

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

March 10, 2003 LB 688

And here is something that we should never forget. Any bill the Legislature enacts, it can amend or repeal. This is not something written in stone. Not one of those other laws I've mentioned to you that is on the books now has had to be invoked against the NCAA, because the NCAA changed its rules, and it was not necessary to invoke the law. But without those bills, the NCAA showed not only no inclination to do anything, but they had said they would not do anything, and nobody could make them do anything. I want to mention a specific case, to show that the NCAA, in its arrogance, can sometimes miscalculate about the power of a state legislature. They disciplined a coach named Jerry Tarkanian. The proceedings were such that they did not comply with due process requirements under the U.S. Constitution. When the case went to the U.S. Supreme Court, the court ruled that since the NCAA is not a governmental agency, they need not comply with federal requirements of due process. And when that came down, the NCAA thought they were untouchable. I was even distressed. Here is the U.S. Supreme Court saying the NCAA does not have to comply with federal due process. Then I read the case carefully, as I should, and the word "federal" jumped out. There is no requirement that they comply with federal law. But a state can hold them to due process requirements, because the state can legislate on any matter pertaining to its citizens. And in the same way it can regulate corporations within its boundaries, it can regulate these types of private associations. So I drafted a bill that required the NCAA to comply with due process within Nebraska anytime they were going to impose a punishment on the university, a coach, or any player. Other states woke up, and the NCAA slapped themselves on the forehead, and said, good god, he's got us. They cannot make us comply with federal due process. But every state can establish its own due process system, and the NCAA can no longer enforce its rules anywhere, because it has 50 different laws to deal with. So you know what the NCAA did? And it led to that article that I read to you. They changed their procedures so that they set up a process that complied with due process requirements. Had I not offered the bill,...

SPEAKER BROMM: One minute.