

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

March 25, 2004 LB 139

now, and that is how people got off death row. The language that we put in Nebraska's DNA bill says that if the test, the DNA test, raises substantial questions as to the validity of a conviction, a person gets a new trial. The person is not acquitted. The person is not exonerated. The state will have to show that, absent that shaky DNA test, enough evidence nevertheless remains to obtain a conviction. This language by its very terms does not say the person is exonerated. It does not say other evidence is vitiated or done away with. It says that to the extent that the accusation is based on the body fluid which was not that of the accused, that part cannot stand. It does not say eyewitness testimony cannot be used. It does not say any other evidence cannot be used. But we're talking, remember, not about a crime; in this particular bill, we are talking about an employment situation. So I don't think that what Senator Landis said is a basis for doing anything to the amendment. But if what I said is not persuasive or still leaves questions, my job is to answer any questions that are presented, and that's what I will spend my time doing because I think the amendment itself is understood. So that's all I will have to say at this point, Mr. President. Thank you.

SENATOR CUDABACK: Thank you, Senator Chambers. Opening on the motion to return for specific amendment. Further discussion, Senator Brown.

SENATOR BROWN: Mr. President and members, I agreed to go along with the move and essentially to pull my amendment, although technically we didn't do that, to facilitate the discussion. That doesn't mean that I'm going to stand up and say that what Senator Chambers is doing with this amendment makes any sense, because I don't believe it does. I do believe that Senator Johnson's underlying bill is so important that we need to make sure that we find a way to facilitate its passage. But I do, since Senator Chambers challenged whether I could read or not, I did want to let you know, and I'm back on this particular set of circumstances that I don't think is the essence of our discussion about the Chambers amendment, but I was reading directly from federal regulation, and there is corresponding statutory piece to this, under sub part (b) of the Department of Transportation's testing regulations, the employer