

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

March 30, 2004      LB 868

safe, but we must bear in mind that we are going to jeopardize all the life insurance that that teacher or personnel may have because, remember, we only have \$10,000 which is immune to any kind of a lawsuit. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. Senator Chambers. Is Senator Chambers...yes, he's on his way.

SENATOR CHAMBERS: Mr. President, members of the Legislature, what I am interested in is liability resting when there has been negligence. If we want to require people to be properly trained and properly carry out their duties, then there must be a consequence if they don't. I'm not interested in getting the employee. I'm interested in there being liability so that somebody responds in damages, and the one most able to do that would be the employer. Although no negligence is involved, there is a law which says when there are police pursuits and an innocent third party is harmed, the entity or agency which hires the pursuing officer is liable to respond in damages. The cop is not involved in the equation at all when it comes to the payment of damages. The nexus between the harmed individual and the payout is the cop. But it passes right through the cop, the liability, and attaches to his employer or her employer. I would want the language to say that, since we're going to make the employer responsible, if there is negligence in the administering of this aid, the employer must respond in damages. People are talking about the employee and how the child is to be helped. But I'm looking at the child. I'm looking at the family of the child. Let's say that there is damage done to a nerve in the child. Who is going to pay for it? I don't want to leave it to a tort claims bill or action that must be brought where you have to establish certain things that I may not want to see done in a case of the kind we're discussing here. Recovery and other things, the amount, may be governed by the Tort Claims Act, but I want there to be a freestanding right of a child or the child's parents or guardians to recover against the school if there is the negligent administering of aid. When you determine negligence, you look at all of the circumstances involved in the situation. It's not as though you create a laboratory, clinical, or vacuum-like set of circumstances where you say if everything were ideal this is the way this treatment