

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office

January 24, 2000 LB 55

PRESIDENT MAURSTAD: Thank you, Senator Brashear. Senator Brashear, you're recognized to open on the committee amendments to LB 55. (AM0668, Legislative Journal page 859, First Session, 1999.)

SENATOR BRASHEAR: Mr. President, members of the body, thank you. Following the adoption of the...pardon me. The committee amendment provides that a new action may not be commenced in the circumstance that I described in my earlier opening. In other words, the savings clause would not be used or apply when the original action fails on the merits of the action as a result of a voluntary dismissal by a plaintiff for a reason other than loss of diversity jurisdiction in a federal court, as a result of the plaintiff's failure to serve a defendant within the time prescribed by statute, or as a result of any other inaction on the part of the plaintiff where the burden of initiating an action was on the plaintiff. The committee amendment is simply designed to tighten up the savings clause in order that a neglectful or dilatory plaintiff would not have their cause of action preserved because, obviously, that's not the way civil procedure and civil litigation is to be conducted. Also, the committee amendment provides that a new action may be commenced within a period of time equal to the lesser of six months or the applicable statute of limitations, and that is rendered necessary in order that we not unintentionally provide an extension of a period that otherwise would limit the filing in accordance with the rules established. I would urge the adoption of the committee amendment. It improves and tightens the bill. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Brashear. Mr. Clerk.

CLERK: Mr. President, Senator Brashear would move to amend the committee amendments. (AM2105, Legislative Journal page 411.)

PRESIDENT MAURSTAD: Senator Brashear, recognized to open on your amendment to the committee amendments to LB 55.

SENATOR BRASHEAR: Mr. President, members of the body, following the adoption of the committee amendment, questions were raised about the language provided under part (b) of the definition