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FLOOR DEBATE

March 8, 2005            LB 201, 647

SENATOR CUDABACK:    Have you all voted who care to?    Record please, Mr. Clerk.

CLERK:            30 ayes,    0 nays, Mr. President, on the advancement of LB 201.

SENATOR CUDABACK:    LB 201 advances.    Mr. Clerk, LB 647.

CLERK:    LB 647, a bill by Senator Brashear. (Read title.) Bill was introduced on January 19, referred to the Banking Committee, advanced to General File. I do have an amendment to the bill, Mr. President.

SENATOR CUDABACK:    Senator Brashear, you're recognized to open on LB 647.

SPEAKER BRASHEAR:    Thank you, Mr. President, members of the body.    LB 647 would require that limited liability companies file a biennial report in each odd-numbered year, beginning in the year 2007. The bill is patterned after similar longstanding requirements for corporate biennial reports. Although statutory provisions call for both corporations and limited liability companies to file appropriate papers with the Secretary of State when they dissolve or otherwise terminate their existence, many businesses, many such entities, do not do so. The Secretary of State dissolves them as a penalty under the law at the rate of approximately 5 percent of the state's corporations per year for the failure to file those reports. Presumably, limited liability companies are going out of business at a similar or even greater rate, as the LLC form is rapidly becoming preferred among limited liability organizational entities, those for small businesses and business start-ups. The record of the Secretary of State is relied upon by lending institutions, title insurance companies, and many others, including consumers, to determine the legal status of a business entity. With a 5 percent per year rate of dissolution, it is easy to see how over time the records of the Secretary of State will become less and less reliable. In addition to the general issue of the integrity of the records, this situation would make it easier for someone to pirate a defunct LLC and, in essence, commit business identity theft by operating under the name of an LLC no longer in actual