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April 1, 2004      LB 1090

Mr. President.

SENATOR CUDABACK:      Thank you, Senator Smith. The body is discussing the Chambers FA1648 and AM3477 to LB 1090. On with discussion, Senator Stuthman.

SENATOR STUTHMAN:      Thank you, Mr. President and members of the body. At this time, I would like to give my time to Senator Bromm.

SENATOR CUDABACK:      Senator Bromm, you have almost five minutes.

SPEAKER BROMM:      Thank you very much, Senator Stuthman, Mr. President. I appreciate it especially because I wanted to respond as quickly as I could to some of the statements that Senator Brashear made. We have a serious matter here in this interest statute which hasn't been really looked at because there hasn't been a reason to for many, many years. In fact, DAS can't find when it's ever come into play. So let me try to reiterate how this works. There's a judgment against the state of Nebraska right now in Federal District Court. It's appealed. Right now that appeal has been upheld and it's been further appealed to the U.S. Supreme Court. And the following scenario regarding interest would occur. Since litigation occurred in federal court, there's the federal code statutes allow for interest on a money judgment in a civil case. The federal rules govern civil litigation and the rule that is applicable here provides that there's a process for enforcing the judgment for the payment of money and it's by a writ of execution unless the court directs otherwise. And then it says, the procedure on execution shall be in accordance with the principle or the practice and procedure of the state in which the district court is held, existing at the time the remedy is sought, except that any statute of the United States governs to the extent it is applicable. Then this rule, the federal court directs...federal procedure directs the federal court to look to the state where the district court is held and utilize its practice and procedure. Okay? And the statute in Nebraska, 25-21211, requires a court to certify the judgment, if it's final, to the director of DAS. The director of DAS, if the appropriation is authorized, pays it with a warrant, and that ends it. If there