

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

March 23, 2006

LB 188

you're subject to a criminal penalty. And if you do, we're going to reach into the public coffers and pull down fines and penalties that should constitutionally be going to the schools. We're going to take that public money and we're going to give it to your opponent so that you don't take too great an advantage of him, all in the name of free speech. That's the first reason. This isn't what it pretends to be and when you think about it in the abstract, you know it's not and you ought to repeal it. The second reason I just alluded to in the first reason, because you shouldn't be doing with the money that you're doing it with, you shouldn't be doing what you're doing. The constitution says fines and penalties shall go to the schools. We are diverting fines and penalties levied by the Accountability and Disclosure Commission so that we can engage in this scheme or artifice of supposed free speech so that we can make sure that no rich white guy--that's the thing we really want to prevent--or anybody else who has a better idea that enthusiastically is supported by people or whatever can dislodge somebody who somehow got themselves there and is sitting there and doesn't want to be challenged and doesn't want to have to go out and campaign and win based on their record. It would indeed be terrible if they had to run on their record and work at getting reelected. So yes, it's a failed scheme to protect incumbents but it's still a scheme to protect incumbents. I will say it. And if you look at the most careful sets of cases, it is only by extraordinary means that the incumbents have been overcome by people who said I will not be thwarted by the artificiality of this law. So it's unconstitutional. The Attorney General says it's unconstitutional. He rendered an opinion. But of course, that opinion and that diversion of funds and that unconstitutionality isn't worth prosecuting by the chief law enforcement officer of the state of Nebraska for whatever reason. But that money can be taken away by courts of law, thank goodness that Lady Justice is blind even if slow, and we can go after that money. Now the third reason you shouldn't do it, I'm not going to belabor extensively. The third reason you should not enable this and you should repeal it is because it hasn't worked, it doesn't work. We act like we are saving ourselves from the ravages of the western world and capitalism by this law when, in fact, it's never been successful so that we could apply it to everybody, top to bottom, governors and