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FLOOR DEBATE

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was LB 1085. It relates to simplifying and clarifying the DNA law that exists now. There was a case that the Nebraska Supreme Court decided, State v. Bronson. For those who would like the citation, it was 267 Neb 103, and it was decided last year, 2003. Under the way the system is laid out now, if DNA evidence suggests that a person is innocent, and I'm going to oversimplify so I can get to the specifics of what this amendment would do, there is an opportunity to seek a new trial. Unfortunately, when the bill originally was handled, there was a provision within the DNA statute that would allow for a new trial, and also referenced to the general statute that relates to the granting of a new trial. What this bill would do is eliminate that general reference and allow a person to seek a new trial under only one procedure rather than two. That one procedure would be found within the statutes that are those that make up the DNA bill. If you look at the handout that I gave you, you will see that eight changes are specified, and each one would have following it the pages of the bill and the lines where that language would be found. The first one is not difficult to understand because it relates to dealing with only one avenue for obtaining a new trial where DNA evidence is involved, rather than two. I'll explain in greater detail later why that is necessary. There is another provision in Number 2 that relates to obtaining a new trial that has nothing to do specifically with DNA evidence. Under the existing law, after a verdict is rendered, a person has only three years from that date to bring evidence of any kind to seek a new trial. If you have evidence of absolute innocence--let's say you have evidence that a person was not even killed, you were convicted without a body being present. That person could turn up live more than three years after the verdict and you could not obtain a new trial. You could not obtain that kind of relief because there's an absolute bar against presenting new evidence three years after the date of the verdict. What this change would say is that whenever new evidence is discovered, within 90 days after the discovery of that evidence, a person would have to seek action to overturn the original conviction. So rather than saying three years is the absolute maximum for bringing new evidence, you would have 90 days after the discovery of the new evidence. Under the existing law, if the evidence is discovered more than three years after the date of the verdict, you cannot