

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

February 21, 2003 LB 234

Voting on adoption of AM0500 offered by Senator Beutler to LB 234. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Beutler's amendment.

SENATOR CUDABACK: The amendment was adopted. Mr. Clerk, next item to the bill.

CLERK: Senator Beutler would move to amend with AM0501. (Legislative Journal page 607.)

SENATOR CUDABACK: Senator Beutler, to open on AM0501.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I do have two amendments in addition to this one that are ahead of us, and what I would like to do is just explain briefly the point of discussion of each amendment and then withdraw them all in rapid succession, so we don't take any more time than we have to. But I do want to state for the record what I perceive the problem to be, and for those of you who like to think about procedural things, it will identify the substance of the amendments for you. The amendment that's currently up has to do with the ability of the department to initiate an administrative disqualification hearing. Under the bill the way it is, it says that that hearing can be initiated when there is reason to believe that sufficient documentary evidence establishes that a person has committed an intentional program violation. The amendment suggests that we should go back to the more familiar language of the law and require probable cause. The idea of probable cause pertains both in criminal and civil action and has a considerable history and some understanding within the court system. I am not sure that this language that is used here has any sort of pedigree that would help the courts to define what is intended. And so that would be what I would suggest with respect to that item. The next amendment that's up, which I will also withdraw when it comes, has to do with the nature of the proceedings. In the bill it says, "hearings under this section shall be subject to the Administrative Procedures Act." It's not clear to me and it wasn't clear to the bill