunt with as well. So those are kind of the most common birds used for falconry. Now to obtain a red-tailed hawk is difficult and to obtain any...to trap any wild raptor is a difficult process. You have to be good at it. You have to be knowledgeable of the species. You have to, you know, know how to...and even with all the knowledge it's difficult to get them in a trapable situation. This is a trap that I brought in just to show you. This is probably the most common trap used for trapping red-tailed hawks and other species

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too but it's called a BC. It stands for Bal-Chatri. It was designed in India or in that region of the world. It stands for...it's a name for...it's called baby's umbrella. In the old days they used to use a basket that they'd cover up the babies with to shade it and what they did was they took this basket and they tied nooses out of horse hair and things like that and they put it on the basket and then underneath the basket they'd put a prey species for the raptor that they were trying to catch. And then it would come in and try and get the thing in the basket, try and get the prey and get caught in nooses. This is a similar thing here and what you do is, see there's a little hole down here. You put a mouse inside the basket here and then this is weighted on the edges and these nooses are made out of a, like a fishing line material but this is actually a leader. It's kind of a coated wire. But anyway, when you spot the...a lot of the raptors, like red-tails will sit on the highest, like a tree or a pole, mostly poles, where they can spot, you know, the game that they are trying to catch, mostly mice they're trying to catch to eat. And anyway, when they're sitting on these poles you can spot them and then, you can't get too close to them because they'll fly away. But what you do is, you drop this out alongside of the road because that's where they're sitting on these poles are a lot of times alongside the road, and obviously you don't want it in the road because it could get run over, and you don't want the bird going in the middle of the road. But you drop this off the side of the road and then you drive away and you watch the hawk. And then what happens is, the hawk is always looking for something to eat and once it spots this, it'll spot the mouse running around inside here and then it'll come flying down and try and grab it. And it really doesn't know what this contraption is and when it gets on top of there, you know, gets it's toes caught in these nooses here, and then once it's caught it can't fly away. It will just drag this around, you know. So then we get out of the car and run down there and pick up the bird and cover up the bird with a towel so it's relaxed and so on. We take the noose off the toe and then pick up the bird and then we bring it home and we put jessies on the leg, which is like little leather strap that we hook to the legs and then we hook that to a leash, tie it to a perch and then we put the bird in kind of a quiet room on the perch, close the door and leave it alone. Well, at first when you go in there, you know, they're afraid of you and so you have to kind of...they have to kind of get used to you because they're wild animals. And if you go in time and time again, you know, day after day, they finally get relaxed around you. Plus, they're also hungry and when each and every day you go in there you're offering it food and eventually it gets hungry enough to want to eat and it's relaxed around you. You give it food and then pretty soon it looks forward to you coming in to giving it food and then it, like wants to jump on your hand, and gets the food and that kind of thing. So that's how you kind of trap these birds, or train these birds. But anyway, the only birds that we're allowed to trap by law is juvenile birds because the mortality for juvenile raptors is about 70 percent. The adult birds are part of the breeding population and we're not allowed to trap those birds. But the juveniles, they have a high mortality rate and when you take one out of the wild, that individual bird actually has a better survival rate. So when you trap a juvenile bird it has a 70 percent mortality when you take it in. You train it, hunt with it, release it in the spring which a lot of people do because the hunting season is

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over with. Then its survival is increased to become a part of the adult breeding population. So anyway that's kind of a nutshell of how we trap and if there's any questions, I'll answer those. [LB865]

SENATOR LOUDEN: Questions for James? I have one. What do you feed those birds while you're (inaudible) them down and everything? [LB865]

JAMES INGRAM: Well, initially, initially when you're feeding, let's say a red-tail, every bird is different on what it eats. I mean you cannot feed a red-tail the same thing that you feed a peregrine falcon. A peregrine would die if you fed it what a red-tail eats. So you have to feed it what it naturally eats and the best thing to do is to, you know, feed it, you know, whole food. For instance, a peregrine falcon. I have a peregrine. You know I feed it quail. It's pen-raised quail that I get from a guy out in Washington state and he ships me frozen quail, about a hundred of them. I put them in the freezer. They're fully feathered and they're raised to feed animals. You know, he sends them to zoos and falconers and you know, other places they have animals that eat that kind of stuff. But normally, like with like my falcon if it catches a duck, then I'll feed it part of the duck and then I'll freeze the rest of it and feed it the duck over the course of however long it lasts. With the red-tailed hawk most people are hunting usually rabbits with them, sometimes squirrels. You know, if it catches a rabbit it gets to eat it, a part of it, not all of it. But a part of it and then you save the rest and feed that later. So that's mainly what you feed is whole animals because if you fed it just meat, like for instance, some people think why can't you just feed it like chicken or like maybe some beef meat. You know, I mean they'll eat that but it would die if it just ate that all the time because it needs all the vitamins, the calcium, it needs to eat the bones of the animals, it needs the liver, it needs all those things that are in an animal to survive and to be healthy so that's what you have to provide for it. [LB865]

SENATOR LOUDEN: I see. Questions? Seeing none, thank you, James, for your testimony. [LB865]

JAMES INGRAM: Thank you. [LB865]

SENATOR LOUDEN: Other proponents for LB865? [LB865]

MARK CHURCHILL: Good afternoon, Senators. My name is Mark Churchill, M-a-r-k C-h-u-r-c-h-i-l-l. I'm here also representing the Nebraska Falconers Association. I'm a member as well of the North American Falconers Association, the Wild Raptor Take Conservancy, and the Peregrine Fund and I would like to, first of all, address to a few concerns and questions that have been voiced already. Senator Wallman, on hawks and game birds. Yes, hawks do take a number of pheasants and quail. Studies in the southeast, though, have indicated that raptors are actually beneficial to quail populations because they have a greater impact on rodent populations and one of the

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leading causes of mortality in ground nesting game birds is egg predation by rodents, mice and rats. So probably we're doing you some favors. (laugh) Also, Senator Christensen was asking about unmanned traps. I'm not aware of any language that specifically requires traps be observed but in practice there's only one trap that falconers use that is unmanned. It's called a Swedish goshawk trap and it would not be deployed on a roadside. It would typically be erected in a wood lot or a backyard. The traps that we use on the roadside all originate in central Asia, the Bal-Chatri that Jim showed earlier, the Dho-Gazza which is essentially a mist net. There are other traps, the Phai, which is a ring of nooses, but they're all basically designed to be mobile and designed to be watched at all times. Mr. Jorgensen referenced earlier the small number of falconers in the state. Of our membership of about 30, I estimate that about half are actively flying raptors. Many of those are captive bred. In an average year, well let's say in a typical year, I would estimate that fewer than ten hawks are taken in the entire state and probably five or six that would be much more typical. It's a very much limited take. Finally, Jim mentioned the recovery of the peregrine falcon and one thing he didn't mention whether...I don't know, maybe he was too modest. It's primarily due to the efforts of falconers that we do have peregrine falcons off the endangered list now and breeding in places like downtown Omaha and upstairs here on the Capitol building. I'm probably as affected as anyone in the state by this bill. In 12 or 13 years of falconry, I have only flown while taken passage birds. I have no interest in domestic raised birds. So I'm out trapping almost every fall and hunting with my birds. I wanted to bring to the committee's attention, however, a couple of other benefits of roadside trapping. We not only trap for our own purposes but we occasionally have call to trap for rehabilitation purposes. I get calls from Betsy Hancock, or excuse me, Betsy Finch of Raptor Recovery, a couple of times a year to trap birds. Usually birds that have been trapped, you know, caught inside buildings. They can't find their way out and they've run out of food inside so we need to get them brought in to be fed and then released. In at least one instance, one of our members observed a bald eagle out in the wild with a leg hold trap, a fur bearing trap on its leg and he was able to trap that eagle again on the roadside and remove the trap and improve that eagle's chances of survival. It's also important for raptor researchers to be able to trap, to place bands or radio telemetry or satellite tracking devices on raptors. Most of what we know about bird migration comes from banding studies and more recently the, its high tech variations like satellite tracking, so just a couple more reasons to approve the change to the bill. If you have any questions, I'd be glad to answer. [LB865]

SENATOR LOUDEN: Questions for Mark? Senator Kopplin. [LB865]

SENATOR KOPPLIN: Yes, you say you almost exclusively trap yours. Is it primarily the red-tail that you use then? [LB865]

MARK CHURCHILL: I've flown red-tail hawks, American kestrels and sharp-shinned hawks. [LB865]

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SENATOR KOPPLIN: The kestrels, which I think you can find on the Capitol too by the way. They're much smaller, aren't they? [LB865]

MARK CHURCHILL: Kestrels are very small, they're... [LB865]

SENATOR KOPPLIN: So what do...(laugh) [LB865]

MARK CHURCHILL: Flying kestrels...I have hunted English sparrows, European starlings and mice and voles. One other thing I neglected to mention. For red-tailed hawks in particular, there are other methods of tracking besides along the roadsides. However, for certain species of raptors that are more thinly distributed and more mobile, roadside trapping is the only feasible method. Jim mentioned earlier, peregrine falcons and goshawks. You might drive hundreds, possibly even thousands of miles within Nebraska before seeing one, much less having the chance to trap one. There's no other way to get to them. We don't have a well-defined migration corridor as they do on the east coast along the Atlantic beaches and the Gulf Coast beaches. There's no concentration, no geographic feature which has a river of raptors coming down every fall. We have to go out and find the birds and roadside trapping is the only method we have for those species. [LB865]

SENATOR LOUDEN: Okay. Other questions for Mark? Senator Hudkins. [LB865]

SENATOR HUDKINS: Thank you, Mark, for being here. [LB865]

MARK CHURCHILL: My pleasure. [LB865]

SENATOR HUDKINS: This may have been covered in a previous testifier and I'm sorry, I was in another committee with another bill. But I was just curious, once you have, you've trapped, let's say it's a red-tailed hawk, how long does it take you to train them so they are ready to hunt? [LB865]

MARK CHURCHILL: I generally aim to have my bird flying free, hunting with me about a month after capture. It amazes me every time. It takes me a month to figure out that, you know, the calendar has changed and it's now 2008. In a month they go from literally being scared to death I'm going to eat them, to trusting me and I'm turning the bird loose. It could fly to Oklahoma if it wanted to but it will hunt as it would in the wild, the only difference being that it now accepts my presence in the field and my help at flushing game. [LB865]

SENATOR HUDKINS: So when it catches a rabbit or whatever it's going to catch, then it's your responsibility to go to where that catch has been made? [LB865]

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MARK CHURCHILL: Correct. They're not going to fly it back. In most instances they simply don't have the strength to lift it off the ground in most cases. If my red-tail, for example, catches a rabbit which is our primary game, I go in to assist him, you know, making sure he's got a hold on it. I dispatch the rabbit a lot more quickly and humanely than he would be able to do on his own. I then either let him feed on that rabbit or I trade him off for some meat that I've brought along and then we take the rabbit home and I'll often enjoy a rabbit dinner and then he eats the majority of it. [LB865]

SENATOR HUDKINS: Thank you. One more question. [LB865]

MARK CHURCHILL: Sure. [LB865]

SENATOR HUDKINS: I'm admiring your boots. [LB865]

MARK CHURCHILL: Thank you. [LB865]

SENATOR HUDKINS: Is there a story behind those? [LB865]

MARK CHURCHILL: These are mukluks. I figure, in this building you probably see a good number of cowboy boots. It wouldn't hurt to see one guy with Indian boots. They're made for Arctic weather. These have been to the North Pole, the South Pole, they've run the Iditarod in the Yukon Quest. They're the warmest footwear going. [LB865]

SENATOR HUDKINS: We could all use some of those today. Thank you very much for being here. [LB865]

MARK CHURCHILL: Thank you. [LB865]

SENATOR LOUDEN: Other questions? Senator Carlson. [LB865]

SENATOR CARLSON: Senator Louden. Mark, maybe you just answered part of the question with your extensive travels. What gets you into falconry and is it, it must be expensive? [LB865]

MARK CHURCHILL: Yeah, I should clarify, my pair hasn't been to the North and South Pole or running sled dog races. (laugh) I've always had an interest in birds. My mom and my grandpappy were both bird watchers and I just kind of grew up with that. Over time I found myself increasingly drawn to raptors specifically, and at one point I just asked myself, who knows the most, who understands these birds the best? And it had to be falconers so I...this is when I lived in Georgia but I started making inquiries and hooked up with the Georgia Falconers Association and was fortunate enough to find a sponsor and, you know, here I am. [LB865]

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SENATOR CARLSON: Thank you. [LB865]

SENATOR LOUDEN: Okay. Question I have is, I grew up hunting but we always had to dress and eat what we shot, and you guys seem like you hunt and just mostly feed it to the birds, you don't share with him or nothing like that? [LB865]

MARK CHURCHILL: Oh, absolutely. I can share some great rabbit recipes with you. I eat game on a regular basis. Falconry is not necessarily about putting game on the table, though, particularly when flying a small bird such as a kestrel or a sharpshin. We are in it to see a natural predator at work, to see...the hawks aren't doing anything different than they would do in the wild except that they are willing to hunt with people and that's something, you know, you'd never..., you know, you're lucky as a bird watcher to see a hawk make a kill, you know, a couple of times in your life at least on anything larger than a mouse. We get to see the birds catch prey on a regular basis so it's a visual treat for us. It's a good excuse to be out in the woods and fields. Beats sitting at home watching the TV, playing video games, what have you. But there is an aspect to it of putting game on the table and enjoying good game cookery and I wouldn't give that part up. But it's more than, it's more than just providing food. [LB865]

SENATOR LOUDEN: Okay. Well, thank you. One thing I might mention to you that when you say you're lucky to see a kill, is my work on the ranch and stuff I've seen hawks kill everything all the way from small dogs to I saw, three of us saw, an eagle kill a deer one day. [LB865]

MARK CHURCHILL: Oh, my. [LB865]

SENATOR LOUDEN: And he killed him deader...bled him out right there in front of us. [LB865]

MARK CHURCHILL: Didn't have a video camera did you? [LB865]

SENATOR LOUDEN: Well, no back then we didn't have video cameras (laughter) but the deer after...after the deer laid there and finished dying why the neighbor had hounds so he...we was horseback, he drug the deer home and fed it to his hounds but yes, that deer was laying on a side hill and that eagle came by and punched a three-cornered hole right in his jugular vein. [LB865]

MARK CHURCHILL: Well, Senator, that may be how falconry began 4,000 years ago is with a livestock herder or a pneumatic hunter witnessing a wild bird make a kill and thinking to himself, how can I arrange for that more often. [LB865]

SENATOR LOUDEN: It'll work. What we told the hired man that day was whatever you do, don't go and lay down on the side hill and go to sleep. (laughter) Thank you for

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testifying. [LB865]

MARK CHURCHILL: Thank you. [LB865]

SENATOR LOUDEN: Next testifier for LB865. Okay. Are there opponents for LB865? [LB865]

WES SHEETS: Good afternoon, Chairman Louden and members of the Natural Resources Committee. My name is Wes Sheets, last name spelled, S-h-e-e-t-s. I appear before you on behalf of the Nebraska Division of the Izaak Walton League and I must tell you that it may not sound like I'm really an opponent to the legislation. However, you know, we have extremely adamant envy for those people that take up falconry and are able to capture birds and train them to hunt for them, and I've often thought it'd be a great activity for lots of other hunters. But you must...I do appreciate the time it takes to pursue that sort of outdoor hunting. Our objection to the bill, really we should be talking about Senator Christensen's bill I suspect. We believe that prior to the change in the state law of 37-513 last year, that the rules and regulations that were administered and operated in this state by the Game and Parks Commission were extremely adequate and were very valuable in managing our wildlife populations. And those rules, it's my understanding, did include the opportunity for those pursuing falconry to capture birds for use in their falconry activities from the roadside. I think the clear, and this activity clearly demonstrates that roadside wildlife habitat is extremely beneficial to our wildlife populations particularly in southeast Nebraska. But I would suggest that in most of the property in Nebraska where there is agricultural activities, that many times the roadside habitat is the only thing that wildlife have. So by sheer chance, you know, those roadsides are needed if you are to easily capture a bird, the prey to put into your sport. I think a very small objection that we would have is, why should we change and go through a state statute for obviously a very small number of constituents when things were fine the way they were. I guess in summary, we would recommend that you not forward this bill on to the Legislature, that you merely consider the repeal of the amendment that was made last year to 37-513 that prohibited the activity. Game and Parks Commission can quite adequately manage the 30 falconers in this state and can certainly take care of our resources in that way. So with that, I would conclude my testimony and I guess I should apologize to Senator Hudkins because I know that this issue is one of quite concern. So with that, I attempt to answer any questions if there are any. [LB865]

SENATOR LOUDEN: Questions for Wes? Senator Kopplin. [LB865]

SENATOR KOPPLIN: So you're really not objecting to the sport or the capture of the bird on the roadside? You're objecting that... [LB865]

WES SHEETS: To the method that we're getting there. [LB865]

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SENATOR KOPPLIN: ...it didn't need to be, they don't need a law because the law isn't correct? [LB865]

WES SHEETS: That's generally our opinion, right. The sport of kings, you know, that's fascinated many of us for many years and certainly I think it's a legitimate use of our wildlife resource to pursue that activity. So we're not objecting to the use of birds for preying. [LB865]

SENATOR LOUDEN: Other questions? Seeing none, thank you, Wes, for your testimony. [LB865]

WES SHEETS: Thank you for the opportunity to be here. [LB865]

SENATOR LOUDEN: Other opponents to LB865? Anyone wishing to testify in the neutral? Seeing none, do you wish to...Senator Hudkins waives closing. With that, we'll close the hearing on LB865 and we'll go to LB743, Senator Christensen. We have two letters to read in support of LB743 from a Debra Eppenbach from Ord and a Dave Hastings from Ord. We'll let those be entered in the record (Exhibits 4 and 5). Go ahead, Senator. [LB865 LB743]

SENATOR CHRISTENSEN: (Exhibits 6, 7, 8 and 9) Thank you, Chairman Louden and fellow senators. My name's Mark Christensen, M-a-r-k C-h-r-i-s-t-e-n-s-e-n. I represent 44th Legislative District. I'm here to introduce LB743. LB743 would repeal the prohibition on trapping in county road rights-of-way. This prohibition was amended in LB299 by the adoption of AM1351 during state debate on Select File last season, last session. The Natural Resources Committee did not discuss this issue in committee and the issue did not get adequate debate on the floor. The floor debate focused on an isolated, emotional incident that was already illegal prior to the adoption of the ban and ignored the negative consequences that a ban may cause, such as loss of income, economic activity, loss of public service to local public subdivisions and an increase in damage to roads, crops and other property. I believe an in-depth discussion is necessary so that a full disclosure of facts can be brought forth. Several testifiers follow me will talk more specifically regarding the negative consequences of the ban. They will also touch on some of the technical aspects regarding the size and types of traps allowed prior to the ban. I would add one more...you'll get to see the size of the trap I believe will be handed out behind me but I asked to bring one of the traps in. The State Patrol said no. And a legal trap I would have gladly stepped on and let it shut. It would have stung but it would not broke my foot. I just wanted to illustrate...I'd have gladly illustrated that to you if it had been allowed in here that these are not very big traps. Thank you. [LB743]

SENATOR LOUDEN: Questions for Senator Christensen? Seeing none, thank you,

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Senator. With that, we'll ask for the first proponent for LB743. [LB743]

STEVE RILEY: (Exhibit 10) Chairman Loudon, Senator Hudkins, and esteemed members of the committee, my name is Steve Riley, last name is spelled R-i-l-e-y, and I'm an assistant administrator with the wildlife division of the Nebraska Game and Parks Commission. Nebraska Game and Parks Commission supports LB743 which would eliminate recent restrictions enacted on trapping wildlife in the county road rights-of-way. Modern highly regulated and...excuse me, modern trapping is highly regulated and trapping furbearers may only be conducted by licensed individuals who may, who must obey specific laws regarding the types of traps used, the manner in which they are set and the frequency they must be checked. Finding out that my bifocals don't work very good in this light. I might point out that trapping is an integral part of, it's an integral management tool necessary to alleviate conflicts between wildlife and human interests. Furbearers and nongame animals such as coyotes can cause a variety of problems including livestock depredation, crop depredation, property damage, disease issues and flooding. For years trappers in Nebraska have provided a free service to landowners and have used their expertise to address specific conflicts with wildlife through legal harvest in a manner that provides a benefit to both landowners and the trapper. Trapping in the road right-of-way previous to the enactment of the new measure was already subject to additional regulations as compared to other properties and was designed to ensure the safety of people, livestock, pets and non-target wildlife. These regulations included permission from the landowner must be obtained unless the title is held by the county. Conibear type traps, which I'll demonstrate a little bit more, you have a photo in front of you, with a jaw spread of larger than five inches, which I might add is smaller than my hand, must be completely under water or set at least six feet above the ground. These are the traps that were in question in last year's incident which obviously were illegally set. Additionally, trapping is prohibited within 200 yards of a dwelling, livestock crossing or bridge, or a feedlot, unless permission has been obtained. All traps must be, must also have been identified by a tag attached and that tag must have the identification of the person who set the trap to allow for a check by the law enforcement. Again, the incident last year that was so emotionally charged that was not on the trap but the person did, who was trapping with that illegal trap did admit to eventually having used that trap. Didn't know the regulations. Trapping in the road right-of-way is an integral tool for management of furbearers and problems associated with them and it's important for fur harvesters as well to be able to use these road rights-of-way. A well maintained road system allows trappers to access areas during the winter when pelts are in prime and also most valuable. Also at that time of the year, trapping occurs which is when very little activity is going on in those road rights-of-way. If you think about when prime furs occur, it's when there's snowing flying. So people, generally speaking, are not using our rural roads at that time for much other than driving. It's important to note that we had a survey last year and just trying to ascertain what the benefits were in these road rights-of-way and actually how much activity went on the previous year before the rule came into effect. 2006, 2007 season, there were

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14,500 raccoons estimated to have been trapped in the roadway, 5,100 muskrats and 400 beavers just to name a few. Muskrat and beaver in the road right-of-way are of particular importance because they do burrow and tend to plug up the ditch. And so if you have water moving through the ditch, beaver builds a dam in it, and now you've got a problem with water flowing off of the agricultural lands, and also creates an expense for county officials to remove that beaver dam. And this is not something that is rare, this is something that is fairly common. So the trappers in that effect, in that situation, provide quite a public service and are often called upon by members of the county road workers to actually come and take care of that problem. And it takes a while usually to get all of the beavers in that particular setting so that you can remove the dam and keep the flow moving. In addition, the beaver tend to burrow, as I said before, and can burrow under roadways, in which case when you have heavy equipment that goes by sometimes that can collapse the roadway and cause other hazards. The Game and Parks Commission believes that the benefits provided by this law really speak to the need of the citizen trapper to be able to conduct their business. We estimate that in the...just to give you a sense of the magnitude of that business, that annually there's probably over \$200,000 in commerce that occurs due to that trapping in those road rights-of-way. We also contend that this law is good because little or no danger exists for people, pets, livestock or anything else that might be going on out there due to the trapping that occurs. If it's legal, it's not really dangerous. If you look at the handout that I provided, you can see that the traps here are not very ominous. Those of us who have trapped have occasionally been nipped by a trap. When you set these traps and these traps are all in the set configuration, if you actually touch that little pan on the top, that little square piece on the first and second one, you'll set those traps off and they can hurt. I've had my fingers caught in a few traps and it stings. But you know, if you're thinking about, for instance, livestock stepping in these traps, my guess is that a cow probably wouldn't know that they stepped, that they ever deployed the trap if they stepped on it. If they did, it might make them jump. But if they're legally set, these traps are...they don't pose a problem to the things that people worry about and that is livestock, pets, and people, as well as, and we're concerned about, non-target animals. There are a few other points to kind of throw into this just to make sure that folks understand. I know in previously testimony today it was discussed that a trap was on...an leg-hold trap was on a hawk and one of the testifiers had trapped that hawk and removed the trap. I would say that it is almost certain that that trap was illegally set to actually catch a hawk, because hawks normally come either into a trap for two ways. One is that it's set on a top of a pole and intentionally designed to catch a raptor by the leg which is illegal or it's set with bait as was discussed with the little snare trap that was displayed because hawks will come into bait and that's illegal as well. You can't bait traps. There can be no site exposed bait for the traps that you would use so that would be an example of an illegally used trap. I have a number of other things that we can discuss and prepared to take any questions that you might have. [LB743]

SENATOR HUDKINS: Senator Kopplin. [LB743]

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SENATOR KOPPLIN: This, these types of traps that you showed, which one was involved in the incident last year that brought about this... [LB743]

STEVE RILEY: That would be the one on the bottom. [LB743]

SENATOR KOPPIN: On the bottom? [LB743]

STEVE RILEY: The bottom trap is called a conibear, as it says here. A trap that would be legal within the road right-of-way would be a trap that would be a 110 conibear. A 110 conibear has a 4.5 inch, as you can see on this, there's two four and a half inch squares that when it's set, actually come together and when it's set off, they fall...the spring makes them come together the other way. The way they're designed is actually to be a humane trap to kill a target animal fairly quickly by suffocation. They're often used in holes. This type of trap that you see in the picture would normally be set under water for muskrats in their holes and would be designed to dispatch them very quickly. The type of trap that was used that actually was involved in the incident that was so well discussed last year was a trap that's larger than this that is not designed to be used in the road right-of-way at all. It's illegal in the road right-of-way and generally would be used in sets that are typically designed to either catch animals again under water or for coyote sets but would be not used in the road right-of-way. [LB743]

SENATOR KOPPLIN: Okay. Thank you. [LB743]

SENATOR HUDKINS: Senator Carlson. [LB743]

SENATOR CARLSON: Senator Hudkins. When you first started your testimony you referred to that top one, I think. I either didn't hear right or I didn't understand what I heard. Tell me how that one is set legally. How would it be legal in the road, in the ditch. [LB743]

STEVE RILEY: In the road ditch you would set that trap basically would be staked down and typically buried and made to be inconspicuous and oftentimes it's either placed in an area where animals are known to move through, where you have a trail that is being widely used by a wild animal like a raccoon or whatever, or it's used with scents in order to attract animals to the scent and this would be a leg-hold trap that captures an animal by the leg and is meant to hold them in place until the trapper returns to dispatch the animal. [LB743]

SENATOR CARLSON: Well, then because I thought I heard something about it being elevated and then that didn't sound right. [LB743]

STEVE RILEY: No, no, no, that was my example would be that maybe what I'm

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talking...the elevated trap would be, I'm not even really familiar with using elevated traps but it's illegal to put that trap...most people don't do that but we don't, we can't have the bottom trap has to be either under water or above ground at least six feet. So what would...probably the normal usage of a conibear trap, the bottom trap, that would be above ground, would be to put it in a den hole above ground to catch something like a raccoon going into a hole in a tree. That would be how that was used. The top trap would not be normally used above the...it would not be elevated. That would be a case where you would be trying to catch something that normally you wouldn't, it wouldn't be a normal trapping process. [LB743]

SENATOR CARLSON: Thank you. [LB743]

SENATOR HUDKINS: Any other questions. All right, thank you, Mr. Riley, for appearing today. Is there other opposition? Proponents, I'm sorry. I'm ahead of myself. Mr. Herrod. [LB743]

JOE HERROD: My name is Joe Herrod. J-o-e H-e-r-r-o-d. I'm here representing the Nebraska Council of Sportmens Clubs today. We very, very, very much appreciate Senator Christensen bringing this bill. He said just about everything that I was going to say. It was very emotional last year. It was an illegal trap. The person didn't have their dog on a leash which is something that I can't imagine anybody taking a dog out on a county road without a leash. But in those...but we need to remember that and also that it was just an amendment and it wasn't a bill, wasn't a statute, and it didn't get a fair hearing. And so we need that hearing today and the fact that the trappers belong to the Nebraska Council of Sportmens Club but they're are small part of it. But what all sportsmen realize is that trapping is a very most beginning step of wildlife management and so we strongly support it. We know it's the one that's most easily attacked and once people that don't like hunting, once they start on trapping, that's the easiest one to go after. Eventually it will get to us. So we feel very strongly that we need to support this. I would be very much surprised if our legislative meeting, I'm sure this will be our whatever we call that, our priority bill of the session and that meeting is coming up February 4th, and those of you that are familiar with that, it's over at the ladies club and it's the free lunch with the game dinner and everything else, and we hope to see you over there. And one little additional thing, because the people behind me know a lot more about trapping than I do. But what I learned about trapping here recently was from a young man who traps on my cattle ranch in western Nebraska and I spent quite a bit of time with him and I enjoyed it a lot and he happens to be Senator Mike Flood's brother-in-law. So Senator Flood has a very good resource to go to. He has a very good trapper in the family and hopefully he will pay attention to this bill also because I understand that the speaker might have some priorities that the rest of you are...they're a little more liberal with him and we'd really...we need to get this back. This is important to get these guys back on the road sides. [LB743]

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SENATOR HUDKINS: Questions for Mr. Herrod? Thank you. [LB743]

WES SHEETS: Madam Chairman and members of the Natural Resources Committee, once again my name is Wes Sheets, spelled S-h-e-e-t-s. I'm here representing, of course, myself and the Nebraska Division of the Izaak Walton League. Of course, you know that's about 19 chapters across Nebraska made up primarily of hunters, fisherman, and some trappers. We feel very much akin to what most of that that's been said already today. But I'd like to reiterate a couple of things. One thing that I mentioned in the previous hearing, roadsides are very, very important elements of our wildlife habitat in this state. And in some parts of the state they're virtually the only wildlife habitat component that we have which support a number of wildlife species, including fur bearers but including predators such as impact those pheasant populations. You all know that raccoons can be very important in the success of pheasant populations in this state. And I'd submit that probably they can easily be utilized by trappers on those roadsides. Trapping is a valuable management tool, of course, for those populations as well as many other populations. We need trapping...regulated trapping in this state probably in the worst way now, in addition to the benefits that activity provides for doing it as own. Certainly Game and Parks Commission had adequate rules and regulations prior to the change in the law last year to control trapping in a most appropriate way. Given all those activities, we'd certainly like to recommend the committee move this bill onto General File and support it with probably some priority and work hard to get it passed. We think that it's a very important part of our heritage to be able to trap in Nebraska and this is one small part that will let it continue in this state. With that, I'd attempt to answer any questions you have. [LB743]

SENATOR HUDKINS: Senator Louden, do you want to take over? [LB743]

SENATOR LOUDEN: Go ahead, finish up. [LB743]

SENATOR HUDKINS: All right. Are there any questions? Seeing none, thank you. [LB743]

WES SHEETS: Given none, I thank you for the opportunity to be here today and thank you very much for this opportunity. [LB743]

SENATOR HUDKINS: The next person in support. And how many more people in support do we have? Raise your hands, please. Oh my goodness. Okay, we've got a few. [LB743]

SENATOR LOUDEN: Let's see. You want me to start in then? [LB743]

SENATOR HUDKINS: Yes. (Laughter) [LB743]

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SENATOR LOUDEN: Okay. Did you get the count on the hands? Nine? Okay, then we're going to have to start doing about five minutes, if that's okay. Go ahead. [LB743]

DENNIS VICARS: Good afternoon, Senator Louden, members of the committee. Thank you for hearing me here today. My name is Dennis Vicars, D-e-n-n-i-s V-i-c-a-r-s. I'm from Pickrell, Nebraska. I'm a member of the Nebraska Free Trappers Association. I own and operate a supply business and manufacturing company, also a fur bearer. I depend on the trapping industry for 100 percent of my income. This year in particular since the law has been passed, the volume of fur that is noticeably down from in years past is approaching 30 percent. In my business alone, that amounts to about \$39,000 of lost revenue. Most of the fur that's trapped in Nebraska is shipped around the world. It's one of our most valuable resources in Nebraska. It's highly thought of in other countries. My fur goes directly to countries like Greece, China, Turkey, South Korea, Greece, Russia, and where it's highly used and thought of. I started trapping in 1959. Since that time, I've committed myself to doing damage control free of charge, mostly on beaver populations, a lot of which were in the road right-of-way. I spent a great deal of time doing work for the NRD, the Lower Blue NRD. For the last 20 years I did all their trapping, beaver problems, hundreds of landowners. I've also been asked by the county, township, and state on different occasions to trap the road right-of-way to remove problem beaver. I guess one of the last things I would like to say, I've got a lot of things I could say but we're going to keep it short, I think this issue needs a little bit of education in order to go around for everybody. The individual that has a dog needs to know their responsibility for that dog. The trapper needs to know that there are people out there with dogs that they have to be concerned with. And I think both parties need to figure out that they need some kind of education so they know exactly what to expect in the field. I think this would go a long way into helping. By simply passing a law in either direction doesn't remove the existing problem, basically just confuses it. [LB743]

SENATOR LOUDEN: Questions for...Senator Wallman. [LB743]

SENATOR WALLMAN: Thank you, Chairman Louden. Thank you, Dennis, for testifying. He actually lives in my district. So I appreciate your testimony today and I, too, believe education is part of the answer. And I realize we have to harvest our wildlife just like anything else. [LB743]

DENNIS VICARS: Thank you. [LB743]

SENATOR LOUDEN: Senator Kopplin. [LB743]

SENATOR KOPPLIN: Did I understand you are a fur dealer? You buy and sell... [LB743]

DENNIS VICARS: Yes, I buy...yes. [LB743]

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SENATOR KOPPLIN: Which animal makes the bulk of your business? [LB743]

DENNIS VICARS: The raccoon is probably, I'm going to say in our area it's about 80 percent of our business. [LB743]

SENATOR KOPPLIN: Okay, thank you. [LB743]

SENATOR LOUDEN: Senator Hudkins. [LB743]

SENATOR HUDKINS: Thank you. Mr. Vicars, you may have heard earlier that we had received a letter from a Mr. Hastings at Ord, and he was in support of the repeal, as at least eight others of you are out there. And he goes on, among other things, he does animal damage control. He's trapped beaver for various farmers. But part of his comment says this ban will dramatically hinder my ability to accomplish this in the future, even, and this is the words I want you to listen to, even though I am fully capable of doing the trapping in the culvert according to law and at no risk to nontarget catches. I can understand all of you wanting to trap. Why can't you do it not in the right-of-way? Why can't you do it just over the fence with permission? [LB743]

DENNIS VICARS: One thing, I can't speak for everybody, but me personally, I deal with hundreds of trappers each year. The complaints I get are basically the need for time. If you realize how trapping is completed, it has to be done in a regimented, fast-paced fashion where you check on lots of traps in one day in order to accomplish your set goals. By setting them in the road right-of-way you save your time. If you have a trap, for instance, that's set underneath of a bridge where it's out of sight, the trapper can simply go under there, check the trap, quickly move on down the line. If it isn't set under the bridge where it's not noticeable, the next alternative is going to be for him to set the trap across the fence line where, for quite a distance, he might find that that trap is in plain sight of somebody who might want to steal the trap. So he might have to go down a considerable distance. There are a number of people that do trap on private property. A large portion of the fur is taken that way. For individuals that have limited time, that work full-time jobs, that do this part-time, a lot of them do it at night. The other thing is the noninvasiveness of this trapping the road right-of-way. The landowners much more...welcomes much more the trapper to remove the animals without actually, you know, proceeding onto his land where, you know, somebody could probably do some damage with trucks or if they want to walk, any equipment they might have. I don't know if that answers your question. [LB743]

SENATOR HUDKINS: It does. Thank you. And so it's really for the trapper's convenience to do this in the rights-of-way? [LB743]

DENNIS VICARS: Well, when you say convenience, what I take from that is in order to

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harvest animals like they need to be harvested, I think it's in the necessity of the harvest that this be accomplished in this manner. [LB743]

SENATOR HUDKINS: Okay, thank you. [LB743]

DENNIS VICARS: Okay. One thing I would like to add is, we've had a little bit of talk here today about different types of traps that may be used in the road right-of-way. I am a trap manufacturer, I have been since 1999. I produce the coon-cuff trap, which is marketed throughout the United States. It's the largest selling dog-proof coon trap ever made. It's made at Pickrell, Nebraska. This trap has been used and tested all over the United States. It's been used in situations where it's used in neighborhood residential areas to remove damage-causing raccoons and it won't do anything but basically catching a raccoon. This has been very productive. We've sold, to this point, up to about 85,000 traps nationwide. Our business this year, although our fur business is down our trap sale business was up greatly this year. [LB743]

SENATOR LOUDEN: Okay. [LB743]

SENATOR HUDKINS: I have another question. [LB743]

SENATOR LOUDEN: Okay. Senator Hudkins. [LB743]

SENATOR HUDKINS: Okay. How do you make a trap dog-proof? [LB743]

DENNIS VICARS: Okay. Our trap is designed so it's got an opening on it. This trap is buried completely under the ground. It's got a small opening. In order for it to...I would have liked to have brought one today to show everybody. And if you allow me to, I will make one available to you, or to everybody here, so you understand our trap. But basically, the bait is placed underneath the trap into the ground. The trap is pushed in over the top of it and packed in with dirt or mud. The only way the trap can be set off is for the raccoon to reach through that, if I can make the hole bigger with my hand, is for them to reach through that hole like that back into the back of the trap and a trigger hits him here and trips it off. It catches him there. Of all the traps we sold around the United States, we've not had one report of any dog ever caught in our trap. We do have methods in which we encourage people to use our trap so it will not catch any house cats, which include wild cats and so on. And basically, if it's set properly it won't catch anything but a raccoon. [LB743]

SENATOR HUDKINS: And the dog, if it's a small dog obviously, raccoon-sized, or a cat, they won't put their paw in there? [LB743]

DENNIS VICARS: A dog, for instances, works at a set like this. And so the only way, if you had a very tiny dog because of the opening size, the chances...well, like I say, the

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chances of catching one, our studies have showed that we've caught 100 percent of the target animal. To my knowledge, of all the traps that are sold, we haven't caught one dog. So that kind of speaks for itself. [LB743]

SENATOR HUDKINS: Okay. And those traps are nonkilling traps then? [LB743]

DENNIS VICARS: Right. It just grips the animal's foot. Actually, as they pull on it, it tightens up. So once they're in there a little bit, they relax and then the trap will relax. They pull against themselves, so... [LB743]

SENATOR HUDKINS: All right, thank you. [LB743]

SENATOR LOUDEN: Senator Christensen. [LB743]

SENATOR CHRISTENSEN: Would it be correct to say the reason the roadside trapping is important because there's quite often trails out of the cornfield, converge to go...whether it's under a bridge or through a culvert or up and over the path and it just makes it logical to be in that spot? [LB743]

DENNIS VICARS: Yes. What I would answer that is, one of the ways...a particular technique trappers use is basically to divide and conquer. If you have a section, for instance, that has draws and creek beds and stuff going through it, it's simply easier to go around the perimeter and guard those areas where those animals pass through, which would be, in most likelihood, the creek bottom, the draw, the things that crosses the road. In those locations the animal is actually funneled into those locations and becomes into a close proximity where your trap is likely to be put. [LB743]

SENATOR CHRISTENSEN: Thank you. [LB743]

SENATOR LOUDEN: Seeing no other questions, thank you for your testimony. [LB743]

DENNIS VICARS: Thank you very much. [LB743]

SENATOR LOUDEN: Next proponent? [LB743]

GARY ROGGE: My name is Gary Rogge, G-a-r-y R-o-g-g-e. I was the one that invented and tested the coon-cuff trap. I work at Encore Manufacturing in Beatrice as the plant manager, done engineering work and all kinds of stuff. I'll just make it short and sweet. I'm not a big talker. So my problem with the roadside trapping...I've been trapping since I was probably 16, so 30-some years I've been trapping. And I had some permission from some landowners. In the fall, I mostly only trap in the water so I'm trapping in water sets. So everywhere where I trap raccoons, there's got to be some water there. I had four farmers that I had to tell them I couldn't trap this year because the water that I trap,

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it's in a culvert or just what I call a pothole or something, and it's right along the edge of the road. So everything that I usually trap is right in the road right-of-way. So I had four people where I had to tell them I just can't do it. And they said well, why? And I said, because there's some kind of new law that won't let me do it. So just out of those four spots I generally catch about seven coons at each spot. So there's 28 coons, so that costs me like \$280, plus I couldn't do the work for the farmers. I couldn't get their coons. I just had to tell them too bad. So like I say, I just do it as a part-time thing, so it's not for the money. I just thought I'd use that as an example why that roadside thing affects me personally. Especially with the cost of fuel, I will trap and that kind of thing, just hurts a little bit. And I suppose just to touch on that law, there's already a law in the books that you can't use certain traps in certain areas. All good trappers abide by the laws, get permission and that type of thing. I don't think any of us are out there to try to break a law or anything. So just use an open mind and try to listen to our side of the story, I guess. That's... [LB743]

SENATOR LOUDEN: Questions for Gary? Senator Kopplin. [LB743]

SENATOR KOPPLIN: If my math is right, you get about \$10 per coonskin [LB743]

GARY ROGGE: Yeah. [LB743]

SENATOR KOPPLIN: When you go to sell it, do you have to skin it and... [LB743]

GARY ROGGE: I used to all the time. Back years ago I trapped with a friend of mine and we did all that ourselves and we'd ship them to the auction and that. I enjoy doing that but I just don't have the time now. So you know, there's been years in the past where we've caught 500 coons in the fall, skinned them all, shipped them off. But now I just kind of do it for the enjoyment of being out trapping. So I just drop them off. Well, I sell mine to Dennis Vicars and just sell them for \$10. And it's just more or less a hobby for me now. [LB743]

SENATOR KOPPLIN: Okay. Thank you. [LB743]

GARY ROGGE: That's just an effective tool for us to trap the roadsides. [LB743]

SENATOR LOUDEN: Okay. Seeing no more questions, thank you for your testimony. Next testifier? [LB743]

DON MILLER: (Exhibit 11) I thank the committee. I'm Don Miller with the Nebraska Fur Harvesters and I come here to testify in favor of LB743. I guess, you know, I feel, and this has been stated before, I guess, it shouldn't have been passed in the first place because there was already sufficient regulation from the Game Commission concerning right-of-way trapping. And so this probably takes the...this probably is going to affect the

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trapper who tries to abide by the regulations and do things right. It's probably going to affect him much more than someone who decided that he's going to go ahead and take a chance and do it along the side of the road irregardless of whether it's now legal or not. But the person that is conscientious about following the regulations, it's costing him. But there's always going to be a 10 percent or whatever. You know, we've had speeding regulations forever and we still have speeding tickets. There's still a certain percent. And it doesn't seem like perhaps maybe such a big deal. I spoke with Randy Needham of the Department of Roads and he said something like 78,000 miles of county and township roads in the state of Nebraska and figured at 66 foot wide, they calculate 8 acres per mile. And that comes to something like 624,000 acres. I know in my part of the country in a hilly area there's some places where it is really a wide road bed, where it has to drop down quite a ways through a cut and then back up the other side. And there's probably some places where it may be 200 foot, maybe even a little more than that if you figure the up and down part of it, but very wide. It also takes away perhaps something from the landowner. Quite a few of my group are landowners. And I think it's always been pretty much that you could, even if it wasn't in season you could trap, take care of a depredatory animal on your property if they were doing damage. If it happens to be on the right-of-way, though, badgers like to dig in the side of the hole. Anybody that's driven along a county road, they'll know what I mean. Up along the steep banks there, they're going to be clear full of badger holes. And that's something that most landowners in my area, we ask permission, they tell you to make sure you take care of the badgers. And this is one thing that even myself apparently, if I wanted to, I'm a trapper and a landowner also, it's illegal for me to do now. If you have some other activity like walking the dog or just walking, I hear it doesn't matter. You can walk up and down the right-of-way. So that's pretty much what I have to say. I feel like the regulations before, you know, they addressed that pretty well. And I guess that's what...if anybody has questions now... [LB743]

SENATOR LOUDEN: Questions for Don? Seeing none, Don, so I guess you get off real easy here. And would you spell your name for the clerk? I think you failed to at the beginning. [LB743]

DON MILLER: Oh, okay. I'm sorry. Okay. D-o-n M-i-l-l-e-r. [LB743]

SENATOR LOUDEN: Thank you, Don. Next proponent? [LB743]

GEORGE WAGNER: (Exhibit 12) George Wagner, G-e-o-r-g-e W-a-g-n-e-r. I have given the committee clerk some material that I would like entered into the official record. Of all the material I've entered, I said some things about my military duty which is material that's been entered. I brought two pieces of paperwork to, you know, back up what I said so there's no misbelief or misunderstanding of who I am. One is my 214, another is a picture of me operating with Soviet soldiers in a combat operation, or Russian soldiers. As I went into economics on part of what I was saying here, so if I

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make these available, I don't think they're part of my testimony. I might have been a little...I should have probably went with the clerk. But if they want to be viewed, they're here. [LB743]

SENATOR LOUDEN: Okay. Go ahead with your testimony then. [LB743]

GEORGE WAGNER: I'd like to thank the senators for this opportunity today to be heard inside of this democracy. When this issue first came up, I operated around democracies in other countries. Not from this end of it, from the other end in places where the government was falling down. And I was highly alarmed at what I'd seen when this issue first came up. I'm not one to step forward to the government very much, but on this issue I've actually talked to two senators to try and move this issue back to what it originally was before it was banned because what I saw of the manner of how it came about. I was extremely concerned. It's one of the reasons I'm here today. Another reason is 20 years in the military. As I stated, when I registered...I counted on my 214 today. There's even one medal there now, I can't remember where it comes from. I can guarantee you there's three medals here from combat operations, all before the current war on terror ever started. And I know kind of how some things I say don't jive. I can remember, I retired from the military in 1999. Before 1999, I can remember us coming back from overseas from operations and we would come back to America and wonder why America didn't have a terrorist attack. We could see that the opportunity was present. It didn't do any good then to bring up those kind of things because we really didn't begin to believe it until after it was really what 9-11 was. And so in some of what I have submitted, I made strong case, I think, for sustainable agricultural, sustainable communities, alternative economic actions that can be functioned outside of government subsidies. And I see this roadside trapping as sustaining our environment in a healthy manner, and ourselves on all economic terrorism, the pandemic concern have all been addressed in my testimony. On the compassion, I have a different kind of compassion that I carry because I served the government for 20 years. I am not readily capable to cry when I see a dog that has died or a human being. As my testimony shows, what has been submitted, if we go back what you will know as the movie Black Hawk Down, I was in that theater of operation. I was not in that exact part of what you see in the movie. We was in a different part of the city. That night when all that began, I had a sniper cell that requested from me to go out and support those Americans on the ground who I had friends among. I had to deny that sniper cell because we could not cover them. If we sent them out, they had a good chance of dying too. I had friends out there and I had to tell the sniper cell no. They didn't like my answer, they went to the next higher command who told them no also. These guys wanted to go but they couldn't. Those were our friends out there. They wanted to save, but we couldn't put more Americans in harm's way to die to try and save Americans that we wanted to. Pretty tough. Randy Shughart is one of my friends who died that night. Randy Shughart, you'll find him. The United States Navy named a ship after him and gave him the Medal of Honor posthumously. Matt Rierson was another one. When I eventually got back

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down to the airfield where these guys were at, I talked to Deevon Mooney who was a special operations medic that I've actually went to the special operations course with. Deevon told me there was nothing he could do. That was a good enough answer for me but I'd lost good friends. That same day when me and Randy drank beer together before, you know, went fishing. The next day... [LB743]

SENATOR LOUDEN: About a minute, if you can finish it up please. [LB743]

GEORGE WAGNER: Okay. The next day, you...we had to go back out on a mission again for our government. There's no time for the compassion. We roll right along into the Gulf War. I come across dead enemy soldiers. It never bothered me at all until we come around to...as a matter of fact, it left my mind until the freedom of speech issue came back in America and it flooded me back with all that. I had done all of this for democracy, you know, in service to my government. And it just...inside of my economy today, I understand completely the need to support my local government, my state government, and my federal government. I understand completely the need to stabilize my economy. I understand that you people and people inside of this building have to do things economically to sustain the government. We had to work under...you know, you had a primary, alternate, contingency, and emergency plan. And so what happens economically in America today? If it falters somewhere, there should be other places where we're able to step up and help our local communities sustain themselves. And I just...I plead with you, more or less, to please examine my testimony. If you have any questions, please ask me. I just really want to see this country do good and my compassion is compelling for this government to succeed and for America to stay strong. And I just...I'm not opposed to war, I'm not for war. I would really love to see my economy and my people prosper sustainably outside of war. And you know, if that takes something that's a little tough for us to do, I just, I really am a lot more pro something than human life being lost, American or foreign. [LB743]

SENATOR LOUDEN: Are you ready to take questions now? [LB743]

GEORGE WAGNER: Yes, sir. [LB743]

SENATOR LOUDEN: Questions for George? I have a question. Do you trap? [LB743]

GEORGE WAGNER: Yes, sir. [LB743]

SENATOR LOUDEN: Okay. And where do you trap at? [LB743]

GEORGE WAGNER: In Knox County. [LB743]

SENATOR LOUDEN: Knox County. Yeah, okay. What do you usually...I mean, what are you trapping for up there? [LB743]

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GEORGE WAGNER: Quite often, every year or so I get requests to do for beaver damage control. And that has been done in road bridges, under roadways. Coyotes used to be a real good deal but I submitted for testimony the mange problem, which the wildlife biologist here in the state of Nebraska will tell us, one of the problems with mange could be overpopulation, which means what we really need to do at this time is put more pressure on our coyote population if we want it to... [LB743]

SENATOR LOUDEN: Do you have mange in them up there? [LB743]

GEORGE WAGNER: Yes, terribly, sir. Terribly. [LB743]

SENATOR LOUDEN: Okay. Well, clear out where I live, too, we have mange in them. [LB743]

GEORGE WAGNER: And what happens when we get mange, it's no more...it's no longer lucrative for trappers to, you know, really go after the coyotes because they're absolutely worth nothing. [LB743]

SENATOR LOUDEN: Well, yeah. You got to put them out of the misery after that. [LB743]

GEORGE WAGNER: So it kind of feeds on itself. [LB743]

SENATOR LOUDEN: Do you do trapping? I mean, is it a primary income or a hobby or part-time work? How do you use your trapping? [LB743]

GEORGE WAGNER: My first driving concern with my trapping is maintaining that stability in my ecosystem there, to try and put the pressure on these animals that they function in a healthy manner. I would very much, I would very much like it to be a much more economically higher level thing, which it has the potential to. But it's not...that is not the type of thing I can do there now that, you know, full time and actually generate enough income to call it a living. [LB743]

SENATOR LOUDEN: Okay, thank you. Thank you for your testimony. [LB743]

GEORGE WAGNER: Yes, sir. [LB743]

SENATOR LOUDEN: Next testifier? [LB743]

STEVE WRIGHT: How's everybody doing today? [LB743]

SENATOR LOUDEN: So far, so good. [LB743]

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STEVE WRIGHT: Senator Louden, looks like we got a nice bunch of people up here, pretty smart. That's why you're sitting where you're at. I'm Steve Wright from Beatrice, Nebraska, S-t-e-v-e, last name is Wright, W-r-i-g-h-t. I'm a member of the Nebraska Free Trappers. One thing, I've been a trapper since I was six years old. I'm 46 now, so I've kind of been around the bushes a few times. And I've been a long-distance trapper, trapping rights-of-way, and I've trapped with most of the guys in here probably once or twice. And I've trained a lot of young kids about trapping and I've got a wife and three young kids at home that are actively involved in all kinds of activities with basketball and trapping, and we've got coon dogs and all kinds of stuff. So the kids kind of get used to being around wildlife quite a bit. I ranch for a living. I raise cattle, got a cow herd, and I've been a custom farmer down in southeast Nebraska, which is Norm's district, down there for quite a long time. Thank you, Senator. And being a landowner and stuff down there and kind of a fellow trapper, I kind of always liked...I've had a lot of guys always ask me because we live right on a blacktop, county road, and I pay taxes to the middle of the road, but had a lot of people over the years want to know if they could trap on any of our land. And I always tell them, you know, as long as you guys stay right by the road rights-of-way I have not a problem with it. You know, with no-till farming practices as they are today, you know, everybody is a little touchy about driving on their land and, you know, screwing up their land with vehicles and whatnot else. So I just figure if I can keep them out there by the roadway I can see their vehicles there and I appreciate the fact that they're staying there close to the roads. You know, we walk our dogs down the road a lot because we've got a paved road there. We're right on the edge of Beatrice. We've got a chance to get our dogs on the bike trails and walk them places too. But we always keep our dogs on a leash. There's always a chance as far as liability issues if you don't have your dog on a leash or whatever like that if the thing would take off and run across the road, you know, you meet cars all the time and people today they're on their cell phones, whatever, they'll about run you over. And if you're city...keep them on a leash and get them off the edge or the road, you know you're going to save your dog for sure and yourself. But that's all I have. I'll take any questions. [LB743]

SENATOR LOUDEN: Okay. Questions for Steve? Seeing none, thank you for your testimony. [LB743]

STEVE WRIGHT: All right, thank you. [LB743]

SENATOR LOUDEN: Next testifier. [LB743]

MIKE DOBESH: (Exhibit 13) I've got some information I'd like to be handed out. My name is Mike Dobesh, D-o-b-e-s-h. I'm a farmer, landowner, member of Nebraska Fur Harvesters. And, Senator Louden, thank you all for letting me come here today. This handout I'm giving you, the numbers I got last night off the Internet were from Nebraska Game and Parks. It tells you the percentage of each of these different animals, the

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percentage that was trapped in the right-of-way and the percentage of which. This comes off of a questionnaire they hand out at the end of the year. So basically these numbers are last year's numbers as far as the amount killed. So if you would go, start at the top, I went with the coons, the economic impact on farmers, and again I got this from Nebraska Game and Parks, if one coon will eat 12 bushels of corn in his lifetime and 14,046 coon eat 12 bushels, that's 168,552 bushels. And last year, which would have been, you know, this last fall, probably most farmers would have had an opportunity to contract their corn for \$3.50, that's \$589,932 lost to farmers just for not being able to trap this year in road ditches. Then if you go to the next part down, of all the different kinds of animals that we could have trapped, using again Nebraska Fur Harvest numbers, this is animals we were not able to catch this year and the prices that we could have got and the impact to trappers would have been \$224,237.69. You add that to the loss to the farmers, this is a total economic loss of \$814,169.69. So it just gives you the magnitude of one little dog getting caught in an illegal trap and, you know, this action that was taken without, you know, proper discussion last year. I have talked to the Grand Island roads department and they say they have a problem where every once in a while there will be a badger that will dig under the highway and they'll have to come repair it. Then I don't know if you're familiar with the ordinance plant out at Hall County, but DTE, the railcar company, I called for permission to trap out there and the guy just happened to step in a badger hole and sprained his leg so I had exclusive permission to trap all the ditches out there, which that's not a county ditch, but I'm just giving you a feel for what badgers can do. I mailed Senator Christensen probably 50 pictures of badger holes in road ditches in just the little area of Hall County that I live. And typically in a year I'll catch at least 20 badgers, and I would say at least half of them are in road ditches. Something else I wanted to say, okay, now most of the game wardens in our area have great zeal in trying to catch everyone doing wrong, which they should. But in talking with a fur buyer, I guess they went to the extent of going around to all the bridges and if they see someone trapping under the road where they're not supposed to, they set up remote game cameras to catch them in the act. I would think their time would be better spent maybe catching spotlighters who are trespassing, which they don't have to show proof at this time, but I think that would be a good thing to do, maybe as a future amendment or something else. But again, I've trapped since I was probably 16 years old. I'm 45 years old or will be this year. And as a landowner, I think it's really sad if I have a badger dig in my road ditch and I pay taxes on it, I can't even trap there. [LB743]

SENATOR LOUDEN: Okay. Questions for Mike? Senator Kopplin. [LB743]

SENATOR KOPPLIN: I was just looking at your chart, Mike. The poor possum is worth a buck 20. [LB743]

MIKE DOBESH: I know it. [LB743]

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SENATOR KOPPLIN: What do they use possum fur for? [LB743]

MIKE DOBESH: I suppose trim. I guess back in the old days before they had to tell people what actually kind of fur coats they had I guess possum and skunk used to be very popular til they had to actually tell people what it was. [LB743]

SENATOR KOPPLIN: And then I noticed bobcat. Are there limits to how many animals you can catch in traps or anything? [LB743]

MIKE DOBESH: No. But as far as bobcats, you probably shouldn't catch more than one or two in a small remote area. You want to leave a little bit of breeding population. [LB743]

SENATOR KOPPLIN: Well, I agree with that. That's why I'm asking whether there's limits to what you can catch on some of these. [LB743]

MIKE DOBESH: No, but, you know, no responsible trapper would trap out everything, at least of that particular species. Now like coons, they're like rats and rabbits. You're never going to deplete the coon population. [LB743]

SENATOR KOPPLIN: Okay, thank you. [LB743]

SENATOR LOUDEN: Other questions? I have questions. You guys are giving the badgers so much devil and just come to the defense of the badgers. The reason they're digging around underneath those roads, are they eating the kangaroo rats? [LB743]

MIKE DOBESH: Well, could...they eat everything--gophers, mice, everything. [LB743]

SENATOR LOUDEN: And because in our country any of these hard-surfaced roads, why you got to get after the kangaroo rats or else the badgers will help you. Another question I have the reason of badgers being on the roadside, are they keeping the prairie dogs out of the roadsides? [LB743]

MIKE DOBESH: Well, in Hall County we don't have a lot of prairie dogs except maybe in pastures. [LB743]

SENATOR LOUDEN: Right in there east of Grand Island there's a whole dog town right along the highway and everything, isn't there? [LB743]

MIKE DOBESH: All west of Cairo, but that would be west of Grand Island so, yeah. [LB743]

SENATOR LOUDEN: Okay. Okay, thank you for your testimony. [LB743]

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MIKE DOBESH: Thank you, sir. [LB743]

SENATOR LOUDEN: Next proponent. [LB743]

JOE JACK: My name is Joe Jack, J-o-e J-a-c-k. Actually I have three first names but anyway, I'm vice president of Nebraska Fur Harvesters. I started trapping at 12 years old and I'll soon be 72. I'm also a member of the National Trappers Association, Fur Takers of America, and the United States Sportsmen's Council. Trapping is my life. I used to do a lot more hunting and a lot more duck hunting and all that stuff, but since I retired...I'm a retired school teacher. I taught school 40 years. Since I retired, I do more trapping than anything else. Someone talked about the animals in the road ditch and where they come from and how they get there. In our area we have a lot of small pastures that have large cottonwood trees and other denning places for raccoons and my principal fur bearer is raccoons that I trap. I catch some of everything and badgers, including the badgers in my vest. Four of these badgers in this vest came out of road ditches. But in these pastures, these raccoons funnel into trails across the road to the cornfields. And they're very hard to corner out there in the pasture without catching unwanted furs such as skunk and possum. And so that's why it really hurt me. A year ago at this time I had trapped 130 raccoons. This year I'm at 85, and the principal cause of that is because I can't trap road ditches. So, you know, lots of people are giving statistics statewide and so forth, that's just my own personal. Somebody ought to put an exact personal touch on it. [LB743]

SENATOR LOUDEN: Okay. Thank you. Questions for...Senator Carlson. [LB743]

SENATOR CARLSON: Senator Louden. Joe, where did you teach and what did you teach? [LB743]

JOE JACK: I taught at Spencer, Nebraska for two years; Farragut, Iowa for five years; Elm Creek, Nebraska six years; and Wood River, Nebraska for 27 years. And the last 27 years I was a full-time guidance counselor. Before that, I was a football and track coach, taught P.E. and biology, driver education. [LB743]

SENATOR CARLSON: Okay, thank you. [LB743]

SENATOR LOUDEN: Other questions? Seeing none, thank you for your testimony. Next testifier. [LB743]

GARY MACKE: My name is Gary Macke, G-a-r-y M-a-c-k-e. I'm from Royal, Nebraska, and I'm a trapper. I also have the opportunity of working for a company that collects furs to sell in another country. And the dollars generated from the state of Nebraska through my company, I got it here somewhere, last year was \$471,117.10. With the Nebraska

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Game and Parks saying that 9 percent of the fur that was taken in Nebraska was taken out of a road ditch, I personally have trapped the road ditches for...well, I've been in the fur industry for 30 years, 33 years. And I've trapped a lot of varmints out of the ditches. It is the quickest way to catch a coon because they are funneled like a lot of people have told here today. And probably 25 percent of my catch comes out of the ditch or it used to come out of the ditch. I normally catch anywhere between 170 to 250 coons. I've got 63 this year. Granted, I did not trap for the first two weeks of the season because I was building a building. And you do catch the biggest percentage in that first part of the season. But I really want to see this repealed so I can use my road ditch. I'm in an area where you can go for five, six miles and not have a dwelling. There's really not that much chance of catching someone's dog. And anyone that sets traps irresponsibly should be taken care of anyway. So that's my testimony. [LB743]

SENATOR LOUDEN: Okay. Thank you. Questions for Gary? Seeing none, thank you, Gary, for your testimony. Next testifier. [LB743]

JOHN SELF: Thanks, Senators, for letting me be here. My name is John Self, J-o-h-n S-e-l-f. I live just outside of Hooper, Nebraska. I work as a mechanic and also run a trapping supply business out of my house. I know nobody else here probably was young, married with kids, and struggling to make ends meet, but I was at one time and utilized the roadsides quite a bit. And there's a gentleman sitting behind me that can attest to that. That money that I made off of those roadside ditches in a year's time made the difference whether my kids got Christmas presents or not Christmas presents literally. I mean it is a whole lot easier to be running those traps along the ditch instead of having to go into the fields on my way to work and on my way home from work. It just made it a whole lot simpler. This amendment that took away the roadside trapping took away the landowner's rights first of all. State of Nebraska we own to the center of the road, pay taxes to the center of the road, and grant the right of easement for the purpose of transportation, I believe is how that is read. Whenever it says the county road right-of-way, what does that mean? Because I just had a new highway, they redesigned Highway 275, it's now running basically in my front yard. In order to do that, they had to do all of their survey. Where the county road right-of-way is on the west side of my property is right at the fence line. On the east side of my property, it's 12 feet on the inside of my fence row. So to say that...Ms. Hudkins said before, Senator Hudkins said before, why couldn't we put it on the other side of the fence? That would still be the county road right-of-way the way the law is read. I mean so that's still taking it away. To repeal this is going to take care of two problems. One, it's going to allow the guys to catch the raptors and it's going to allow us back our road ditches. It makes it simpler for a lot of the people, believe it or not, we haven't banned any elderly people from hunting and trapping and fishing, and it shouldn't be so. But I know there's a lot of people of age that don't get around as good as younger people do. It makes it a lot simpler for them to be able to trap those roadside ditches and get to them. I know several kids, 16-, 17-year-old kids that run traps on the way to school. It's a lot easier for them to run 10,

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12, 15 traps on their way to school when they don't have to drive into the fields and take that extra time. It makes it a lot simpler for them and gets them involved in the sport. And whenever they're involved in the sport, yeah, they're making a little bit of cash by selling that coon or the coyote or whatever, but they're also spending that money to buy the gas, to buy the trapping supplies, which I like, and so the money is going back too. It's about all I have. Something was said earlier about the education. I myself, I've taken a little extra step and volunteered my time and services to go to hunter education classes and have basically introduced kids and adults, for that matter, because there is adults that go to the hunter safety classes, you know, of what traps are, what traps we use for different types of things and sort of introduce to them the ethics of why we do trap and the right way of doing it. [LB743]

SENATOR LOUDEN: Okay, is that...questions for John? Seeing none, thank you for your testimony, John. Okay, how many more do we have? We started out with nine. [LB743]

MICHAEL LANCE: I'm going to go quick. [LB743]

SENATOR LOUDEN: Okay. Raise your hands. You got one more back there? Okay. [LB743]

MICHAEL LANCE: I'm going to talk while I'm doing this if that's all right. [LB743]

SENATOR LOUDEN: Yeah, you're on the clock so. [LB743]

MICHAEL LANCE: Okay. My name is Michael Lance. [LB743]

SENATOR LOUDEN: You got to get down next to the microphone I think, Mike. [LB743]

MICHAEL LANCE: Okay. Michael like the saint, M-i-c-h-a-e-l, Lance like a spear, L-a-n-c-e. Okay. I brought some stuff here for you today to look at. But I wish Senator Hudkins was here because she asked a question earlier I'd like to try and answer that for her. She asked Lynn Berggren, is that his name? [LB743]

SENATOR LOUDEN: Yes. [LB743]

MICHAEL LANCE: Yeah, how do we have more pheasants because, you know, South Dakota has tons more pheasants than we do. We have some Game and Parks people here and the research there will show you that there's a lot of pheasant nests that occur in the roadside. And what we're talking about is nest predators that are using that roadside. But by the passing of that bill, we made that roadside pretty much safety zone for those nest predators 365 days a year. And this bill of Mark Christensen's is about access. In the state of Nebraska we're talking about harvesting wildlife. We're talking

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about catching it. Now we don't have much access because we've been restricted in that particular instance because that area that was accessible to us to harvest is no longer there. Okay. So we could probably have more pheasants if we could significantly reduce the nest predators. And if you know anything about a hen pheasant, you know, a lot of times she'll pick that spot alongside the roadside, and those are successful areas because of the hay field that gets mowed in the springtime. She may try that particular hay field, but she's going to get chopped. Okay? So that particular question I hope we could answer for Senator Hudkins who is not here. She talked about convenient. You only want the roadside because it's convenient. Our entire life, look around us, is based on convenience and efficiency. We want things to be efficient. Dennis Vicars said roadside trapping with the cost of gas is more efficient to harvest those fur bearers. It is. It's just more efficient. We have a gentleman here who's 80 years old. It's a lot easier for him to explain to his wife, I could run my traps along the road, dear. And she's going to say, I don't want you out there over the hill somewhere where you're going to fall on a cornstalk and break your leg. I'd much rather have you out close to the road. You heard John say for young kids. How many of you have young kids that are in band, athletics, all the things that are in school? If you take away that access like this bill did, this amendment did, you threw them out of the pretext because they got 15 other things they're doing, but they'd like to do this, too, so they got to give something up. And I'm not going to let my boy drive that car out into that field to check that trap. He can stop along the side. Okay? Some things to think about, one other thing. How many of you have ever seen a dead coon alongside the road? Wouldn't that coon look a lot better...wouldn't that coon right there look a lot better on a coat on the back of a European? And wouldn't that be the best for the people of Nebraska rather than to have it smacked by the car and just lay there? If you give back that access to that area, these guys will harvest those furs and they'll go across the ocean and they'll bring money back to Nebraska, and it will look a lot nicer on the coat of a Russian or a European or an Oriental person or even an American for that matter. Okay? [LB743]

SENATOR LOUDEN: Questions for Mike? Senator Kopplin. [LB743]

SENATOR KOPPLIN: Would you be in favor of letting those old guys and those kids shoot from the roadside? [LB743]

MICHAEL LANCE: That's up to the lawmakers, the Game and Parks Commission. [LB743]

SENATOR KOPPLIN: (Laugh) No, it isn't because you said it was for convenience to trap. Well, it's a lot more convenient just to shoot a pheasant off the road than it is to catch him. [LB743]

MICHAEL LANCE: How ethical is that from the standpoint of getting out or even rolling the window down and plinking it? How ethical is that within the sports that we use? I

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guess I would pose that question back. [LB743]

SENATOR KOPPLIN: Well, my other question would be which one of those is possum fur? [LB743]

MICHAEL LANCE: I don't have a possum. I've got a black beaver. I've got a sable or a martin. I've got an otter. I've got the coon. I've got the white beaver to pale, what they call pale with the black. I've got some mink. And I bet you don't know what this one is. [LB743]

JOE HERROD: Mink fell on the floor. [LB743]

MICHAEL LANCE: All right, he's around here somewhere. This is a kangaroo. [LB743]

SENATOR LOUDEN: Any more questions for Mike? [LB743]

MICHAEL LANCE: One last thing? [LB743]

SENATOR LOUDEN: No, I guess we're done, Mike. Thank you for testifying. [LB743]

MICHAEL LANCE: You're all invited to come along and trap a line with me if you'd like, including the clerk and the legal counsel anytime. [LB743]

SENATOR LOUDEN: Here, wait, I got one more testifier, so. Go ahead and sit down and start. He can clean up while you're working. [LB743]

BRANDON DRAHOTA: Hi. I'm Brandon Drahota from Mason City, Nebraska, B-r-a-n-d-o-n D-r-a-h-o-t-a. And for five months of the year I harvest fur full time by way of trapping. I do that to put food on the table, pay the bills. It comprises probably three-fourths of my income, annual income. And at the risk of sounding repetitious, the most effective, efficient methods of harvesting particularly coon is in the road ditch in many instances. [LB743]

SENATOR LOUDEN: Any questions for Brandon? If you're trapping that much, then do you have people that you go trap on their property? I mean in the country where I come from, you can get the entire ranch to trap varmints on there. Is that what you do then in order or are you running up and down the country roads all over the place trying to trap? [LB743]

BRANDON DRAHOTA: No, sir. I work all summer long and put a lot of time and effort into building up a good relationship. I meet every landowner personally and individually and gain their permission every year, and so. [LB743]

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SENATOR LOUDEN: You trap on private property also? [LB743]

BRANDON DRAHOTA: Yeah, that's probably 99 percent of private property, yeah. [LB743]

SENATOR LOUDEN: And what do you trap for? [LB743]

BRANDON DRAHOTA: Mainly raccoons, coyotes. But as I say, I want the permission from the landowner if I'm going to be trapping in that ditch. [LB743]

SENATOR LOUDEN: I see. Where are you from? [LB743]

BRANDON DRAHOTA: Mason City, Nebraska. [LB743]

SENATOR LOUDEN: Okay. Thank you for your...other questions? Seeing none, thank you for your testimony. Is that the last proponent for this? Our next one will be do I see opponents? How many opponents do we have? Three, okay. [LB743]

DON WESELY: (Exhibit 14) Mr. Chairman, members of the Natural Resources Committee, I'm Don Wesely, D-o-n W-e-s-e-l-y. I'm here representing the Humane Society of the United States. I have a letter that I'm passing out right now from Pierre Grzybowski, who is the deputy manager of the Fur-Free Campaign for the Humane Society of the United States, which is the nation's largest animal protection organization with over 10 million members and constituents and 46,000 members and constituents who reside here in Nebraska. The Humane Society opposes LB743 sponsored by Senator Christensen, which allows trapping wildlife on county road rights-of-way, a dangerous proposition that would put Nebraskans, their pets, and their hunting dogs at much greater risk of injury or death from traps set for furbearing animals. Setting traps for furbearing animals always involves a risk of catching nontarget animals, including pets and hunting dogs. But to do so on publicly owned rights-of-way increases the risk many times over. County rights-of-way are used by nontrappers who generally have no idea that traps may or may not be set just feet off the side of a road. These are roads that people walk their dogs on, and today's extendable leashes can allow dogs to explore 20 feet or more away from their owner while still being under leash control. Conibear type traps, leghold traps, and snares all can and do injure or kill dogs on a regular basis. Even smaller 160-sized Conibear traps can kill a dog. Taxpaying citizens in Nebraska have a right to expect a certain level of safety for themselves and their pets when moving along publicly owned roads. To allow this trapping would deny this peace of mind and strike an unfair balance in favor of a small minority's hobby or sport or, as we heard today, job over the safety of a majority of other citizens. This is particularly onerous with many other locations already available for trappers to maim and kill furbearers. According to the 2007 Nebraska Guide to Hunting and Public Lands page 23, it is unlawful to trap any wildlife in the county road right-of-way beginning August 29,

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2007. This is a wise and fair policy, having been only recently put in effect. And to attempt to overthrow it with this bill is a step in the wrong direction. We thank the committee for the opportunity to testify and urge Nebraska lawmakers to oppose this inhumane legislation. Thank you. [LB743]

SENATOR LOUDEN: Questions for Don? Senator Christensen. [LB743]

SENATOR CHRISTENSEN: Thank you, Chairman Louden. Thank you for your testimony. Don, how many deaths and injuries do you know of that's been happening along roadsides? [LB743]

DON WESELY: Well, I remember this issue coming up when I was in the Legislature in the 1980s where some dogs were hurt as they were walking along the road up by Waverly. And so over the years I don't know the total number, but I know it's been a problem for a while. [LB743]

SENATOR CHRISTENSEN: Okay. You said we should be able to hunt on our own land since we pay taxes to the center of the road we should be able to hunt there, correct? [LB743]

DON WESELY: What did you just say? [LB743]

SENATOR CHRISTENSEN: I pay taxes to the center of the county of the road. You said it's public access so I'm saying I own the land to the center of the road. I should get to trap there, correct, by what you said in your testimony? [LB743]

DON WESELY: You own the land to the center of the county road? [LB743]

SENATOR CHRISTENSEN: That's correct and I pay taxes on it. And I can prove it. [LB743]

DON WESELY: Well, if it's public right-of-way, I would think... [LB743]

SENATOR CHRISTENSEN: It isn't considered public property. It is public roadway... [LB743]

DON WESELY: Right-of-way. [LB743]

SENATOR CHRISTENSEN: ...on private land. [LB743]

DON WESELY: Okay. [LB743]

SENATOR CHRISTENSEN: We do own it to the center. So your testimony said that on

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public lands, well, that's not public. [LB743]

DON WESELY: Well, it's public right-of-way. [LB743]

SENATOR CHRISTENSEN: So how about ice? Ice is very dangerous on the road. Are we going to outlaw ice and we're going to salt...I mean you can take this to a lot of extremes. There is personal responsibility and, you know, we can take this a long ways. Ice is dangerous, traps are dangerous, stairs are dangerous. I mean where do you quit? [LB743]

DON WESELY: Well, one place you quit is trapping along public right-of-way. [LB743]

SENATOR CHRISTENSEN: Well, that's fine. I'll just agree to disagree. [LB743]

SENATOR LOUDEN: Other questions for Don? Senator Carlson. [LB743]

SENATOR CARLSON: Senator Louden. I'm going to refer to you as Senator Wesely. I think that certainly your time serving in the Legislature you felt it was fair to have a hearing on matters of importance. [LB743]

DON WESELY: Absolutely. [LB743]

SENATOR CARLSON: And realistically, nobody's fault that didn't occur last year. That's one of the reasons we're having that hearing today. And a fair hearing is necessary and I know you agree with that. [LB743]

DON WESELY: Absolutely. [LB743]

SENATOR CARLSON: Thank you. [LB743]

SENATOR LOUDEN: Other questions? I have one, Don. You represent the Humane Society now. That's correct? [LB743]

DON WESELY: Humane Society of the United States, yes. [LB743]

SENATOR LOUDEN: Yeah, you're a lobbyist for them. Is that... [LB743]

DON WESELY: Yes. [LB743]

SENATOR LOUDEN: Okay. And is the Humane Society against trapping wildlife any place? What is their position on that? [LB743]

DON WESELY: On the general issue of trapping? [LB743]

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SENATOR LOUDEN: Yes. [LB743]

DON WESELY: I don't know. I just know that in this particular issue they're opposed to the legislation. [LB743]

SENATOR LOUDEN: Are they opposed to using furs and that sort of thing for clothing and furbearing animals for the furs to be sold? Do you know what their position is on that? [LB743]

DON WESELY: I don't know. [LB743]

SENATOR LOUDEN: Um-hum. So and what's their, one more question, what's their position on farrowing crates? [LB743]

DON WESELY: Well, they're not too crazy about those (laugh). [LB743]

SENATOR LOUDEN: (Laugh) Okay, thanks. Other questions? [LB743]

DON WESELY: We're over that. [LB743]

SENATOR LOUDEN: Other questions? Thank you, Don. [LB743]

DON WESELY: You bet. Thanks. [LB743]

SENATOR LOUDEN: Next opponent. [LB743]

BETH BAZYN FERRELL: Good afternoon, Chairman Louden, members of the committee. For the record, my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm assistant legal counsel for the Nebraska Association of County Officials. Our association does not have a policy on whether trapping in and of itself is a good thing or a bad thing. Our concern is about having something in the right-of-way. Now that doesn't necessarily just apply to traps. That can apply to someone that has a tire that they don't want to pay the disposal fee on and they toss it in the roadway. It's just the simple fact the ditches need to be clean. We've heard a lot about safety issues today, but one thing that we've not heard mentioned is when the traps are being checked from the roadway is there a liability? And, yes, there is. Anytime a vehicle is stopped on the shoulder of the road there is a danger that there could be an accident. There is the potential for liability to the county if there would be an accident. So that's something that may need to be considered as well. I'd be happy to try and take questions. [LB743]

SENATOR LOUDEN: Okay. Questions for Beth? I have one. When you talk about liability in trapping along the road, where are you from? [LB743]

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BETH BAZYN FERRELL: I'm from Valentine. [LB743]

SENATOR LOUDEN: Valentine? Well, there's a whole bunch of country roads out there in Cherry County that you could trap and there wouldn't be a sole come through for a day and a half. [LB743]

BETH BAZYN FERRELL: That's very true. [LB743]

SENATOR LOUDEN: And I'm wondering if there would be...how much liability there would be out there along one of those roads. [LB743]

BETH BAZYN FERRELL: Probably not so much there. There may be more in more populated areas. [LB743]

SENATOR LOUDEN: Okay, thank you. Thank you for your testimony. Next opponent. [LB743]

CRAIG GOTTSCHALK: Thank you, Mr. Chair and Senators. My name is Craig Gottschalk, C-r-a-i-g G-o-t-t-s-c-h-a-l-k. And I would like to testify in opposition of LB743. First of all, it's been interesting to listen to the conversations here this afternoon. Throughout the day it was and has been characterized as an emotional issue, one that hit last spring. It started in the fall and came through the legislative process last year in the amendment. This issue is not about the dog, but it was the spark for the issue that came together. It's too bad that the emotion and the loss of the dog was the focus and has been the focus continually throughout this issue in the media and elsewhere. It's not a city versus a rural issue. It's primarily property rights, primarily safety. First of all on the property rights issue, as a landowner, I own up and to the center of the roadway. I pay property taxes to that area. I think it's important to recognize we're almost creating a special class of people that have an opportunity to make an economic return from their activities in that area. I, as the landowner, am not allowed to graze that right-of-way. I'm not allowed to hay it to raise money for myself. But another individual, with or without my authorization to do so, can go and make a dollar off of my property. I think that's one of the major issues we're talking. Secondly, the safety perspective. It was testified earlier today that one of the individuals would not have any problem sticking their foot in one of these traps in a ditch. I would ask them if they would have that same interest to allow their grandchild or child to stick a finger in or a hand in. It's a safety issue for people, for their pets, for the users of that right-of-way. It might be an individual riding a horse that it may not hurt the horse, but it might spook it to a point that that individual was thrown and tossed. Everybody that rides a horse knows you have every opportunity if you ride you end up on the ground at some point in time. But this is a safety issue from that perspective too, whether it's a lineman trying to climb up and take care of electrical infrastructure up and down that road, stepping in one of those sites that wasn't

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identified or located, whether it's a digger's hotline individual going out trying to track down where the utilities are in an area. He has access to that right. He's mapping, doing his work. It's a danger there. The nontargeted animals and species have recognized being an issue of trapping as well. This is not an attack against trapping. I support trapping, and I think it plays a very important role in the management of our natural resources. But I think in particular in the use of the county right-of-way for trapping issue, it's primarily property rights, it's primarily a safety issue. And I would feel free to take any questions you might have. [LB743]

SENATOR LOUDEN: Okay. Questions for Craig? Senator Christensen. [LB743]

SENATOR CHRISTENSEN: Thank you, Chairman Louden. Thank you, Craig, for your testimony. You shared that it's not about the dog, not about emotion. Then why wasn't this brought as a bill? [LB743]

CRAIG GOTTSCHALK: I do not know. All I know is it was an issue that occurred and it was brought forward to one of the senators as an issue of interest. At that point in time, it was in the senator's hands to move forward. I know the individual had a conversation with the Game and Parks Commission and was willing to step back if they would have taken a process to interact with their rules and regs and to deal with it. But at that point it was not in her hands, it was in the legislative process and the point was brought forward that way. [LB743]

SENATOR CHRISTENSEN: Okay. And one more, whether it be a dog or a kid or adults if a trap is set one inch on to...off the county right-of-way versus on the right-of-way, is a child or a dog, anything this way going to know where that line is? [LB743]

CRAIG GOTTSCHALK: No, they will not, not at all. But the fact is, you know, the safety issue. And we've already got rules and regs we cannot hunt from the roadway, we cannot do other things, can't hay. But at the same time, I believe it's a safety issue for the trapping and use of it that way. [LB743]

SENATOR CHRISTENSEN: Thank you. [LB743]

SENATOR LOUDEN: Other questions? I have questions. If you're trapping there, aren't you supposed to put up some signage that there's traps or something like that? [LB743]

CRAIG GOTTSCHALK: I do not know what the regs are for trapping. I know they've got a requirement to have a stamp or identification on the trap itself as whose trap it is and this type of thing. But there's no requirement to identify that a trap, that I'm aware of, is in place. [LB743]

SENATOR LOUDEN: Okay. One other thing, part of the problem with this whole

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situation was is the way that was brought forward. See, that was brought forward without a hearing. That was an amendment that was put on the cleanup bill, I think it was, for the Game and Parks and it was put on as an amendment on the floor. And actually this probably is the first hearing that this has had. It didn't get the hearing when that was put into law. So that's what kind of brought the whole thing back up front again. [LB743]

CRAIG GOTTSCHALK: Well, and I think that's a very important process to have. If it didn't have it before, it needed to and it should have. And that's why I'm here today as a private citizen. I think it's important and the points that I've raised are those issues that I think, you know, it's imperative that it be kept around and I oppose the current bill. [LB743]

SENATOR LOUDEN: Yeah. Other questions for Craig? Senator Kopplin. [LB743]

SENATOR KOPPLIN: Just curious, are there...have there been other major pieces of legislation that occurred without a hearing and simply came up on the floor such as learning communities? [LB743]

CRAIG GOTTSCHALK: You know, not being a lobbyist, not being a senator, I have no clue what has or has not but it very well may have. [LB743]

SENATOR KOPPLIN: Okay. Thank you. [LB743]

SENATOR LOUDEN: Maybe we should have a hearing about that again this year. (Laughter) Thank you for your testimony. [LB743]

CRAIG GOTTSCHALK: Thank you. [LB743]

SENATOR LOUDEN: Are there other opponents? Is there anyone wishing to testify in the neutral? [LB743]

DUANE GANGWISH: Good afternoon, Chairman Louden, members of the Natural Resources Committee, my name is Duane Gangwish, that's spelled G-a-n-g-w-i-s-h. I represent the Nebraska Cattlemen as the vice president of environmental affairs and I'm here testifying neutral. The cattlemen met yesterday and talked about this issue, and their concerns were primarily and specifically regarding roadside safety as we trail cattle. We acknowledge and appreciate the privilege of the ability to legally trap wildlife in Nebraska. That's not any part of our interest. But our concern, however, is the potential danger to livestock that's being trailed. Mr. Riley stated that traps are not of imminent danger to mature livestock and we concur with that. Our members often, however, use trained stock dogs to help in this endeavor. Mr. Gottschalk stated the possibility of a horse bolting or rearing. There isn't any real danger to the horse in terms

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of physical damage to its feet or legs, but more so to the rider if there was a sudden rodeo. We'd be very interested in maybe working with the committee if there were some kind of ability to make a prominent demarcation so that stock owners would know that these were in the area as an idea. Happy to work with the committee and answer any questions. [LB743]

SENATOR LOUDEN: Questions for Duane? Senator Christensen. [LB743]

SENATOR CHRISTENSEN: Thank you, Chairman. Thank you, Duane. Have you had any cattlemen with cattle and horses that have hit badger holes and broke legs? [LB743]

DUANE GANGWISH: I would have to assume so, sir, with 3,000-some members. But I don't know the answer specifically. [LB743]

SENATOR CHRISTENSEN: Well, I've had over...I've had three head cattle break legs in badger holes. And to me that's as great a risk as my dog or my calves getting caught in the trap myself. So I just wanted to ask. Thank you. [LB743]

DUANE GANGWISH: Sure, um-hum. [LB743]

SENATOR LOUDEN: Other questions for Duane? Senator Wallman. [LB743]

SENATOR WALLMAN: Thank you, Senator Louden. Duane, do you know if they allow trapping along these trails, you know, like the Cowboy Trail, things like that? [LB743]

DUANE GANGWISH: I'm not qualified, Senator. I've never been on a trail ride. [LB743]

SENATOR WALLMAN: Okay, thanks. That's okay. Thank you, Chairman. [LB743]

SENATOR LOUDEN: Any other questions for Duane? Seeing none, thank you, Duane. Anyone else wishing to testify in the neutral? Seeing none, then that closes the hearing on LB743. Oh, you want to...okay, Senator Christensen, I forget he wanted to go out quick...waives closing so that closes the hearing on LB743. [LB743]

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Disposition of Bills:

LB743 - Advanced to General File.
LB805 - Advanced to General File.
LB865 - Advanced to General File.

Chairperson

Committee Clerk