

March 13, 1979

LB 316

CLERK: (Read record vote found on pages 876-877 of the Legislative Journal.) 10 ayes, 27 nays, 3 excused and not voting and 9 present and not voting, Mr. President.

PRESIDENT: Motion fails. A motion on the desk. Read the motion.

CLERK: Mr. President, Senators DeCamp, Johnson and Dworak move to return LB 316 to Select File for specific amendment.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President, these are the amendments I mentioned moments ago, the clarification of the word "written" so that that is not a problem and the matter of scienter. I contend they are technical amendments. I contend there would be no problem. I believe in view of the case laid down by Senator Chambers, these should be adopted. I want to at this time say that contrary to some people thinking that I might be upset or angry at Senator Chambers and the various people that have proposed this legislation, I am very thankful that they have done this. I think this is the first year where this matter has had more input, more intelligent decision making on it than any previous year and I personally believe without that opposition, we would have ended up with a bill that was not constitutionally sound. I believe the bill with the adoption of these amendments is arguably constitutionally sound. That is, that in those areas where the court has yet to decide there is as strong a case for those points as there is or might be against it. I urge adoption of the amendments and then I would ask that Mr. Cutshall and the other people involved in this could get these very simple things done in the next couple of hours so we can read it into the record yet today and possibly finish the legislation Thursday. I might point out one more time that it is my belief and opinion that Senator Chambers' statement that he read into the record had two major points. Those two major points with the "written" versus "informed" which is dealt with here, the scienter requirement which is dealt with here and that those represented the exhaustion, so to speak, of legal minds in other places who planned to attack the bill on these two technical grounds. I believe with the adoption of these amendments you will overcome that hurdle and maybe they