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Transcriber's Office

March 22, 2000 LB 973

SENATOR CUDABACK: Senator Hilgert.

SENATOR HILGERT: Thank you. The reason I did the motion to reconsider, I went back to talk to Senator Jensen, and I have a concern about the definition of what's an illegal gambling device. For example, if someone comes into an establishment or one of the employees has an NCAA tournament pool, one of those 64 teams and you guess how many teams you got and so forth, the mechanical device, if you will, is it so broadly interpreted that simply a pool or a...whatever those things are called, those NCAA things, would that be considered a gambling device? Certainly it's needed for the result, it tracks it, it records it, and I'm concerned about a little bit of overbroadness in this. And my motion to reconsider is simply to have this discussion on the mike, if you would address that.

SENATOR CUDABACK: Would you yield, Senator Jensen?

SENATOR JENSEN: Yes, thank you, Mr. President. And, Senator Hilgert, I understand your concern. In a strict examination the pool does not meet the Strawberries test of the three criteria. Now, when you...maybe it doesn't require a lot of skill, but still you're picking a number or you're signing your name to a little square, or whatever that is, that can be at least described as skill, it's not just pulling a lever or pushing a button and that's it. So, in that particular area a pool would not be declared an illegal gambling device.

SENATOR HILGERT: Because of the lack of randomness and the...and the way that you gamble?

SENATOR JENSEN: Well, if it's for money, it's gambling. But from my understanding, that is not described as a device. What we're talking about here are, of course, video machines.

SENATOR HILGERT: I know, I'm certainly aware of your intent, Senator, and I appreciate that. I just am concerned that when we put something in statute that it's not construed by an overzealous or someone with not a lot of experience and in such a way that it may have unintended consequences. Could you tell me what is a device?