

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

April 12, 2006      LR 449

CLERK: I have a quorum present, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Mr. Clerk, please inform the body where we were when we recessed for lunch.

CLERK: The Legislature was discussing LR 449, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. We will now continue. There are a number of lights on, about 20, as a matter of fact. The first five are Senators Engel, Mines, Jensen, Preister, and Beutler. Senator Engel.

SENATOR ENGEL: Mr. President, members of the body, from the beginning I have never voted for impeachment, and I mentioned it before but I wanted to explain again why. I know, as a layperson and not a legal person, in reading the constitution, it says misdemeanors and so forth while in office or the duties of an office. And that's the way I interpret it, as a layman, that that's where we were. Then we hired...of course, as Senator Bourne mentioned, we did appoint a committee headed up by Senator Bourne, a very capable leader, and a good committee across the whole state, and they hired a very capable attorney, Clarence Mock, a very...with a very good reputation. And he studied everything, he took everything into account, came back with his recommendations. And while he mentioned here none of Hergert's conduct occurring before Hergert assumed the duties of Regent could form the basis for an impeachable offense because the conduct was not related to the duties of the a Regent. And it says: Similarly, while his January 11, 2005, campaign statement may also have violated both Nebraska civil and criminal law, Hergert's filing of this campaign statement was not an act directly pertaining to or connected with his office and, therefore, the Nebraska Supreme Court would most probably find it was not related to the duties. As such, the conduct would not constitute a misdemeanor in office--the necessary requirement for impeachment. Under the particular circumstances of this case, the Legislature is specifically constrained by our constitution. The responsibility of prosecuting and furnishing...punishing Hergert resides with appropriate office within the executive branch. So that is why I did not support the impeachment all along the line, and I still do not because