

January 9, 1989

LB 112, 202-240
LR 3

LBs 202-240 for the first time by title. See pages 100-108 of the Legislative Journal.)

Mr. President, I have a notice of hearing by Senator Rod Johnson who is Chair of the Agriculture Committee for Tuesday, January 17.

Mr. President, Senator Hannibal would like to announce that Senator Conway has been selected as Vice-Chair of the Intergovernmental Cooperation Committee.

Mr. President, a new resolution, LR 3. It is offered by Senator Baack and a number of the members. (Read brief explanation. See pages 108-109 of the Legislative Journal.) That will be laid over, Mr. President.

Mr. President, I have a request from Senator Smith to withdraw LB 112. That will be laid over. I believe that is all that I have, Mr. President.

PRESIDENT: Senator Lynch, are you ready to go back to work now? We will return back to adopting of permanent rules. Senator Lynch.

SENATOR LYNCH: Mr. President and members, I have one more proposed committee amendment, simple little amendment. It has to do with cloture. This change would adopt a cloture rule that would become effective after 12 hours debate at each stage of debate on any appropriation bill, and after 8 hours at each stage of debate on all other bills. To briefly explain it, and then Senator Moore will take it from there, let me give you a scenario. Some of you may be familiar with 428, the motorcycle helmet bill. It was my bill. An amendment, say, was offered under this rule by Senator Moore to the bill. As you know, sometimes amendments can take and need more time for discussion and debate than the bill, itself. After 8 hours of debate on Select File, I would move for cloture, or if that bill happened to be a committee bill, the chairman of the committee would move for cloture. The presiding officer then, under this proposal, would immediately recognize the motion and orders debate to cease on Moore's amendment. The vote on the Moore amendment would be taken without further debate. After that, a vote on the cloture motion without debate, 33 votes would be needed for that motion on cloture would be successful. If the cloture motion were successful, a vote on the advancement of the bill,

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LB 132, 147, 224, 265, 267, 397, 619
623

the bill on to Select File.

SPEAKER BARRETT: Thank you.

SENATOR KRISTENSEN: I think the Chambers amendment is a reasonable compromise, and it gets to the point of what we wanted to do, and I would call the question.

SPEAKER BARRETT: Thank you. That won't be necessary. Senator Chambers. No closing, thank you. The question is the adoption of the Chambers amendment to LB 267. Those in favor please vote aye, opposed nay. Voting on the Chambers amendment to LB 267. Have you all voted? Record, please.

CLERK: 25 ayes, 1 nay, Mr. President, on adoption of Senator Chambers' amendment.

SPEAKER BARRETT: The amendment is adopted. Anything further?

CLERK: Nothing further on the bill, Mr. President.

SPEAKER BARRETT: Senator Abboud. No closing. No lights on. Is there any discussion on the advancement of the bill? Seeing none, those in favor of advancing 267 to E & R Initial please vote aye, opposed nay. Have you all voted? Record, please.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB 267.

SPEAKER BARRETT: LB 267 is advanced. For the record, Mr. Clerk.

CLERK: Mr. President, your Committee on Judiciary, whose Chair is Senator Chizek, to whom was referred LB 147 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; LB 224 General File, LB 265 General File, LB 397 General File. Those are signed by Senator Chizek as Chair. Natural Resources Committee whose Chair is Senator Schmit reports LB 132 to General File, LB 619 General File, LB 623 General File. Those are signed by Senator Schmit as Chair.

I have a confirmation report from Senator Schmit as Chair of the Natural Resources Committee; and a notice of hearing from the Revenue Committee signed by Senator Hall. That is all that I

that the court is able to decide the case. So those future bills will...the real purpose of them is not to decrease the work load in any way, but to take care of the hundreds of cases that are sitting there waiting to be decided. Again, I would just note that this is a very modest increase. It would appropriate funds for the creation of two district court judgeships, not anything to do with the Supreme Court, district court judgeships along with the court reporters and staff and expenses necessary for them. I would urge its advancement as well. Thank you.

PRESIDENT: Thank you. Senator Hall...okay. The question is the advancement of the bill. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

ASSISTANT CLERK: 25 ayes, 0 nays on the advancement of the bill, Mr. President.

PRESIDENT: LB 147A advances. LB 224.

ASSISTANT CLERK: LB 224 was introduced by Senators McFarland, Chizek and Hefner. (Title read.) The bill was read for the first time on the ninth of January. It was referred to the Judiciary Committee. They report the bill back to General File with no committee amendments, Mr. President.

PRESIDENT: Senator McFarland, please.

SENATOR MCFARLAND: Yes, thank you, Mr. President, this is my day I guess. This is a bill entitled the Athlete Agents Registration Act. It has been before the Judiciary Committee before. I have brought it, myself, each year that I have been a member of the Legislature except for the first year when I was first appointed. Its history is that we were trying to address problems created when Nebraska athletes are sometimes taken advantage of by sports agents who induce them into signing representation agreements, sometimes jeopardizing their eligibility, but in any event these representation agreements are often so totally skewed to favor the agent and the athlete may very likely not have the business skill or knowledge to understand them. There have been some publicized incidents in the past particularly with regard to several years ago, to Mike Rozier when he was signed to a representation agreement by an agent charging a 13 percent fee on any contract that Mike Rozier signed. I can tell you that the standard fee is usually three

to 5 percent at most. And so this legislation was drafted with the idea of protecting the athlete, giving the athlete some kind of help. It was brought initially by an ad hoc committee of the Bar Association headed by Charlie Wright, an attorney. It has been urged and supported by the Athletic Department at the University of Nebraska as well as a number of other coaches from other institutions in the state and would apply to all Nebraska athletes. The...I'll read the purposes. The act would create an Athlete Agents Registration Act. It will require agents who recruit student athletes for professional sports teams to register with the Secretary of State before engaging in such activity. Applicants for registration would provide specific information to the Secretary of State who is empowered to investigate the applicant's education, training and character. The bill will require agents to post a \$25,000 surety bond and pay a \$250 filing fee. The agent could not be registered if he or she is currently under sanction or has had a previous license revoked. Any contract used by the agent must be approved by the Secretary of State. The contract must be approved as long as it is not unfair or oppressive to the athlete or if it conforms with the NFL Player's Association form contract. A schedule of fees charged by the agent must also be filed. Such fees may not exceed 10 percent of the athlete's salary in the calendar year. Agents located out of state would be required to file an irrevocable consent to service with the Secretary of State. This would allow a valid service of process on such agents throughout the Secretary of State's Office upon mailing notice to the agent by certified mail. The bill would also deem agent contracts to be a business transaction for the purposes of Nebraska's long-arm statute. Agents are prohibited from knowingly making false or misleading statements or promises, splitting fees with a professional franchise, offering anything of value for referrals or contacting athletes prior to completion of the athlete's last intercollegiate contest. The bill also sets out penalties for violation of the act. LB 224 is an attempt to prevent unscrupulous behavior on the part of athlete agents who attempt to represent student athletes in Nebraska colleges and universities. Regulation is necessary to protect the interests of the athlete, the athletic programs, institutions of higher education in Nebraska and the public. As I said, it is primarily designed to protect athletes who have been exploited by some unscrupulous sports agents. I have to acknowledge that the majority of sports agents who represent athletes not only in Nebraska and elsewhere are competent and do try to do an honest and fair job, but the trouble is that there

are a few very unscrupulous, very unethical agents who take advantage of athletes by inducing them to sign agreements and not providing proper representation to them. I passed out a handout which lists the arguments for passage of LB 224. This handout was brought to us by Coach Osborne on behalf of himself and the Athletic Department at the University. You'll notice there he lists four basic arguments. The first one is that often athletes do not know the qualifications of sports agents who contact them. A sports agent has no real certification process that he or she must go through in order to represent an athlete. All you have to do is call yourself a sports agent and there have been numerous problems created when athletes sign with a sports agent thinking the sports agent has legal training or an accounting background or business training, only to find out that the sports agent is totally unqualified to represent the athlete. And this is because sometimes the sports agents have not only negotiated contracts, but agreed to handle the investments of the athlete. There have been a lot of horror stories where athletes have been misled and have invested their money through their sports agents only to find out that such investments were very poor investments and as a result athletes have lost significant sums of money. The second thing is that if a sports agent enters into a representation agreement with an athlete before that athlete's eligibility is completed, then that athlete may lose his or her eligibility for the remaining part of their collegiate career and many of these athletes sign these representation agreements and are told by the sports agents who are unscrupulous that since the representation agreement will not take effect until after the season, then they postdate these agreements that, therefore, they don't jeopardize their eligibility and, in fact, they do. And, of course, if an athlete is competing in the middle of the season, and there have been examples in other states where football players and basketball players have lost their eligibility during the middle of the season and have not been able to complete that season. The third thing addresses the issue of fees. Coach Osborne talks about the Mike Rozier incident. I told you the average fees for representation in negotiating a contract with a professional sports team is usually around 3 percent, at most 5 percent. This particular agent charged 13 percent and there are a few agents who do try to charge exorbitant fees and they try to charge that percentage often in the first year, up front, so if they sign an athlete to a three-year contract, for example, say for...just for the sake of an estimate, say it's just \$100,000 a year, a \$300,000 contract. Often a sports agent

will take 10 percent of that contract right up front which would be \$30,000. The athlete may only play one year, only earn \$100,000. The contract is not guaranteed if the athlete doesn't...is not able to make the team the next second and third years. Then the athlete has only made \$100,000, the fee has been \$30,000 and in effect it becomes a 30 percent fee and many of these agents want their money right out of the bonus, signing bonus that the athlete has or right out of the first year's salary. And then lastly, I think some of you have probably read about the...some of the threats and intimidation used recently by some of the agents in the Chicago area I believe it was. There was Norby Walters and Lloyd Bloom (phonetic), I believe in the past two years were accused of having threatened athletes with physical violence if they did not follow through on previous commitments.

PRESIDENT: One minute.

SENATOR McFARLAND: What we're really trying to do is to protect the athlete. We're requiring the agents to register with the Secretary of State, disclose their background, disclose their qualifications, prevent them from jeopardizing the eligibility of athletes, limit them as far as the fees that they can charge and then if...and provide remedies for the athlete in the way that the athlete can sue, can void the representation agreement if the sports agent has made misrepresentations to the athlete and it gives some kind of power and authority to the athlete. You'll see on another page that I passed out to you that several states have implemented this type of legislation and you'll note that already there are 13 states that have enacted some form of legislation. Nine of those states have statutes similar to the one that we have proposed here in Nebraska. The hope is that as more and more states implement this type of legislation that the federal...that legislation will be introduced at the federal level to cover this on a countrywide basis. I would urge you to consider this bill and urge its passage. I would note that Senator Chizek and Senator Hefner have also signed on the bill and appreciate their support on this as well.

PRESIDENT: Thank you. Senator Chambers, followed by Senator Crosby, Senator Hefner and Senator Ashford. Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, this is a bill as Senator McFarland correctly says that has been

before the Legislature on a number of occasions or has been introduced but it has never gotten out of committee and the number of years during which it has been introduced have not seen any improvement in the writing of the bill. One of the worst things about it is that it aims, although not consciously, to produce a monopoly where just a few very wealthy agents will be able to handle all of the athletes. If you can get a number of states to do this and each places a high registration fee, then agents will not be able to afford to do this all over the country and by doing that you restrict the number of people who can be agents to a selected handful. The bill allows the school itself to set up interviews with selected agents or approved agents and by doing that they start putting together the pieces for the creation of criminal conduct. If an agent violates the rule of any school that has been put together for conducting these interviews, that agent can be guilty of a crime which means that the crime is created by the institution that establishes the rules and that is not allowable. You are taking the criminal process of this state and using it to enforce the administrative activities of various institutions of so-called higher learning, or so-called institutions of higher learning. There are a number of other things that need to be looked at in the broad overview, then there are specifics I would like to bring to your attention. It is a situation we're confronting here where UN-L, as all these schools, are the real concern is with the eligibility of the player so that he or she will continue to be a revenue generator for the school. If the schools had a genuine concern for these athletes, instead of giving them these basket weaving courses or some of these others that were especially created at UN-L a couple of years ago in summer school to help keep them eligible, they would put together some classes that relate to how agents deal to the meaning and significance of contracts and all of the issues that we're being asked to address here today and thereby make the Legislature an enforcement arm of the NCAA, could better be addressed by these schools if they have a genuine concern for these players. And I know Senator Schmit is going to be upset with this bill because if he was against due process, then you know he's got to be against exploitation of the athletes. Now there is something that those of you who are in business should look at. On page 4 you will see all of this material that an agent has to put down and publish. Business or occupation engaged in by the applicant, this is at line 24, by the applicant for the five years immediately preceding the date of application. What other business is required to do that before

it can register with this state? Continuing on page 5, subsection (c), applicant's educational background, including names and locations of schools, dates of attendance, degrees received or courses taken, transcripts and faculty references. There is still such a thing as a right to privacy. Your transcripts must be filed here when they don't have to be filed to run for the Legislature. They don't have to be filed to run for the presidency and they don't have to be filed if you want to set up a bank or operations that have far more impact on the society at large than this bill will do. Then you come to (d). Names and addresses of five professional references.

PRESIDENT: One minute.

SENATOR CHAMBERS: What does the word professional mean? And who determines whether the person giving the reference is a professional? Come down to (e), names and addresses of all persons, except bona fide employees on stated salaries who are financially interested as partners, associates, or profit sharers in the operation of the business of the applicant, except that an application for registration or renewal by any member of the Nebraska State Bar Association shall include only the names and addresses and so forth. No other company is required to do this. The bill speaks in several places about making contact with a player, with an eligible or a noneligible athlete. It doesn't define what contact means, whether it is a letter, a phone call, speaking orally in the form of a greeting if you run across the person.

PRESIDENT: Time.

SENATOR CHAMBERS: It also...

PRESIDENT: Senator Crosby, followed by Senator Hefner.

SENATOR CROSBY: Thank you, Mr. President, and members of the Legislature, I have listened with interest to Senator McFarland and also to Senator Chambers because he always manages to confuse me because I thought I knew how I felt about this bill. Senator McFarland, though, I am for it. I wanted you to know that right away, Jim, didn't think I was opposing you. I feel that anything we can do, and if there are technical things that need to be worked out in the bill, fine, I'm not speaking to that point. I'm speaking to the need to protect these young men and women who can be the victims of unscrupulous agents. It's

always slickers come to town and can take advantage of young people like this and their parents who are unsophisticated in matters of contracts and eligibility, even on the team, that kind of thing. During the winter one of the books I've been reading is the Shirley Temple autobiography. Now if anybody is listening they are going to say, what is she talking about Shirley Temple for? Poor little rich girl. Poor little rich girl was not rich when she started in the movies. Her parents were simple, not wealthy people. Her father had a minor job in a branch bank in Hollywood. They weren't wealthy. They were not sophisticated. They did not understand what unscrupulous agents were doing to her and it's most illuminating in the chapter about the contract fights that we went through, the very thing that I'm talking about, that her father did not understand the financial side of it. They lost money for her which eventually, of course, she recouped, but they went through a lot of contract fights after she had been in a lot of crummy little movies that, before she hit it big. So there is a parallel and my big reason as I started out, my big reason for speaking is the need to help these young men and women to resist and not be trapped by the unscrupulous agent who can fool them and their parents into signing some contract that will not be good for them. Thank you.

PRESIDENT: Thank you. Senator Hefner, followed by Senator Ashford.

SENATOR HEFNER: Mr. President and members of the body, I rise to support this bill. I am a co-sponsor of it. I've been very interested in this type of legislation for a number of years. I remember that Senator McFarland came before the Miscellaneous Subjects Committee years ago before he was elected a state senator, and I commend him for this because he is a strong believer and I realize, Senator McFarland, that you and I are not always on the same side, but this time you are right and I'll be the first one to say that. But this bill, this bill is intended to help protect our college athletes from unscrupulous agents and as the years go on we have more and more of them. The college athletic programs in our state are well-known nationally. Nebraska has an excellent reputation for producing very competitive college athletes. This bill, I feel, is a method to help protect and maintain our status. If we do not provide adequate protection for our athletes, I feel that our athletic program will suffer. I, along with many others in our state, are proud of our college athletes. Any harm done to the

collegiate program will trickle down to a high school level. Good athlete programs and good education programs go hand in hand in Nebraska. Sports have always been an integral part of our educational system. Sports programs teach our young people lessons about working together for a common cause. They teach them the lessons of self-discipline and they teach them how to keep their bodies in good physical health. Sports programs also contribute to communities and their sense of community spirit and entertainment and we saw a lot of that just this last week when the girls basketball tournament was held here in Lincoln. Also we'll see that again the latter part of this week when the boys basketball teams come to town. Sports programs help to support our schools and universities financially too in their athletic programs. I feel that Senator Chambers this morning is being picky and I knew that he would probably oppose this bill as he usually does. In fact, in some of the other years he kept it bottled up in committee. But I believe that it is very important to keep our sports programs in good shape. LB 224 is one way to ensure that the best practices are followed when agents recruit athletics for professional employments. Like Senator McFarland said, many other states have passed legislation such as this. Many other states are anticipating in passing and have introduced legislation to pass bills such as we're talking about. I feel that regulation is necessary to protect the interests of the athletes, the athlete programs of our colleges in our state and also for protection of the public. It is high time that we pass a bill such as this.

PRESIDENT: Thank you. Senator Ashford, please, followed by Senator McFarland, then Senator Chambers.

SENATOR ASHFORD: Thank you, Mr. President, members, I, too, rise in support of Senator McFarland's bill and I'd like to go point by point over some of the...some of Senator Chambers' concerns and I...as I read the bill I read it somewhat differently than Senator Chambers and I'd like to go over that and maybe debate some of the sections with him rather than talk about the general policy because, obviously, I think all of us would like to see clean sports programs and I don't think there is any problem with public policy in that regard, but I'd like to go over some of the sections that he has raised and to maybe debate those specifically with him and then get to the bottom of it. First of all, in the due process argument that he raised in connection with his bill concerning the NCAA, I supported that bill and I think he raised some excellent points in arguing that

bill because in the NCAA bill we're talking about job action or action by an organization which is not a state agency which in...certainly in the Tarkanian (phonetic) case which resulted in, or could result in the loss of employment by Tarkanian and that, the application of that particular rule or rules like it implemented by the NCAA could have egregious effects or onerous effects on individuals and I think the due process argument is a good one for that in that bill. However, if we look at Section 18 of LB 224 on page 12, I don't see a due process argument in Section 18. What we're saying is that the university can not necessarily keep an agent off the premises. All we're saying is that the agent, athlete agent shall strictly adhere to the specific rules of each separate electing institution with regard to the time, place and duration of the interviews. It doesn't say that the registered agent cannot be there and meet with student athletes. I don't see that as being the kind of regulation that raises to the level of violation of constitutional due process. Going then secondarily to the argument Senator Chambers raises about the only wealthy agents, and I think it is a valid point and whenever we regulate anything we have to be careful that we're not restricting unduly the market for individuals who may act as agents and any time we get into regulation, obviously that is a concern and I think Senator Chambers in raising that issue raises an issue that should be raised in regulation type legislation but I don't think, and I'm looking at Section 13 and maybe Senator Chambers has some other sections that he is discussing, but Section 13 that requires a \$25,000 bond certainly is not an onerous bond provision and many attorneys or other individuals with sports background, I would think, could meet that requirement of procuring a \$25,000 bond without too much trouble and thereby act as a sports agent as long as the other criteria are met. Then going to Section 12, and again, Senator Chambers may have some other objections on that point, but that's the one that I thought he was mentioning, going to Section 12, on the application process, I think that's just a judgment call by everybody on the body, in the body whether they feel that those...that type of information is invasion of privacy or not invasion of privacy. And I don't think then, if we do amend or change any portion of those, or any of those subsections, it certainly isn't fatal to the bill and is not a reason not to advance the bill. And having looked at those subsections, I don't...

PRESIDENT: One minute.

SENATOR ASHFORD: ...I see Senator Chambers point to some extent on some of them, but I don't, again, they can be changed possibly slightly and make them somewhat less onerous, but I still think the bill in and of itself is very valid, very good and does directly reach the issues that Senator McFarland is attempting to reach with the bill in a pretty valid and comprehensive way with not undue regulation as Senator Chambers might suggest. So with that analysis, I'd be...I would...I agree that the bill ought to be advanced. Senator McFarland has done a good job, has brought the bill back a couple of times, has refined it and I think it ought to be advanced. Thank you.

PRESIDENT: Thank you. Mr. Clerk, you have something on the desk.

ASSISTANT CLERK: Yes, I do, Mr. President. Senator Chambers would move that LB 224 be indefinitely postponed.

PRESIDENT: Senator Chambers, please. Oh, excuse me, Senator McFarland, do you want to take it up today or do you want to hold it over?

SENATOR MCFARLAND: Why don't we just take it up today.

PRESIDENT: All right, Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I hope that Senator Crosby is not merely confused when we get through with this discussion, but that she will actually begin to see that there is some problems with this bill that need to be considered and I would like Senator Brad Ashford, since he engaged me in a discussion with some of these things, to let us discuss a little further. Senator Ashford, would you turn to page 3.

PRESIDENT: Senator Ashford, please.

SENATOR CHAMBERS: We keep using the word athlete, a noneligible student athlete at page 4, and student athlete at page 15, but there is no definition of athlete, and I will tell you why that is significant. Will you turn to page 4, the next page. If an agent who is not registered with the Secretary of State, go down to line 9, he or she may not contact, directly or indirectly, or solicit or negotiate or enter into an agent contract with a

noneligible student athlete who has not previously signed a professional sports services contract and who is enrolled as a student at an institution of higher education. What does that mean?

SENATOR ASHFORD: The phrase noneligible student athlete? Who are we directing that section at, is that what you're asking?

SENATOR CHAMBERS: No, I'm asking what those words mean. What is a noneligible student athlete, first?

SENATOR ASHFORD: I'm not sure what a noneligible, without looking at the rest of the bill, I can't tell you right off the bat...

SENATOR CHAMBERS: I'll read what a noneligible student athlete...

SENATOR ASHFORD: I'd have to go back to the other section.

SENATOR CHAMBERS: ...is. On page 3...

SENATOR ASHFORD: Section 6.

SENATOR CHAMBERS: Right, a noneligible student athlete shall mean an athlete who resides in this state who is not a student athlete. Now, what is an athlete?

SENATOR ASHFORD: I think they're getting at...I believe they are making a differentiation there between athlete and an athlete who is not enrolled in an institution. So I would say an athlete is someone who engages in athletic activity. That would my definition of an athlete.

SENATOR CHAMBERS: So an institution of higher learning could be law school or medical school, couldn't it?

SENATOR ASHFORD: Possibly, if the rules of that institution allow that individual to participate in athletic events at that institution. That's how I would read it.

SENATOR CHAMBERS: Well, the institutions don't determine that. Generally the NCAA...(interruption)

SENATOR ASHFORD: Or the NCAA does, right.

SENATOR CHAMBERS: Yes, and the NCAA does allow people, if they haven't exhausted their athletic eligibility to participate even when they are in a postgraduate situation.

SENATOR ASHFORD: Right.

SENATOR CHAMBERS: Now if we have an individual who has exhausted all of his eligibility because of the time when he entered school, he would be a noneligible student athlete. We can go to page 4 and see what I mean. He has not previously signed a professional sports services contract and he is enrolled as a student at an institution of higher learning. Even though he has no eligibility, a sport agent cannot contact this person under this bill and it also restricts...

SENATOR ASHFORD: Yeah, I see your point.

SENATOR CHAMBERS: Right, but that's what you agree to in this bill.

SENATOR ASHFORD: Well, I don't see...don't know if that is necessarily wrong. I'm just...I see what you're getting at.

SENATOR CHAMBERS: All right, then let's go to another page and see how you like this. If we have at page 6, upon, starting in line 17, upon receipt of an application for registration, the Secretary of State may evaluate and investigate the education, training, experience, and character of the applicant. Where are the definitions of those terms and the legislative guidelines to direct this administrative activity? Where are they found in the bill?

SENATOR ASHFORD: They're not in the bill as I read it, and I don't see any definition of education or...but, again, I'm not sure you have to have that in the bill.

SENATOR CHAMBERS: All right, let me go to another page. Page 9, in line 20, starting with the word "a", a noneligible student athlete may terminate any such contract within forty-eight hours, excluding Sundays and federal holidays, after he or she signs it. Are you aware of all of the things that an agent must file with the Secretary of State that other people can look at who might be competitors and determine that they can offer a better deal once they see what this player has signed

for and then get that player within 48 hours to break that contract and sign with Agent B? Can you see that happening, and this will help establish a bidding war, and this bill encourages that? Can you see that as a possibility?

SENATOR ASHFORD: I see a bidding war as a possibility. I, again, I don't...without...are you suggesting that if they file...they have to file the contract immediately before the 48-hour period runs?

SENATOR CHAMBERS: No, no, the 48 hours, whenever they sign it, they've got 48 hours.

SENATOR ASHFORD: Yeah, but I mean filing the contract is what I'm getting at. In order for there to be a bidding war, it would seem to me they...other sports agents would have to find...would have to know what the terms and conditions of the contract are.

SENATOR CHAMBERS: And usually when a contract like this is signed, it is publicized, but I want to raise the problems...

SENATOR ASHFORD: So I guess I would say I don't think there would be a bidding war unless I'm missing your point.

SENATOR CHAMBERS: All right, let me take you to page 14 in line 2, any person who knowingly and intentionally violates the act shall be guilty of a Class III misdemeanor. Do you see that?

SENATOR ASHFORD: Yeah.

SENATOR CHAMBERS: Does that make this a criminal statute?

SENATOR ASHFORD: It makes it a criminal statute.

SENATOR CHAMBERS: When you prohibit conduct and attach a penal...a punishment, is that what constitutes a criminal statute?

SENATOR ASHFORD: Yeah.

SENATOR CHAMBERS: Thank you. Senator Kristensen, I'd like to ask you a question or two before my time runs out, not on the bill itself.

SENATOR KRISTENSEN: Yes.

SENATOR CHAMBERS: Senator Kristensen, were you a county attorney?

SENATOR KRISTENSEN: Yes, I think we can get through all that, sure.

SENATOR CHAMBERS: Okay. Now when we come to a criminal statute, is a criminal statute liberally or strictly construed?

SENATOR KRISTENSEN: Strictly construed by its terms.

SENATOR CHAMBERS: Does that mean that the terminology has to be clear so that a person looking at it will know what conduct is innocent and what conduct is prohibited and, therefore, would carry a punishment?

SENATOR KRISTENSEN: The Supreme Court has told us that in looking at criminal statutes that the actor will have to know specifically what is illegal and what is not and what is prohibited and they will look at what the terms of the statute says in terms of a prohibited act, not just saying that something...if you do something that is wrong, you're guilty of a crime. You have to specifically say what you do wrong.

SENATOR CHAMBERS: Would you turn to page 11 in the bill, and everything prohibited, if it is done, constitutes an element of the crime because it is a criminal statute. An athlete agent shall not knowingly publish or cause to be published any false, fraudulent, or misleading information, representation, notice, or advertisement. What would constitute a fraudulent or misleading advertisement?

SENATOR KRISTENSEN: You would have to show the...it would basically be a fraud issue. You would have to show the intent to make it fraudulent, you'd have to show the fact it was infraudulent itself and you'd have to show that they did something to cause the advertisement to be specifically known to the person. In other words, you'd have to give the advertisement to them, you'd have to show they intended to do that and they had to show they intended it was false, not just that it happened to be false and they gave it to them.

SENATOR CHAMBERS: Now do you see anything in that Section 17 where it starts an athlete agent shall not knowingly, do you see intent anywhere in that prohibition?

SENATOR KRISTENSEN: I don't see the word there. I suppose the issue is going to be did they, do they mean that intent is implied through that? I'm not really sure and I don't think that that might pass the muster on doing that.

PRESIDENT: One minute.

SENATOR KRISTENSEN: I think, Senator Chambers, that the real issue here is back on page 14 when it says, any person who knowingly and intentionally violates the act. I don't think it strictly limits it just to Section 17. I think it means all the sections and if we were strictly dealing with just Section 17, maybe I could make the good arguments that intent is implied. I don't think you can do that with the rest of it.

SENATOR CHAMBERS: Thank you. And, Senator Kristensen made a good point. I'm not dealing with just Section 17. I had indicated that any violation of any part of the act is an element of the crime, and as such, a court is going to strictly construe this and the language must be clear and precise and there must be better definitions than we have here. One of the key terms is not defined. There is more that needs to be discussed with the bill and I shall do that, but because my time is out I'll just mention one other thing. On page 11, the section we were just discussing, you're going to make it a crime to publish a misleading advertisement. You are impinging on a person's freedom of speech, commercial speech, which people know is allowed to contain puffing and you see here you have a boiler plate bill that is not aimed at correcting a problem. If there is a genuine intent to help these athletes and to regulate that conduct of agents which may be unscrupulous it can be done better than this broadsided approach, so if you go ahead and pass this bill that would be better really than my killing it because then you can see how the Legislature was moved along to take a piece of legislation which they had warnings about and enacted it anyway. And to say that if any portion is unconstitutional, the rest of it remains intact, does not work because what the Supreme Court does is to look at other elements of the bill and if any of those provisions that are unconstitutional constitute it an inducement to pass the bill, then even if those parts are excised the bill falls. There is

so much wrong with this bill that there is not enough time to really deal with it, but I hope that opportunity presents itself so I can at least put some things in the record, then after you've passed the bill and it's attacked and stricken down, I can go point by point with what I said here and we'll compare it to what the Supreme Courts says when it strikes it down because this is an unconstitutional piece of legislation.

PRESIDENT: Thank you. Senator McFarland, you're entitled to speak.

SENATOR MCFARLAND: Oh, good. I will try to rebut some of the things, there were so many allegations I don't know where to start. I can just tell you that most of them are off base and I'd like to just start with Senator Chambers' comment that the interview process will allow the universities or the institutions to select designated agents, that they could prefer as far as representation of specific athletes. If you turn to page 12 and actually read the statement in the bill it says in Section 18, if an institution of higher education elects to sponsor athlete interviews, then it goes on, any registered athlete agent may arrange for the interview. That's any. It doesn't say that the institution selects them. It was a point that was brought to us, we corrected that in revising this bill and have addressed that question. And so, Senator Chambers, if we're talking about misleading advertisements, is making one here on the floor today. If you take a look at another allegation he made on page 4, he was talking about a noneligible student athlete who may be attending graduate school or professional school cannot be contacted by an agent. If you read the preceding paragraph and look at it, it says that an athlete agent who is not registered with the Secretary of State shall not contact. So if the agent is registered he can contact that noneligible student athlete. All you have to do is register with the Secretary of State and do that. Then you can contact the noneligible student athletes. With respect to requirements and disclosure of information and talk about information, there are specific reasons why you want to disclose this information about athlete agents and we're trying to address some of the problems that have occurred. One of the problems is that the agents have misled athletes by saying that they represent certain other sports personalities, that they have lawyers who are part of their operation or that they have accountants or investment counsellors when, in fact, when you get to check the records they have no affiliation with a lawyer

or an accountant or an investment counsellor whatsoever. If you want to...the reason you want detailed disclosure of this information is because there have been such repeated abuses and repeated exploitation of individual athletes who do not have the training or the experience in investigating to determine the credentials and qualifications of persons representing them. If you look at other professional...when I applied for my...become a member of the Bar Association I can tell you I had to provide significantly detailed information along with professional references along with the transcript, along with an indication of my graduations from an accredited law school. There were a lot of things because the profession of law is a trusted profession. It is one where you want to at least do the best you can to keep out persons with questionable, ethical or moral backgrounds. It is a very thorough one. We also do the same type of thing, I think, with accountants, with stockbrokers. I know they have a very detailed certification procedure. There is no certification procedure for sports agents, so one of the ways to try to address it is to, in fact, have them provide that necessary information.

PRESIDENT: One minute.

SENATOR McFARLAND: What has happened on occasion is that the sports agents who will be represented by, and backed financially, by someone who is fairly unscrupulous and someone who is fairly well-known, will come out and say that they want to represent the athlete and the athlete is not aware that the real persons behind the representation are the persons in the background who control the company through their financial and business interests. Just in closing, it is to protect the athletes. The idea is that some athletes are exploited by sports agents. I think you've all read the newspapers and the sporting magazines to know how that occurs and that this bill is an attempt to address that problem. I can tell you some of the athletes in Nebraska have been able to take advantage of these similar types of statutes in other jurisdictions in order to void representation agreements where they have been taken advantage of of sports agents. In the Mike Rozier case it was fortunate that California had an act somewhat like this because Mike Rozier could take that agent to California and say, look, you violated the California Sports Agent Act, unless you return a significant amount of the 13 percent in fees that you charged me I'm going to sue you and, in fact, that agent was forced to return a significant amount of those fees...

PRESIDENT: Time.

SENATOR MCFARLAND: ...and so that a settlement was resolved without a lawsuit being necessary. Thank you.

PRESIDENT: Thank you. Senator Chambers is next, but may I introduce some guests of Senator Beyer. In the north balcony we have 22 students from Elkhorn High School and their teacher. Would you folks please stand and be recognized. Thank you for visiting us today. Senator Chambers, followed by Senator Schmit and Senator Hall.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, Senator McFarland, in his zeal and enthusiasm for his bill, did not quite get the thrust of my remarks. When I talked about the contact of a noneligible athlete, what I was arguing is that even if you have a registered agent bill, it shouldn't require a person to be registered to talk to a person who is not an eligible athlete under this bill. What they are worried about, and he keeps mentioning Mike Rozier, is the fact that sanctions can be imposed on a school if the player accepts anything of value, anything of value offered or agrees to enter into an agent relationship, agency relationship, with one of these athlete agents. That's what is concerning these people and if there were no problem of the athlete losing eligibility and cutting into the school's money-making problem, there would not...or money-making potential, there would not be such a bill as this. You don't see people bringing bills to this Legislature to help the athletes as such, other than myself, and those bills routinely are voted down. Now if we talk about the interviews on page 12 and 13, the point that I'm making is that a violation of any part of this act constitutes a crime. What I said, in addition to what Senator McFarland said about me indicating that by requiring agents to be registered, you narrow the pool and wind up with a selected group who are wealthy enough to register in every state. When you come to lines 4 through 6 on page 13, the athlete agent shall strictly adhere to the specific rules of each separate electing institution with regard to the time, place, and duration of the interviews. That is an administrative act by the university, but if an agent violates that rule of the university it is a crime. The Legislature is delegating to an institution the power to create the element of a crime. There is nothing here that even says how these rules are to be put together, that they need be

reasonable, that they should be nondiscriminatory, don't impinge unfairly on the time of the agent or the athlete, none of that. So again, Senator McFarland is smooth. You want to pass the bill, but I want these things into the record. When he talked about his Bar membership, I'd like to ask him a question. Senator McFarland, how much of that information with reference to your transcripts, your references and so forth were made available to the public?

SENATOR MCFARLAND: The information was made available to the Bar Association. Employers who contacted me and wanted me to apply to their firm or that I applied to their firm, that information was made available to them as well. It was not listed publicly as a public document, but a lot of that information was provided to people who were going to hire me.

SENATOR CHAMBERS: Senator McFarland, if you will look on page 14, this isn't all that has to be required, but an agent must file with the Secretary of State annually the name and address of each person employing the athlete agent, the amount of fee received from the person, the specific services performed on behalf of the person, travel and entertainment expenditures incurred by the agent. The records kept by the athlete agent pursuant to this subsection shall adequately describe in addition the nature of the expenditure, dollar amount, purpose of the expenditure, date and place of the expenditure, person or persons on whose behalf the expenditure was made. Is that, once filed with the Secretary of State, a public document and public information?

SENATOR MCFARLAND: My understanding is that it would be.

PRESIDENT: One minute.

SENATOR CHAMBERS: Thank you. Now if we go to the fees on page 10, are lawyers and doctors or any other profession required to post a schedule of fees that they must charge, they cannot charge more than, and if they change the fees they cannot go into effect until they file them with the Secretary of State and seven days pass? That is my question to you. Do doctors and lawyers have to do this?

SENATOR MCFARLAND: No, they don't.

SENATOR CHAMBERS: Members of the Legislature, again, if you

have criminal statutes you should craft it very carefully to attack the evil that is perceived to be out there and you don't need all of this to attack whatever the evil is. I know that I cannot change the minds of people who have made up their mind to vote on this bill and that's not what I'm trying to do. I'm trying to put enough out there so that at a future date it will be clear that this bill did not just slide through without any warning lights being turned on, without any red flags being raised. This is a bad bill in more regards and particulars than what I have mentioned. There is a provision that I find very imaginative and interesting at the bottom of page 14. Any athlete agent who enters into an agreement with a student athlete or noneligible student athlete who has participated in a sports contest in Nebraska shall be deemed to be transacting business in the state for the purpose of Section 25-536. So, it doesn't say at what age the person was when he or she participated in the contest. It doesn't say whether he or she was on a team outside of this state, doesn't say anything, so what can happen to keep it somewhat close to what we're talking about. A player is on UCLA's team and he was recruited from Oklahoma, never set foot in Nebraska except when he came here to play against Nebraska, because that player played a football game in Nebraska, business was done in Nebraska on the basis of that alone.

PRESIDENT: Time.

SENATOR CHAMBERS: I think that's too tenuous and I don't think it will stand up.

PRESIDENT: Thank you. Senator Schmit is next, but, Senator Schmit, may I please introduce some guests. In the north balcony Senator Wesely has 30 members of the League of Women Voters of Nebraska from all over the state, Vera Mae Lutz (phonetic) is their president, Marge Young their educational chairman. Would you ladies please stand and be recognized. I apologize, I see there is a gentleman or two. You're welcome too, gentlemen. Senator Smith has some guests under the north balcony, Ruth Warren, Hazel Devine, LaDonna Rader, Joyce Brandt and Mary Ellen Kilmer. Would you ladies please stand. And thank you for visiting us today. Senator Schmit, followed by Senator Hall.

SENATOR SCHMIT: Ladies and gentlemen and members, I'd like to ask a question of Senator McFarland if he would yield, please.

PRESIDENT: Senator McFarland, please.

SENATOR SCHMIT: What is the procedure at the present time, Senator, that is followed when an athlete desires an agent? Is there a standard procedure or is there a known group of agents that are available or could the athlete decide that he'd have his friend and neighbor whom he has confidence in represent him? What is the procedure at the present time?

SENATOR MCFARLAND: There are no real procedures, Senator Schmit. It is wide open. That's one of the reasons we want the legislation. The normal procedure that the university and the athletic department encourages is athletes to look for an agent after the season is completed, but before the bowl game and then to sign with an agent after the bowl game. But often what happens is for the star athletes, the agents are flocking to these players to want to represent them, calling them, harassing them, contacting them during the summer, trying to get them to sign early with no regard to the student's participation in college sports.

SENATOR SCHMIT: How many agents would there be available to the various players any given time, any given season?

SENATOR MCFARLAND: I can only speak in the area of football. I think there were over a thousand agents who were registered with the NFL Players Association and that is rather interesting since there are only about 1,500 football players in the entire NFL, so you can tell a lot of people want to get into this type of business.

SENATOR SCHMIT: Is there anything at the present time that would bar a student from selecting an agent from among his known friends, his own lawyer, his relative, friend, anything like that?

SENATOR MCFARLAND: Presently, there really isn't. He could select his...some athletes have chosen their father to negotiate their contracts for them, or uncle or whoever.

SENATOR SCHMIT: I see. I guess the thing that I'm concerned about is first of all, this process isn't something which just sneaks up on an athlete. They are well aware by the time they arrive at this decision-making process that they will probably

be using an agent. Does an athlete ever act upon his own initiative without an agent?

SENATOR McFARLAND: Very seldom. Occasionally that does happen. It happened in my circumstances. I contacted an agent who I knew through a friend of mine in graduate school, but that's very, very unusual. Usually if an athlete is any good, has any reputation and marketability, he or she is besieged by agents wanting to represent them.

SENATOR SCHMIT: What is the principal reason for the \$250,000 (sic) bond? Who does it protect and how is it brought into play?

SENATOR McFARLAND: The \$25,000 bond is there so that if, in fact, an athlete has been cheated or taken advantage of by a sports agent and that athlete brings suits in the court of our state, if that sports agent doesn't have property within the State of Nebraska, the athlete agent, or, excuse me, the athlete can go after that bond as part of the damages that he or she can recover if they are successful with the lawsuit.

SENATOR SCHMIT: In your estimation what percentage of that athlete's value is represented by the \$25,000 bond?

SENATOR McFARLAND: I think for the majority of athletes who sign contracts with sports agents, that would cover a significant portion of the representation fee that the agent would get.

PRESIDENT: One minute.

SENATOR McFARLAND: But then you run into situations where you have a Mike Rozier who is the first pick in the draft and he is signing a...I think he signed a \$4 million contract. Thirteen percent or \$4 million ended up being like \$500,000, so it would not cover someone like him, a superstar athlete of sorts, but for the majority of people, the athletes who are maybe not drafted as a top pick, it would cover a substantial portion of the representation fees charged.

SENATOR SCHMIT: Thank you, Senator. I can understand some of the concerns that the introducers of the bill have expressed here and I can understand their desire to eliminate perhaps some undesirable individuals who might purport to represent athletes

in a nonprofessional manner. It seemed to me, however, that the athlete is the one who is being called upon to be limited...

PRESIDENT: Time.

SENATOR SCHMIT: ...in their choice and it would seem to me that to the extent that this procedure would limit the entry into the area of negotiation, certain individuals who might not have any particular financial resources who may be novices in this area, but who might, nonetheless, have a varied and sincere interest in protecting the individual right to the athlete, that it might not be in the best interests of the athlete for this bill to become law. It would seem to me...

PRESIDENT: Time.

SENATOR SCHMIT: ...Senator Chambers indicated that he thought I would support the bill. I think I probably will, or that I would not support the bill. Upon first blush I do not think that I will, and I'm going to listen to the debate. I want to just ask once more that we all listen to the debate very carefully because so many times a well-intentioned piece of legislation does not do that which it was intended and does, in fact, restrict those individuals who do not need to be restricted while not really having any desirable restrictions upon those individuals who might be taking advantage of the athletes. So I would encourage you to listen to the debate further and at this present time, Senator, I do not think I'm going to support the bill.

PRESIDENT: Thank you. Senator Hall, followed by Senator Ashford, Senator Hefner, several others.

SENATOR HALL: Thank you, Mr. President and members. I rise in opposition to Senator Chambers' kill motion with regard to LB 244...224. The issue here is one that I guess in another form or fashion Senator Chambers would probably very easily support, endorse and very likely champion, because the idea is to protect those who through, I guess no fault of their own, have the inability to protect themselves in many cases. But as Ernie often does, Ernie wants to make sure we do it in the right way. Senator Chambers, would you yield to a question?

PRESIDENT: Senator Chambers, please.

SENATOR CHAMBERS: Yes, I will.

SENATOR HALL: Senator Chambers, the issue of the...trying to protect these individuals, the example of Mike Rozier with regard to some of these sports agents, would you, if it was done in a manner that basically you felt was proper, that took it in the form that was one that was within legal ramifications, that did not have some of the issues that you address with regard to registration, the disclosures and things like that, could you be supportive of a bill that basically was laid out there that would protect these athletes from some of these unscrupulous tactics and these folks who act as sports agents?

SENATOR CHAMBERS: Senator Hall, my answer won't take more than 45 seconds, so don't panic and think I'm trying to talk away all of your time. The fact is that this bill is based primarily on rules and regulations laid out by the NCAA as to what constitutes eligibility for an athlete, so that is the problem that I have. The state is becoming the enforcement arm of the NCAA. And as such I would oppose any form of an agent registration bill.

SENATOR HALL: So, in other words, Senator Chambers, if we were to strike those provisions that basically put into statute the NCAA provisions, you would tend to be more supportive of a sports agents bill?

SENATOR CHAMBERS: Oh, you....Let me make sure I'm understanding the question. If there was some way to get away from those NCAA requirements on athletes, yes, I would, but then Senator McFarland wouldn't want the bill because this is based on eligibility as defined by NCAA rules. So to have this bill you would have to be endorsing everything that the NCAA has imposed on the athlete as a restriction.

SENATOR HALL: But, Senator Chambers, isn't it true that other states handle this manner in a different way, handle this matter....Say, for example, I think this sheet that Senator McFarland passed out to us shows that the States of Illinois, Indiana, Kentucky and Minnesota place this issue in different areas, and they don't necessarily adopt the NCAA provisions? For example, Illinois puts it under the bribery statutes; Indiana has a provision that would be a written notice to an athletic director within ten days.

SENATOR CHAMBERS: But here's the point that I'm making, no matter what form this law takes or which agency they place in charge of administering it, it is based on the idea of tampering with an athlete who still has NCAA eligibility remaining. And to be eligible under NCAA rules, as you know, he cannot work, cannot accept anything of value, and all that litany of injustices. So by passing this type of legislation these states are becoming enforcement arms of the NCAA. And, if an NCAA rule changes with reference to eligibility, then that means that the law would automatically change too, which would be a delegation of our law-making authority to the NCAA rules makers. So that is what I mean by the underlying NCAA requirements.

PRESIDENT: One minute.

SENATOR HALL: Senator Chambers, to your knowledge have any of these approximately 12 states had any problems with delegation or constitutionality as you raise, that have adopted this?

SENATOR CHAMBERS: Well, I do know that there were a couple of agents who were convicted, it may have been in Georgia in one of those states, and the appeals court overturned the convictions.

SENATOR HALL: Other than that specific case, has it come up at all?

SENATOR CHAMBERS: I don't know that it has been before a court for final resolution, but there are a couple of agents now that have been charged under bills like this, but they haven't gone to court yet.

SENATOR HALL: Thank you, Senator Chambers. Mr. President, members, I rise in opposition again to the kill motion offered by Senator Chambers, because I think the issue is, as he stated, one of he does not feel we should tie ourselves to the NCAA. That is, I guess, a choice and a decision that we make as a body. I agree with Senator Chambers when he raises some of the specific issues in the bill that I also would probably try to amend as we go farther along with LB 224. But at this point in time I would urge the body not to kill the bill, because it is a serious issue that we must address. It has been around for a long, long time as both Senator McFarland and Senator Chambers have addressed. It will not go away whether we use the arguments that Senator Chambers would offer, or if we decide to just not move on this bill this year. It is one that we will

have to address at some point. Now maybe 224, in its current form, is not a perfect bill...

PRESIDENT: Time.

SENATOR HALL: ...but that, in itself, is no reason to indefinitely postpone this measure. I would urge your opposition to that motion. Thank you.

PRESIDENT: Thank you. Senator Ashford, followed by Senator Hefner, Senator McFarland, Senator Korshoj, Senator Chambers, and Senator Schimek. Senator Ashford, please.

SENATOR ASHFORD: Question.

PRESIDENT: Question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. The question is, shall debate cease? Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: 26 ayes, 3 nays to cease debate, Mr. President.

PRESIDENT: Debate has ceased. Senator Chambers, would you like to close, please.

SENATOR CHAMBERS: Yes. Mr. Chairman, before I'd be able to kill this bill I could suspend the earth from a rope of sand, or make water run uphill. I know the die is cast, but I still want some things in the record. If you look on page 3 at what constitutes a student athlete, and this kind of touches on the exchange between Senator Hall and myself, you'll find these words, "Student athlete shall mean any athlete who is eligible to participate in a particular sport and intercollegiate sports contest as a member of a sports team at an institution of higher education that is located in this state pursuant to the rules for eligibility established by or adhered to by the institution." The adhered to means the rules established by the NCAA. So, if next year I'm successful in trying to bring enough pressure so that an athlete can receive the full value of the Pell Grant, that will change a rule of eligibility and this law will change because the definition of student athlete has changed, and that does constitute an improper delegation of legislative authority. If you look on page 7, I want to talk to you about some of these...you've got a surety bond, you've got

the requirements of a \$250 registration fee. Why don't you have a problem with agents in baseball and basketball? Those questions are not asked because the people in this Legislature don't understand the money making aspects of intercollegiate athletics. In baseball you don't even have to go to college before you can go into a professional baseball contract. And they also have a farm system. So you don't have these guys being approached by these agents and anybody being concerned, because there is no question of college eligibility. If the baseball players were made to finish all of their years of college like a football player, then you'd have the agent problems. And if baseball did not have its own farm system, they would try to get the universities to keep the baseball players in school, just like in football. In basketball a player went to court on it and won and the court said that you cannot prohibit a player from entering the pro ranks until his or her eligibility is exhausted. But it applies to basketball. So, since a player does not have to stay in school, as a basketball player, until all those years have passed, you don't have the same kind or degree of problems with agents. It's only in football where there is a hellish, unjust agreement between the colleges and the professional leagues that a player in football must waste four years, at least, in school and sometimes five before he or she can go onto the pros, even though what they learn in school has nothing to do, nothing to do with their playing professional football. And you must also understand this bill deals with an infinitesimally small percentage of those who are in college, because it is only that infinitesimally small proportion that have the ability to turn pro. So in Nebraska you might have two players a year and you're bringing this ponderous, this awesome machinery of regulation and use of the criminal justice system for that small a number of people so that it can appear that Nebraska has so much concern for these players, in reality it doesn't. I've never heard Senator McFarland or anybody else in any of the states where they have these bills try to make it a crime for these college presidents who engage in illegal fund raising, illegal inducements to players. Even the Governor of one state got involved. He doesn't say make it a crime for a coach to illegally induce a high school player to come to a school. The high school player is more vulnerable than the college person whose been there four or five years, yet they won't make it a crime...

PRESIDENT: One minute.

SENATOR CHAMBERS: ...for a recruiter from a high school to do every one of these things, to lie, to misrepresent, to use fraud to offer inducements that violate NCAA rules. When it comes to the vulnerable high school students you never see any of this concern shown. But after somebody has gone to college for four, and in some cases five years, all of this concern for the player, it's not for the player it's for the eligibility to keep him there as a money maker. It's only the top of the line, cream of the crop, pro caliber player that is affected by the agent question. And it is the eligibility and the ability to continue making money for that school that has all these coaches and other concerned about this issue. Remove the eligibility item and they couldn't care less whether you gouge a player, because they will make them play hurt in college, which could ruin any chance of playing in the pros. They wouldn't do that, they wouldn't inject them with pain killing drugs, which leads some, later on,...

PRESIDENT: Time.

SENATOR CHAMBERS: ...to addiction.

PRESIDENT: Thank you. The question is, shall the bill be indefinitely postponed? All those in favor vote aye, opposed nay. The question is, shall the house go under call? The question is, shall the house go under call? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

ASSISTANT CLERK: 19 ayes, 1 nay to go under call, Mr. President.

PRESIDENT: The house is under call. Will you please return to your seats and record your presence. Those not in the Chamber please return to the Chamber and record your presence. Please look up to see if your light is illuminated, if not, push the button, please. We're looking for Senator McFarland, Senator Schmit and Senator Moore. We're all here. The question is, shall the bill be indefinitely postponed? We're having a machine vote. All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: 13 ayes, 29 nays on the motion to indefinitely postpone the bill, Mr. President.

March 6, 1989

LB 187, 187A, 214, 214A, 224, 320, 326
334, 354, 354A, 421, 516, 556, 638

PRESIDENT: The motion fails. Mr. Clerk, do you want to read in some things before we proceed?

ASSISTANT CLERK: Yes, Mr. President. I have priority bill designations from Transportation Committee and Senator Carson Rogers. Government Committee reports LB 638 to General File with committee amendments. Committee on Enrollment and Review reports the following bills correctly engrossed--LB 187, LB 187A, LB 214,...

PRESIDENT: The call is raised.

ASSISTANT CLERK: ...LB 214A, LB 320, LB 326, LB 334, LB 354, LB 354A, LB 421, LB 516, and LB 556. That is all that I have, Mr. President. (See pages 988-91 of the Legislative Journal.)

PRESIDENT: We're back on the advancement of the bill. Senator McFarland, on the advancement of the bill, followed by Senator Chambers and Senator Hefner.

SENATOR MCFARLAND: Yes, I'd like to address some of the concerns that Senator Chambers has raised because he's really overstated, he's misled and he had not apparently read the bill in detail, as he tries to convey to us. Let's just look at one thing. He's alleging that this is going to be a state enforcement procedure, an...

PRESIDENT: The call is raised.

SENATOR MCFARLAND: ...agent for the NCAA. And all it is to do is to protect eligibility of college athletes for the institutions. Well the fact of the matter is that in the part dealing with the noneligible student athlete we say that they cannot be contacted either, unless the sports agent registers with the Secretary of State. Earlier Senator Chambers said, well why should they have to be concerned, if they don't have eligibility, why should they have to be concerned about whether the sports agent registers with the Secretary of State. The reason is we're concerned about all athletes, eligible, noneligible, high school athletes, athletes who may be in professional school or graduate school or whatever. The goal of the bill is to protect athletes from being exploited by sports agents. If you read that particular provision that talks about noneligible student athletes they can be contacted, it's on page 4, they can be contacted if the sports agent is registered.

So if we were merely trying to preserve eligibility of certain athletes we would not have this provision in there about noneligible student athletes. The goal of the bill is more encompassing and is not, as Senator Chambers mischaracterizes it, only a bill to preserve eligibility. If you take a look at Section 21 on page 14, Senator Chambers made the mischaracterization that someone who played for Oklahoma...or was in Oklahoma, played for UCLA and happened to play a game in Nebraska would be the subject of this act for jurisdictional purposes. That an agent who signed an agreement with that type of athlete, who may play for UCLA, live in Oklahoma but merely played in a game, that that conduct would be covered. But if you look at it it says a student athlete or noneligible athlete, if you turn back to the definitions how is student athlete or noneligible athlete defined, it is defined as an athlete who resides in Nebraska and participates in sports through an institution of higher learning in our state. So it wouldn't apply to that situation. You have all kinds of these kinds of distortions about it. I would just say in closing that the last thing that there are more than two players a year who turned professional in our state. We've had baseball players, recently we had a young man in Omaha who signed a contract with the Baltimore Oriole's, he was a first choice in the draft. We had all kinds of things like that, and as a result there are lots of athletes in Nebraska who sign professional sports representation agreements, baseball, basketball, football. I think the one year, I think last year there were probably about eight or nine players from Nebraska's football team who eventually signed professional contracts. Not all of them make the teams, not all of them are good enough to play in the NFL, but there are a lot of them that have sports agents that represent them. Likewise with baseball, likewise with some of the basketball players. We've had over the years numerous athletes who have been represented by sports agents, and it is more than just the one or two a year. The one or two a year maybe are the more highly publicized ones, but there are a lot of athletes from Nebraska who sign free agent contracts, who try out with baseball teams or football teams, they need that type of representation, too. So the scope is broader in coverage. Thank you.

PRESIDENT: Senator Chambers, you have a motion up. Do you want to take that up, or do...

SENATOR CHAMBERS: Yes.

PRESIDENT: And you're also the next speaker. .

SENATOR CHAMBERS: Yes.

PRESIDENT: Okay. Mr. Clerk.

ASSISTANT CLERK: Yes, Mr. President, I have an amendment from Senator Chambers. On page 10, line 7, starting with the word "You" strike all language through line 10. That's from Senator Chambers.

PRESIDENT: Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, contrary to what Senator McFarland may have indicated, I think I've read the bill more carefully than he has read it. And I deliberately raised the issue of the noneligible student athlete because I want him to go back and read that, very carefully, the definition and I want him to read every context in which that term applies. Then he may reverse the very thing he just said. But at any rate, this amendment will remove this language from the form contract which the Secretary of State would approve. "You may jeopardize your standing as a student athlete by entering into this contract under the rules for eligibility established by or adhered to by your institution of higher education." The form begins on the previous page, and it starts talking about the provisions that would have to be printed in prominent type of the agent contract. It's a situation where Senator McFarland, I think, has lifted language from provisions in other states, or that have been offered, has not analyzed them well and is putting things into a contract which need not be put there. Why don't they have to write into the contract what the fee schedule is? Why don't they have to write into the contract every single thing that Senator McFarland requires to be filed with the Secretary of State? If he wants to give all this protection to the player that he says he's interested in, and I have no doubt, by the way, that Senator McFarland is interested in the player, but these kind of bills are not player oriented. Now I want to ask him a question, since he's through with the desk. Senator McFarland, in response to a question from Senator Schmit, you acknowledged that currently a player could go to any person in whom he has confidence, whether it be father, brother, another player or whatever. Is that correct that a player right now, without this bill, can go to any person he or she chooses for representation as an agent?

PRESIDENT: Senator McFarland, please.

SENATOR MCFARLAND: Yes, he or she could go to any person, regardless of that person's qualifications or certification to represent him.

SENATOR CHAMBERS: If your bill is passed in its present form, could that player go to his father, to his brother, to a best friend without being a registered agent?

SENATOR MCFARLAND: My initial impression is no, that they could not do that. That's correct.

SENATOR CHAMBERS: Members of the Legislature, can you see that restriction placed on the player? You can't use a family member in whom you have confidence and who may be eminently qualified to represent you. On page 15, then I'm coming back to my amendment, you'll find in Section 22 "The Secretary of State shall adopt and promulgate rules and regulations necessary to carry out the Athlete Agents Registration Act." First of all there is no guidance whatsoever in terms of those rules, but why are you going to give the Secretary of State that duty, then write into statute some of the provisions that have to be on the face of the contract, but not the rest. You see that what is written on the face of the contract goes to eligibility, that is what is put into the contract, not that the agent cannot charge you more than a certain amount of money, but eligibility and the fact that within 48 hours you can get out of the contract. And what do those things touch on, the welfare of the player or the welfare of the school? I think they all go to the welfare of the school, because if a player entered one of these contracts and the school found out, they could try to get the player to rescind that and then work with the NCAA and say, this kid was hustled into signing this contract, so we're asking that you impose no sanctions because we got him to break the contract. So the two things that are required to be put on the face of the contract go to eligibility from the standpoint that the school has an interest in. So I'm asking that you begin to tidy up this bill by striking the language that I have mentioned on page 10.

PRESIDENT: Thank you. Senator Hefner, please, followed by Senator Schellpeper. (Gavel.) Could we have it a little quieter so we can hear the speakers better, please.

SENATOR HEFNER: Mr. President and members of the body. Thank you, Mr. Lieutenant Governor for quieting the body down a little. I think this is a very important bill and, Senator Chambers, I don't know exactly what your amendment does now because I don't have it on my desk, and I haven't been able to fit it into the...could you tell me once again exactly what it does and only take about ten seconds.

PRESIDENT: Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, Senator Hefner, would you turn to page 10 of your bill.

SENATOR HEFNER: I have page 10.

SENATOR CHAMBERS: Okay, starting in line 7 with the word "You" strike all of the following language through line 10, which relates to eligibility.

SENATOR HEFNER: Okay. I guess right at this time I don't think that we need to strike that message because we do have a protection towards the end of this bill where it deals with the Secretary of State. In Section 22, Senator Chambers, "The Secretary of State shall adopt and promulgate rules and regulations necessary to carry out the Athlete Agents Registration Act." But I guess my question, well I'm really not going to ask Senator Chambers a question here. But I was wondering how come Senator Chambers didn't offer this amendment when the committee was meeting. Yes, I do, Senator Chambers. I want to ask you a question. I don't believe you were at the hearing when this bill was presented, were you?

SENATOR CHAMBERS: I was out in the hall talking to a representative of the school on another issue, but I did hear some of what was being said in the hearing room, but I wasn't in my seat.

SENATOR HEFNER: Okay, okay. I know when I testified why you were not in attendance, but this is a complicated bill. This is a bill that we need and this bill has been before us or a bill like it has been before us for a number of times. And, Senator Chambers, I'm not an attorney, but I would think that we have enough attorneys on the Judiciary Committee that they would have caught some of these things that you were talking about. Also,

we have a legal counsel for the Judiciary Committee. But in previous statements you said sports agents have to provide a lot of information to be registered, and they do. The reason that we want this done is because we want to know all about these people, and I think that's only fair. Many other states have laws such as this, and many more are proposing them. So I don't think that this bill is that bad. Getting back to some of the parts that may not be constitutional or that we have a problem with, Coach Osborne did testify on this bill and I'm sure that they had their legal counsel look it over. But the point that I want to make to this body this morning is that we do have, we do have unscrupulous agents out there. They are tricking, they are tricking some of our fine student athletes out of money. And I think when they do things like this then I think it's time for this body to pass a law. And, Senator Chambers, I was surprised that you did offer a kill motion because I felt that we should be able...if you have problems with the bill, we'll try to amend it and go from there.

PRESIDENT: Thank you. Senator Schellpeper, followed by Senator Abboud. Senator Abboud, please. Senator McFarland, please.

SENATOR MCFARLAND: Yes, I'd like to just make a couple of points. First, Senator Chambers has raised the question with regard to a father or a brother or an uncle representing a particular athlete. Let me expound on that, because I didn't really have a chance to do that. If the relative is going to represent the athlete for a fee and enter into a representation agreement with their nephew or their brother or their son or whatever, then they have to register with the Secretary of State. On the other hand there is nothing to prevent the athlete from going to a particular sports franchise that he or she may be drafted by or be in contact with, negotiating his or her own agreement. And certainly he or she can solicit the advice of their father, can solicit the advice of their brother, or their uncle, or their aunt, or whoever it may be, and there would be no violation of the act as long as there was no representation agreement and as long as their relative, father, brother, uncle, what have you, charges them no fee for such representation. So, in fact, the athlete, if he or she chooses, can negotiate the contract on his or her own with the professional sports team and have the voluntary services of their relative without having that relative have to register. But if that relative, for example, is an uncle who is in the sports agent business, who wants to charge a fee for that, then

that sports agent would have to register in order to get that fee, one point of clarification. The second point addresses specifically this amendment because Senator Chambers wants to eliminate the language that would be on the contract about the student jeopardizing his or her eligibility by entering into this contract. There is a specific reason for including that language in the types of contracts that are entered into. The problem that has occurred in the past is that athletes will be contacted by agents who will tell them, who will tell them that here is a representation agreement, we're going to post-date it to after the season. And, if you sign this, it won't have any effect until after the season is over. And some of these athletes have been naive enough to believe that, so they enter into the representation agreement that probably has unfair terms in it, and unfair conditions, and unfair fees charged in it as well, they enter that thinking that they have...they are not jeopardizing their eligibility in any way. The reason for that language is so that the athlete will be aware of what he or she is doing. If the athlete, in fact, says I don't want to be eligible to compete in sports, I want to forego my senior year, or whatever, I'm going to sign this agreement knowing full well that I lose my eligibility, he or she can do that. But what we're trying to prevent by this language is that the athlete, when they sign the representation agreement, knows that they are forfeiting their eligibility during their future years with the institution of higher education. Many of these athletes have no idea what they are getting into when they sign these type of representation agreements, particularly when sports agents make offers of money, make offers of travel, in some cases where it's really been abused they've offered women, prostitutes to athletes, they've offered drugs in some of the more egregious circumstances. Those are the things we're trying to prevent. We're trying to say with this representation agreement that that has to be at the top of the representation agreement, disclosure has to be made so the athlete is aware, when they sign the representation agreement that in fact they will jeopardize their eligibility and in fact lose their eligibility by signing such a representation agreement. That is...

PRESIDENT: One minute.

SENATOR McFARLAND: ...the reason for that provision, and that is why I think it should be included. I would urge you to vote against the proposed amendment.

PRESIDENT: Senator Schmit, please, followed by Senator Chambers.

SENATOR SCHMIT: Mr. President and members, as I read the bill further and listen to the debate I am amazed at all of the decisions that need to be made. I guess I'm curious as to why sometime someone hasn't proposed that the agent must be an attorney, because obviously only attorneys are qualified to make some of these legal decisions which certainly are designed to protect the athlete. Year after year on this floor we find ourselves in the position of building a fence around a profession or a business or an entity, sometimes it gets down to the point where special legislation is so fine and so finite as to be almost absurd. It would appear to me that the passage of the bill in the present form is one more attempt to protect a certain area, albeit perhaps some kind of professionalism, but to make it more difficult for the amateur to get into it, more difficult for someone who might be qualified to get into it, more difficult for someone who might be a particular friend or relative of the athlete, and it would seem strange that it would be possible for the relative to work without any compensation, but that it would not be desirable for that same person to work with compensation. It seems to me that the athlete ought to be able to make that decision and that the well-being of the athlete ought to be the prime consideration. My principal concern is this, and I will almost guarantee that there will be many, many individuals over the course of the next two years who will not be able to get into this business because of the passage of this bill. Hopefully some of them will be undesirable people, but on the other hand I would venture a guess that some of them will be desirable people, but who will take a look at the statute and say, well we just don't think we can qualify. What we are really doing here is that we are limiting, we are limiting the number of people who can represent athletes. That will, in effect, I'm afraid have the opposite effect upon fees and schedules which the introducers of the bill are trying to accomplish. Any time that you limit the available market, that's what we are doing, the cost goes up and the ability to charge a fee goes up. Now the reference was made to the 13 percent that was charged Mike Rozier of a \$5 million contract. I don't know whether that was a fair fee or not. I do not believe that anyone on this floor can tell you whether it was a fair fee or not. It might well be that had I negotiated that contract I'd have done it for \$500,000, total price. In that case, whatever fee I charge would have been unfair because

I wasn't competent. You have a tremendous amount of content in this bill, much of it desirable, and the intent is well. But I would suggest that every time that you limit the available number of agents that in fact you might be doing the athlete an injustice. I have watched this on this floor time, after time, after time, and we do it in the interest of protecting the consumer. But, in fact, the individual we protect is usually the one who provides the service. In so doing the consumer's interest is not well served. I would suggest you look long and hard at this bill to find out just what will be the final result five years from now, whether you have a small cadre of 100 or 200 agents...

PRESIDENT: One minute.

SENATOR SCHMIT: ...who are highly qualified, motivated purely by the interest of the athlete, absolutely no financial consideration on their own part whatsoever, but simply totally altruistic, I doubt it. I would suggest you'll have the same percentage of scoundrels five years from now and the same percentage of high quality individuals five years from now that you have now; you'll just have a reduced number, which I do not think is going to work on behalf of the athlete.

PRESIDENT: Thank you. Senator Chambers, please, followed by Senator McFarland.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I didn't know how good a ventriloquist Senator Korshoj was, but had you thought I was the one who called for the question, I was going to tell you, not so, not so. I find it interesting, in listening to Senator McFarland, because he is a very sincere man. Remember this, Senator McFarland was an outstanding football player on the University of Nebraska's team. He played professional with the St. Louis Cardinals, at that time, with the then St. Louis Cardinals who are now the Phoenix Cardinals. They've never been the same since he left. They can't beat anybody, even when they are favored. Well, anyway, Senator McFarland knows athletes and has known them and I believe he has a genuine concern for the welfare of the athletes. But Senator McFarland has not explored this area as deeply or for as long a time as I have, with the same view in mind that I have in mind. Did you listen to some of the things Senator McFarland said, these unscrupulous agents, and he's not saying every agent is unscrupulous, but the ones we have defined as unscrupulous offer

to these college men, they offer them drugs, offer them money, offer them travel, offer them women. And because that makes them unscrupulous we need to regulate them. Brothers and sisters of the Legislature, that is exactly what a lot of college recruiters offer to these high school kids, offer to the high school kids. If we're going to nip a problem, why shouldn't we nip it in the bud. Why don't we place the same restrictions in state law on these college recruiters that we're trying to place on the agents? What Senator McFarland's bill and other bills of its ilk will do, in addition to making the state an enforcement arm of the NCAA and its unfair rules, is to place the burden for all the problems in college athletics on the back of the agent. And yet the agent is the only one who wears a label telling you what he is, I'm coming to you to offer a service for some money. And when there is a money relationship you need to look out for your interests. How does the recruiter come? The recruiter talks to the parents. Your son is going to get a good education, we'll ensure that he will study and have enough time. If he's injured, we won't have him play hurt. And then he gets to the school and things dramatically change. Remember, these sanctions that the NCAA is imposing on a selective basis, though it be, are against coaches, recruiters, boosters who happen to be business persons, presidents of universities, and in at least one case a Governor. If these are the people who have been ferreted out as causing the main problems in college athletics, why is Senator McFarland going to go over here and jump on the agents? That is not where the problem is. The problem has been a building and a festering during the four and in some cases five years that these players stay at these schools. And they are exploited at these schools. Why do you think that a player like Jarvis Redwine wears a flack jacket? To protect injured ribs. Why do you think they build these sophisticated knee and ankle braces? So that players can play with injuries. Why do they make light-weight splints? So that if there is a broken arm, or a torn cartilage, or a stretched muscle, the player can continue to play for the school. And you're telling me that athletics purpose is to build a better human being, to be a part of the education process. They are splinted, flack-jacketed,...

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...shot up on drugs and all of these other

things in the context of attending an institution of higher education, and Senator McFarland is going after the agent. At least the bills that I bring go directly where the vipers are, and I want to set them hissing in their den. This bill should be amended in the way that I'm trying to amend it here because I have an additional amendment dealing with other language that must be placed on the face of this contract. What I am suggesting is that we not do the work of the NCAA, this same NCAA that so many of you were outraged with because they wanted to put a lot of Nebraska's players on probation for mishandling their tickets, which is the punishment called for by the rules. So you didn't want those rules enforced.

SPEAKER BARRETT: Time has expired.

SENATOR CHAMBERS: NCAA was bad then.

SPEAKER BARRETT: Senator McFarland.

SENATOR MCFARLAND: Okay. I would just like to respond to a few things again. And sometimes the allegations get so wild and preposterous it's hard to focus on any of them because so many of them are really mischaracterizations. I'd like to state first this bill is not...my purpose in introducing this bill is not to generate a forum where we discuss everything with college and professional sports or anything that may or may not be wrong with it. Frankly, my feeling, having been a college athlete, having been a professional athlete, is that there is nothing wrong with the idea that a college athlete is given a scholarship so he can get an education, participate in sports and proceed with another career. Believe it or not, Senator Chambers, there are athletes that I can cite, one after another, who would not have been able to attend an institution of higher learning without an athletic scholarship, who attended such an institution, including the university, like I did, got a degree, studied hard, worked hard, went on to graduate school or professional school, or a job of their own and are doing very, very well as a result of that opportunity in college sports. It's a very noble ideal, it is a very good ideal. It doesn't always happen that way I will be the first to acknowledge. But the fact of the matter is that there is tremendous good being done in college football with athletes who may never play professional football but who are able to attend college because of an athletic scholarship and able to get a degree to go beyond and improve themselves as a result of it. The second thing, to

address Senator Schmit's concerns about the relatives representing the athletes, and not being...and they can do it without charging a fee and not registering, and then his statement that maybe they should be able to charge a fee, we do that all the time. When we're dealing with lots of money or very important matters that affect an individual's rights or their finances, we have a lot of regulations as to who can represent that particular person in a particular endeavor. For example, if I want to go down and invest \$50,000, I don't have 50,000, but if I wanted to go down there and invest that in the securities market, I wanted to buy stocks and bonds and those kinds of things, I couldn't go to my uncle or my brother or my father and say, here, I want to purchase these bonds through you. No, I have to go to a registered stockbroker who has been licensed, who is certified, who is regulated, so that when I purchase those bonds or stocks I have advice, I have counsel, and I know that there is a degree of integrity in that process. And the Security's Exchange Commission is set up to regulate that process because of the potential abuses that can occur in which people, unsuspecting people might be investing large sums of money in very poor investments. Second thing, we do it in court. If I...if someone wants to go to court and they're not a lawyer, they can't have their brother or father or sister go to represent them in court. The court has specialized procedures. You need special training in order to appear in court. So you go to a lawyer that has been certified by the Nebraska State Bar Association, or any of the other state bar associations, as being competent in their field. What about when you go to file your tax return with the IRS?

SPEAKER BARRETT: One minute.

SENATOR MCFARLAND: Certainly you can have help from other people, but the fact of the matter is if you pay a fee you go to a certified public accountant or an accountant who has been trained to handle that matter. Lastly, there are a number of amendments pending. And this tactic of writing out amendments on the yellow pads and handing them time...one after another to try and amend the bill on the floor doesn't seem to me to be the correct procedure, we're wasting a lot of time with it. If there are technical changes that Senator Chambers would like to make to the bill, let him bring forth those amendments, we can discuss it off the floor, we can make those changes during the time this bill is going to Select File. I'd be glad to visit with him about the technical changes. But to offer a whole

flurry of amendments, like he's done with bills in the past, wastes our time, is an...

SPEAKER BARRETT: Time has expired.

SENATOR McFARLAND: ...inefficient process and doesn't give us a chance to really debate the issues on this bill.

SPEAKER BARRETT: Thank you. Senator Pirsch.

SENATOR PIRSCH: I call the question.

SPEAKER BARRETT: The question has been called. Do I see five hands? I do. Shall debate now close? Those in favor vote aye, opposed nay. We're voting on ceasing debate. Have you all voted? Please record.

ASSISTANT CLERK: 25 ayes, 2 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. For the purpose of closing, Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I can understand Senator McFarland being somewhat testy, because he knows he has a bill that cannot withstand close scrutiny. And I wish he'd stay, because I have a question I want to ask him. Senator McFarland, you had mentioned some of the unfair provisions that are put in these agent agreements and I want to ask you, is there such a thing as a letter of intent that a high school student is asked to sign that would bind him to attend a certain university on an athletic scholarship?

SENATOR McFARLAND: Yes, the procedure is that there is a letter of intent that, I think the signing date is usually some time in February where the high school athlete indicates to which institution he plans to attend and accept the scholarship.

SENATOR CHAMBERS: Senator McFarland, talking about being fair, does that letter of intent tell that athlete, especially if he is from a poor family, that he has to forego \$800 of federal aid under the Pell Grant in order to go to that school and play football on an athletic scholarship? Does the agreement he sign tell him that?

SENATOR MCFARLAND: It doesn't mention Pell Grants, and I think the testimony concerning that particular bill doesn't say...the effect is that they don't actually have to forego the \$800 of the Pell Grant. They do get the full scholarship, if they...as well as the Pell Grant.

SENATOR CHAMBERS: Would it surprise....All right, let me ask you this, are they told, if they walk on at the school, that there are certain federal programs which offer assistance to athletes and other students that they cannot accept, unless they're willing to forego a year of participation during which they would receive that aid?

SENATOR MCFARLAND: I have to confess I'm not aware that you have to...that a student that walks on, without a scholarship, has to forego that aid. I'm not aware of that. I know that when I played, for example, I walked on and yet I received an academic scholarship at the same time.

SENATOR CHAMBERS: Members of the Legislature, there...and I'm working on this with the Athletic Department but...well not the Athletic Department but the university now because there are federal programs that offer aid to students which one who is a walk on must forego in order to participate in the football program. So were he not a football player that wouldn't happen. And it only relates to a revenue generating sport. It doesn't apply to those who are in gymnastics, golf, tennis or whatever else. So, while Senator McFarland is concerned about certain things maybe not being revealed or disclosed to the extent that he would like to see in these agent contracts, there are arrangements that the universities have, because of NCAA rules, that are going to impact on the player after he gets there, that he's not aware of at the time. So we're talking about fairness and disclosure. We should do that with the recruiters who try to bring these high school players there. Senator McFarland had indicated that it's not a good practice by me or that I shouldn't do this in bringing up an amendment, after an amendment, after an amendment. When I first began talking about the bill I spoke in general terms and I hit here and there at some of the main points that I found a problem with. Now what I have to do is aim at those specific areas that the problems exist and try, by amendment, to change them. Senator Hefner, during his talk on one of my amendments, said, Senator Chambers, instead of just criticizing the bill why don't you try to amend it. And at the time that he was making that comment he was

speaking in opposition to one of my amendments. So there are certain routine things that people say here that have nothing to do with...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...the reality that is before us. The reality here is that I have a number of amendments that I'm going to offer to the bill to try to change it. If none of those amendments are adopted, I'm not going to do the same thing on Select File. I'm not going to offer any of the amendments again. But I want it clear from the record, as I've stated before, that these specific items had been discussed, and not only discussed but made the subject of an attempt to amend the bill. If Senator McFarland, Senator Hefner and the others who support this bill want to resist every amendment, that is their prerogative. But my prerogative is to offer amendments to the bill. And, as I stated, after this amendment I have another one related to the type of language that is being put on the face of that contract that I think is not appropriate. I hope you will adopt this amendment and the others that I will offer.

SPEAKER BARRETT: Thank you. You've heard the closing. And the question is the adoption of the Chambers amendment to LB 224. Those in favor of that motion vote aye, opposed nay. Voting on the Chambers amendment. Have you all voted? Record, please. Record vote has been requested.

ASSISTANT CLERK: (Read record vote as found on page 992 of the Legislative Journal.) The vote is 11 ayes, 15 nays on the Chambers amendment, Mr. President.

SPEAKER BARRETT: Motion fails. The Chair is pleased to take this opportunity to introduce some guests in the north balcony. As guests of Senator Chizek we have 60 students from Bennington High School in Bennington, Nebraska with their teacher. Would you people please stand and be recognized. Thank you, we're glad to have you with us this morning. Next item.

ASSISTANT CLERK: Yes, Mr. President. Senator Chambers would move to amend. On page 10, strike lines 11 through 22.

SPEAKER BARRETT: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature,

what this amendment does is to strike all that language related to the fee schedule. And what the bill, in its present form, would require a registered agent to do is to file with the Secretary of State a fee schedule. There would have to be a description of the professional services to be rendered in return for each fee. The agent can impose charges only in accordance with the fee schedule, which means it's a mandatory schedule. There cannot be a change made in those fees unless first filed with the Secretary of State and the elapse of seven days. I would like to ask Senator McFarland a question. Senator McFarland, what other profession is subject to this kind of requirement in statute?

SPEAKER BARRETT: Senator McFarland.

SENATOR MCFARLAND: I'm not aware, right now, of any specific other profession that is subject to this similar type of provision. There is good reason for it, I might add.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, are we talking about an arrangement which we are going to call a contract that is arrived at through the two parties talking to each other, negotiating, arguing, wrangling and whatever else they'll do in the process of arriving at a contract, or is the state going to write the details of the agreement? Senator McFarland and those who are in favor of these kind of bills again are going way overboard and doing much more than is justified under any circumstances that they could posit. The fact is that no profession is required to do this. When the Bar Association's tried to do it these fee schedules were ruled unconstitutional. But what the Bar Association was trying to do was make every lawyer charge a certain amount. Doctors don't do this. I doubt if there is a doctor's office that you'd walk into where you'd see a fee and the service to be given. Probably the only place you find that is in a barber shop, Senator McFarland, where the fee schedule is listed and the service you expect to get, but that is not mandated by law. There is no reason for this kind of requirement to be in the statute. If these schools that Senator McFarland is talking about have any concern for the players, let them give them some instruction on what the market value is they might command. And remember this, before these contracts are even entered into with various professional teams, there is a lot of speculation in the media and other public places about how much that player is likely to be able to get from the professional team. So it's

not a situation where the player goes there with his eyes closed and he has no idea of what his value is likely to be. So all I'm asking you to do with this amendment is to strike from the law requirements that are imposed on no other profession. I'd like to ask somebody a question who knows something about the liquor industry. Senator Dierks, you know anything about the liquor...Senator Coordsen, do you know anything about the liquor industry? No. Oh, Senator Hall, may have an answer. Senator Hall, in the liquor statutes are there any requirements that prices be established in statute in this fashion, or that they file with the Secretary of State what their prices are and nothing but those prices can be charged?

SENATOR HALL: Not to my knowledge, Senator Chambers.

SENATOR CHAMBERS: Thank you. And that being the most regulated industry in the state I thought, if it was found anywhere, it would be found there. So,...oh, it is there. Senator Johnson has something he wants to add to the discussion. Senator Johnson, cause I want it in the record...

SPEAKER BARRETT: Senator Johnson.

SENATOR CHAMBERS: ...and I want to be fair.

SENATOR R. JOHNSON: Senator Chambers, from what I understand cigarettes are regulated and a minimum price has been set for those.

SENATOR CHAMBERS: No, I'm talking about a maximum.

SENATOR R. JOHNSON: Oh, no, not a maximum.

SENATOR CHAMBERS: This sets a maximum that can be charged by the agent. So there is no profession where a maximum is set in law. Okay, so here's what Senator McFarland is telling us, we've got a bunch of dumbbells who come out of college, after five years, and they don't have sense enough to know what their value is, and the schools knowing that are not going to do anything to help them during that five years. So we're going to write a law that further demeans this group, and I'm not talking about the agents now, I'm talking about the athletes in the way that this bill would do. I'm asking that you strike this language. It serves no valid purpose, it is not a legitimate area for the Legislature to enter into, it has not done it with

reference to any other profession that it regulates. So I'm asking that you strike this language. And so that it's clear what I'm talking about, it is the language that establishes a fee schedule that must be adhered to by the agent, and if he doesn't then he commits a crime. He cannot even change those fees, unless he first files them with the Secretary of State, and then seven days elapse. So I guess what one agent can do is sit back and watch what the other one files and then file a fee schedule that is \$10 below that one. I think the whole attempt to do this is ludicrous, I think it is ridiculous, I think it is irrational, I think it's even unreasonable. And I hope that you will vote with me to take this out of the bill.

SPEAKER BARRETT: Thank you. Discussion on the Chambers amendment? Senator McFarland.

SENATOR MCFARLAND: Thank you, Mr. Speaker and fellow senators. The truth of the matter is that there have been classes offered, through the university, and I have spoken on occasion, been invited and have spoken to athletes. I know that they have brought in people from the NFL Players Association to speak to athletes. They have brought in licensed investment counselors to speak to athletes. These are not form classes where you get credit, but they are set up so that athletes can have an opportunity to listen to people about the dangers they face. Despite all of that the exploitation still goes on. Let me give you an example. I was asked to speak to the athletes, along with another investment counselor from here in Lincoln. We were invited, I believe, in August of '83 to speak to the athletes at Nebraska about potential problems they could have with agents. And Michael Rozier was in that class, Irving Fryar (phonetic), Turner Gill, Dean Steinkuhler (phonetic), all of them were there, and we visited with them and advised them that it was a very serious decision and that they should take all kinds of precautions not to enter a contract with agents who may take advantage of them. And we gave them all kinds of advice and suggestions on how they might select someone who would be best qualified to represent them. The problem in the case of Michael Kozier was that he had already signed a representation agreement. We didn't know it at the time, he had already signed the agreement earlier that summer before his senior year in college. You have people...the athletes, while they may have a college education, or they may even have a college degree, they have never had to deal with particular business enterprise of that...with talking about dollars of that significance. With

regard to this particular provision, you know there are analogous kinds of provisions we put in law, for example, the truth in lending. When you go in to sign a loan agreement with a bank you are protected by certain usury rates. The bank cannot charge above a certain rate of interest, or the lending institution can't charge above a certain rate of interest, in effect can't charge you an exorbitant fee. There are certain requirements in that lending agreement that must be there. As I recall now it's required that the total amount you have to pay to pay off the entire loan must be disclosed to you, not just the amount that you borrowed but, if you make all the payments, how much the total amount will be when you finally pay off the loan. Those kind of things have to be disclosed. And in fact this is what this is. This requires that the agent come in and list the fees that he is going to charge a particular athlete. He can list whatever fees he wants. It's just like the banks and the savings and loans list what they give on certificates of deposit. They list what they charge on various loan agreements, those type of things. So there are analogous type of circumstances that we have when you're dealing with large sums of money that the truth in lending laws are just one of them. And I can see a real advantage. The reason you want to have the agent list their fees is because some of them charge exorbitantly high fees. I think we limit, in this bill, the maximum fee to 10 percent of the athletes salary during a particular contract year. And, as I've said, the normal fee is 3 to 5 percent, that is plenty...

SPEAKER BARRETT: One minute.

SENATOR MCFARLAND: ...and so I think maybe even 10 percent may be high. But it is to protect the exorbitant fees, like the 13 percent fee, like taking the percentage out of the first year's contract, even though the athlete may not play in subsequent years. For that reason I would urge you to oppose the amendment. And again if Senator Chambers wants to offer technical amendments, wants to have them printed in the bill book, discuss them with me or Senator Chizek or Senator Hefner, I'd be glad to visit with him. But I don't think this is the proper place and we're wasting a lot of time with this.

SPEAKER BARRETT: Senator Hefner, please.

SENATOR HEFNER: Mr. President and members of the body, I'll just speak briefly. I don't think we want to approve of this

amendment because I like this amendment. And here's what it says, it says a "registered athlete agent shall file with the Secretary of State a schedule of fees that the agent may charge and collect from a noneligible student athlete who has not previously signed a professional sports services contract and shall file a description of the various professional services to be rendered in return for each fee." So I think it's necessary or I'd at least like to see this kept in the bill. Like I said before, this bill is drafted after what a lot of other states are using. But then this paragraph goes on, or this subsection 3 goes on to say, "The athlete agent may impose charges only in accordance with the fee schedule." This is because we want to know what that fee schedule is. But he would be allowed to change it. "Changes in the fee schedule may be made from time to time, except that a change shall not become effective until the seventh day after the date the change is filed with the Secretary of State." So we are allowing him to change it only after he has filed with the Secretary of State. I think this is fair and reasonable, so I would urge you to defeat this amendment.

SPEAKER BARRETT: Thank you. Senator Pirsch.

SENATOR PIRSCH: Question.

SPEAKER BARRETT: Question has been called. Five hands I do see. Those in favor of ceasing debate please vote aye, opposed nay. Shall debate close? Record, please.

ASSISTANT CLERK: 26 ayes, 0 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. Senator Chambers, for closing.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, so it's clear what this amendment does that I'm offering, it would be on page 10, striking all of subsection 3, which would be lines 11 through 22. And the language embraces the concept of a fee schedule that is required to be filed with the Secretary of State. The agent must charge in accord with that schedule, failure to do so is a crime, and he cannot change that fee unless he first files with the Secretary of State and allows seven days to elapse. Senator McFarland tried to equate this with truth in lending laws where, before you get a loan, they have to tell you what the interest rate is. Well they can

change the interest rate if they want to, and on these mortgages that you're getting now they can even change it from what it is at the time that you agree. It's an adjustable rate. Sometimes you'll pay more interest than you did when you started, sometimes less. So there still is no place where a maximum is set. And I think that as a prerequisite to entering a profession in this state it is unwise, it is impolitic to establish a fee schedule like this in statute. I know that some of you may be tired of this discussion, you may be tired from it, but nevertheless this is a serious step that you're taking. It's doing something that is not done anywhere else. And I see no reason for it to be done here. The only reason the University of Nebraska was concerned about Mike Rozier having signed one of those contracts was because they thought that the NCAA might see it as a basis for putting sanctions against the university. They didn't care about Mike Rozier. A lot of people said if he's not smart enough to get a better deal than that he deserves to get stung. But suddenly there was an outcry in the state of concern when they thought that the university might go under sanctions and that they could even forfeit some games. That is when the university became concerned, that is when the coaches and all these other upstanding citizens in Nebraska became concerned. If there was no issue of eligibility there would have been no concern. So what I'm asking, based on all that we've talked about here so far this morning, is that some of the more patently unreasonable portions of this bill be excised, and the amendment that I'm offering now would do exactly that. So I'm hoping that you will vote in favor of this amendment.

SPEAKER BARRETT: Thank you. You've heard the closing. And the question is the adoption of the Chambers amendment to LB 224. All in favor vote aye, opposed nay. Voting on the Chambers amendment. Have you all voted? Have you all voted? Record, please. Record vote has been requested.

ASSISTANT CLERK: (Read record vote as found on page 993 of the Legislative Journal.) The vote is 15 ayes, 15 nays on the adoption of the Chambers amendment, Mr. President.

SPEAKER BARRETT: Motion fails. Senator Goodrich, for what purpose do you rise?

SENATOR GOODRICH: Hello. I move we adjourn until tomorrow morning, March 7, 9:00 a.m.

Mr. President. (See pages 1011-12 of the Legislative Journal.)

PRESIDENT NICHOL PRESIDING

PRESIDENT: We will move on then to LB 224. Where were we yesterday, Mr. Clerk?

CLERK: Mr. President, LB 224 was discussed yesterday by the Legislature. (Read title.) The bill was introduced on January 9, referred to Judiciary. The bill was advanced to General File. As you indicated, Mr. President, the bill was debated yesterday. The first motion I have to the bill is by Senator McFarland. Senator McFarland would move to suspend the rules, specifically Rule 6, Section 3; Rule 7, Section 3, and vote on the advancement without further amendment or debate.

PRESIDENT: Senator McFarland, please.

SENATOR MCFARLAND: Thank you, Mr. President. As you will all recall, yesterday we spent considerable time on this bill. There was a motion to kill that failed. There were two additional motions that failed. There are additional motions pending, and I suspect if we take this bill up today with all those motions, we will spend today and possibly tomorrow and the next day on it. My feeling on the bill, it is a good concept. The bill was in committee. It was advanced out. We heard all the testimony on it. We have revised this bill to take care of some of the concerns that were mentioned in the committee on previous hearings, and it seems to me appropriate that if there are any amendments to be offered that they should have been offered earlier, either in the committee hearing, or that they should have been offered and presented and filed in the Journal and not be written up on the yellow legal pad and submitted one after another. The bill is designed to protect athletes, and it is designed to help them. I am not here to debate all the issues of college sports and professional sports in general. I am not here to debate how athletes are treated in other areas, and I am not here to debate whether Jarvis Redwine wears a flak jacket. I am here to debate the issue of whether sports agents should be regulated in the State of Nebraska, and whether that regulation will have a positive benefit on the young men and women who are athletes who sign professional contracts and need the services of sports agents. If there are technical amendments, I would be glad to discuss them with Senator Chambers, would be glad to review them with him. As a matter of

fact, I have asked him on previous occasions, if he would like to submit them, I would be glad to talk with him about it. We had a chance in the committee hearing where amendments could have been offered. At that time, there were no amendments offered, and now we've spent all day yesterday with a whole series of amendments drafted hastily and filed with the Clerk. There is a problem in this area and it is a problem nationwide. It is a problem that has affected the athletes here in Nebraska. We have heard about certain instances but I can tell you it is a problem that has affected a number of athletes, and a number of athletes have been cheated and misled and taken advantage of by sports agents here in Nebraska, but have had no remedy to try to get their money back or to try to take some kind of legal action or other action against a particular agent. This bill, as a concept, is a good one. I would ask that we suspend the rules today and get on with things. We have already taken most of the day on just one bill. If there are problems and you want to debate the bill more, we can certainly take it up on Select File. I would like the opportunity, though, to have a look at the amendments ahead of time and not be answering questions on the floor and taking up time with debating and visiting across the floor and trying to amend the bill on the floor. That should have been done in committee, and there was every opportunity to do so. And so, for that reason, I would respectfully request your vote to suspend the rules on this occasion, advance the bill to Select File. During that time, I will be glad to discuss with anyone and everyone any amendments that want to be proposed. I will work on it. I don't think the bill needs much change. I will mention there is one change that I will probably make on Select File. I think Senator Chambers did raise one aspect that I think we might need to address and that involved the definition of contacts, how do we define contacts as far as between a sports agent and an athlete. I don't think we want to limit contacts that are by telephone call from out of state or a letter. What we really are aiming at is the direct personal contact, the direct recruitment that goes on. Sometimes it interrupts the seasons, whether it is basketball, or baseball, or football, and interferes with the college athletes who are trying to participate. It is for that reason I have made the motion to suspend the rules. I don't think we need to take up all these other amendments and take valuable time out of the legislative process and debate here in the Legislature and, for that reason, I would ask for your support. Thank you.

PRESIDENT: Senator Chambers, followed by Senator Hefner, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I have I think two more amendments up there, and if you suspend the rules so that there won't be any further debate on the bill, it matters not to me. I will leave them up there and we will do it on Select File. The bill is going to be debated. I can understand Senator McFarland's pique at this because I have read the bill, to be quite frank about it, more carefully than he has. Senator McFarland, yesterday when I said that all this bill is is an attempt to make the state an enforcement arm of the NCAA, he disagreed with that and said such is not the case. But the underlying factor in this bill can be found on page 12 where a student athlete cannot be contacted by one of these agents, even if registered, and that is because the NCAA has certain rules that Senator McFarland wants to make the state enforce through its criminal law, and I want Senator Lindsay to pay attention to this because he is offering a bill to regulate a rent and buy industry, and they have shown in a case that brought it to his attention how unfair some of these operators are. Yet when Senator Lindsay's bill comes out here, I will bet he would refuse any amendments that I would offer that would put the same requirements on those where we can prove disreputable operators exist, that are on this bill that he and others are going to support. But on page 12, and this is what has Senator McFarland and the coaches at the university concerned, will a player lose his eligibility through talking to one of these agents? That is the crux of the matter, pure and simple. If you want to suspend the rules so that there can be no further discussion of the bill at this time, it doesn't make me any difference at all. Whatever the body votes to do is what the body is going to do, but in this provision that I am talking about in lines 7 through 21, this allows contact with that student athlete who is the one who still has eligibility remaining under NCAA rules. The only time that contact can be held and it be legal is if it is in the context of a university setting up interviews. But here is something I want all of you to pay attention to, if nothing else. The Secretary of State is authorized to promulgate rules...this is for the record, Mr. Chairman, I don't care if they listen.

PRESIDENT: (Gavel.)

SENATOR CHAMBERS: The Secretary of State is to promulgate rules

and regulations. If any one of his rules is violated, it is a crime. There is no other rule or regulation promulgated by the Secretary of State the violation of which is a crime. Now that is the kind of bill you want to hasten on across the floor. You don't want to accept any amendments to it, which is your prerogative, and then when the Legislature looks silly, the Legislature will look silly minus one because I am bringing these things to your attention. I had a bill the other day that was delayed when questions were asked, but nothing could be shown that was wrong with the bill at all, and the reason the doubts were raised is because my name is on the bill. If my name were on this bill rather than Senator McFarland, and if Senator McFarland were raising the issues that I am raising, this bill not only would have been stopped, it probably would have been killed. There are different strokes for different folks in this body, and that is what we are dealing with here. You refuse to see the significance of the amendments because of who is offering them and whose bill they are being offered on. In his closing, I defy Senator McFarland to name one rule or regulation by the Secretary of State the violation of which is a crime. I defy him to show me any set of circumstances that would be put together by the university to establish interviews for any person who is trying to recruit students, whether it is the FBI or CIA, and if the recruiter violated those procedures set up by the university, he or she would be guilty of a crime. I defy him to show me that, and this body is going along swallowing all of this because it is Senator McFarland's bill, and it is Senator Chambers who, as usual, is pointing out these defects in it. This morning I hope you vote to suspend the rules. I want to see you run headlong down this path of foolishness. I am not going to tell you, don't suspend them. I am driving you, I am compelling you to do this foolishness this morning. I am telling you it is foolish and explaining why, but I am driving you into it anyway.

PRESIDENT: Half a minute.

SENATOR CHAMBERS: You have got to accept this motion and you had better vote to suspend the rules. I order this Legislature to suspend these rules immediately, if not sooner. That is my mandate this morning and you had better not disobey me.

PRESIDENT: Thank you. Senator Hefner, please, followed by Senator McFarland, then Senator Smith. Senator Hefner.

SENATOR HEFNER: Mr. President and members of the body, I rise to support this motion. I think that we have debated this issue far longer than we need to. We were on it for a couple of hours yesterday and now we are on it again this morning and so I am going to support the McFarland motion. I feel that this is a good bill and it is needed. This bill has been brought to us many times before. Like I said yesterday, Senator McFarland brought it or testified on a bill before he was state senator on it. At this particular time, Coach Osborne testified that now is the time that we need it because things are happening. We have some unscrupulous agents acting and they are taking advantage of our young student athletes. They are conning them out of some of their money and I don't think it is fair, and when this happens, then it is time for the Legislature to stay in. I know Senator Chambers comes up with his message that we shouldn't suspend the rules, or I guess towards the end he was saying that we should, so I would say to you this morning, let's suspend the rules, let's take a vote on it, and advance the bill.

PRESIDENT: Thank you. Senator McFarland, please, followed by Senator Smith.

SENATOR MCFARLAND: I will call the question.

PRESIDENT: The question has been called. Do I see five hands? I see four. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. Senator McFarland.

SENATOR MCFARLAND: Yeah, can I have a call of the house to vote on ceasing debate?

PRESIDENT: The question is, shall the house go under call? All those in favor vote aye, opposed nay.

SENATOR MCFARLAND: I will accept call in votes, too.

PRESIDENT: Record, Mr. Clerk, please.

CLERK: 9 ayes, 0 nays to go under call, Mr. President.

PRESIDENT: The house is under call. Will you please return to your seats and record your presence. Please record your presence. Senator Chizek, Senator Robak, please record your

presence. We are looking for Senator Moore, Senator Pirsch, Senator Hall, Senator Peterson, Senator Goodrich, Senator Dennis Byars. Senator Conway, will you record your presence, please. Thanks. Ladies and gentlemen, please return to your seats. (Gavel.) Please return to your seats so that we can move on. Senator Goodrich, Senator Hall, Senator Hartnett, Senator Wesely. We are looking for Senator Goodrich, Senator Hall, and Senator Wesely. Senator McFarland has authorized call ins on ceasing debate. The motion before the house is ceasing debate.

CLERK: Senator Rod Johnson voting yes. Senator Peterson voting yes. Senator Lamb voting yes. Senator Pirsch voting yes. Senator Schellpeper voting yes. Senator Coordsen, you had voted yes, senator.

PRESIDENT: Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, to cease debate.

PRESIDENT: Debate had ceased. Senator McFarland, would you like to close on your motion?

SENATOR MCFARLAND: I would be delighted to close. Thank you for all being here. This is a motion to suspend the rules. I will need 30 votes on it. There are only 38 people here so I will need almost everybody's support to do it, and I trust I can count on Senator Chambers' vote to suspend the rules, as well, since he was demanding it, telling us all that he wanted to cease it. I think it is totally appropriate. As usual, there is a lot of heat that has been generated on this bill and very little light. Senator Chambers is busily drafting up additional amendments that we are going to hear unless we do something like suspending the rules. We already have two additional amendments pending. We have got three here on the desk in front of me, just two, starting on three. And, anyway, I think it is totally appropriate that we just vote to suspend the rules, advance the bill. Senator Chambers had a chance to amend this in committee. He could have brought those amendments up then. I would have been glad to discuss them. He chose not to. He could have submitted the amendments so that they were printed in the Journal ahead of time. He chose not to do that. He is submitting one amendment after another. We haven't had a chance to review them. They are on the yellow pads and sheets that come up. I don't think this is any way to amend the bill or to deal with the legislative process. If between this time and

Select File, there are amendments that need to be made, and I will certainly review some of the concerns that have already been addressed, we can submit those amendments and make the bill better, and then we can vote the bill up. If you don't like the concept of regulating sports agents, you can vote against it. If you think that this is an area that we need to regulate, as I do, and that would provide benefits to the athletes in our state, as I believe it would, then you can vote for it. But we do not need to be wasting legislative time with an amendment, an amendment hastily drafted, and as the debate showed yesterday, many of those amendments or many of the concerns expressed were not legitimate, and I think Senator Chambers will have to acknowledge that he has misread the bill in parts. So I would just ask for the 30 votes to suspend the rule, vote the bill to Select File, and I guarantee you between that time and now I will be glad to talk to Senator Chambers, be glad to talk with any of you if you have specific concerns about the bill, and then we can amend it and vote it up or down. Thank you.

PRESIDENT: Thank you. The question is the suspension of the rules. All those in favor vote aye, opposed nay. This requires 30 votes.

SENATOR MCFARLAND: If this will speed it up a little, why don't we all punch in and have a roll call vote.

PRESIDENT: We are under call. Will you please record your presence. Now record your presence, please. Please look up (gavel), ladies and gentlemen, please look up to see if your light is illuminated. We are recording our presence. Thank you. Senator Lamb, would you record your presence, please. Thank you. Senator McFarland, will you record your presence. Senator Moore, would you record your presence, please. Senator Schimek, and we are still looking for Senator Goodrich. Senator McFarland, shall we proceed without Senator Goodrich?

SENATOR MCFARLAND: Yeah, go ahead.

PRESIDENT: Here he comes. You won't have to make the decision. Okay. Now we are all here. We will have a roll call vote in regular order and the question is the suspension of the rules. This requires 30 votes. If we have the 30 votes, then we will go immediately to the advancement of the bill. Mr. Clerk.

CLERK: (Roll call vote taken. See page 1013 of the Legislative

Journal.) 27 ayes, 13 nays, Mr. President, on the suspension motion.

PRESIDENT: The motion fails. We are back on the bill. Do you have anything further on it, Mr. Clerk?

CLERK: I do, Mr. President.

PRESIDENT: The call is raised.

CLERK: Mr. President, the next amendment I have to the bill is by Senator Chambers.

PRESIDENT: Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman, since it is clear the body wants the bill just like it is, I am going to withdraw the amendments that I have at this time, and it doesn't make me any difference, really, because I think the bill is unconstitutional. Were I an agent, I would just set up, in fact, I may decide to become one myself so that I can challenge the bill. It is foolishly written, very poorly written, and as for the amendments that I have offered, they have been amendments to strike language from the bill so there is not, and I am speaking on the amendment that I have up there, I haven't withdrawn them yet, but I am telling you what I intend to do. They have been motions to strike language which if stricken would help take some of the problems out of the bill. Yesterday when you heard Senator McFarland in great heat talking, nothing that I offered had any validity. This morning he had to admit that contact is something that needs to be defined, and that is one of the first things that I mentioned. And I mentioned, what does it mean, greeting somebody, writing a letter, a phone call, and so forth. So you all are going to be taken down the primrose path and I am going to allow you to. I think I have said enough to separate myself from this activity. You said, Tom Osborne has testified on the bill. Well, he is a coach, not a legislator, so what he testified on was the idea that there is a problem that should be addressed. He didn't tell the Legislature how to do its business, like he doesn't want you to tell him how to coach. He had expected that the Legislature would have sense enough to write a good bill, which it is showing that it does not have sense enough to do, I emphasize, is showing it doesn't have sense enough to do. And those who are trained in the law, who are sitting up here voting for this

bill, I would like them, because I put the challenge to Senator McFarland, and maybe it was unfair, to show me a rule promulgated by the Secretary of State the violation of which is a crime, and you all know who the lawyers are in here, and they know who they are and not one can show me that, yet they are going for this bill. Why? It can't be because they think it is a good bill. It is because of who is offering the bill and who is making the recommendations to amend it and bring sense to it. Yes, I am laying all this out in the record because I want to distance myself from it as much as I possibly can. There is a responsibility when we come in here to read this legislation and to try to enact that which will reflect well on the Legislature. For those of you who don't know it yet, this is a criminal statute that you are enacting. This is a criminal statute that you are enacting. All criminal statutes are strictly construed, meaning, that there cannot be vagueness or uncertainty about anything in that statute that is going to be an element of the crime. Senator McFarland cannot tell us what all is a crime under this bill because the Secretary of State is allowed to put together the elements of the crime through his rules and regulations. The university is allowed to create elements of the crime by setting up conditions under which these interviews will occur, and a violation of any part of this bill is a crime. That is crazy, and yet this Legislature is going to advance the bill in this form. I know sometimes I am acerbic, I irritate people, but I have been doing this for 19 years and I am not going to change. And certainly am I not going to change because the legislators get their backs up and decide they are going to pass a bad piece of legislation to fix me. They are not fixing me. They are not showing me. They are showing the public that either they don't read or they can't understand what they read. The courts have said repeatedly that when a person is dealing with a crime, they must be able to go to the statute and find out from reading the law in the books what conduct is prohibited. I would like to ask Senator McFarland a question, if I may.

PRESIDENT: Senator McFarland, please.

SENATOR CHAMBERS: Senator McFarland, if a person violates the rules and regulations put together by the Secretary of State, would that be a violation of this bill?

SENATOR MCFARLAND: It could very well be. As a matter of fact, I talked with Secretary of State Beermann yesterday and we were

talking about amending the bill. If it would do that, we'd certainly amend it out.

SENATOR CHAMBERS: There is no question about if it would do it, the rules and regulations promulgated by the Secretary of State become a part of this bill and a violation of any part of this bill is a crime. I would like to ask another question. Senator McFarland, the bill says that if an interview is being conducted by the university under the conditions laid out in your bill, that an agent must conform to the requirements of those interviews as far as time, place, and duration of interview. Is that a correct statement of what the bill says on that point?

SENATOR MCFARLAND: Yes, I believe it is.

SENATOR CHAMBERS: Now if the agent...the agent is told he or she may not violate that, if the agent violates those rules laid down by the university, does that put the agent in violation of this bill?

SENATOR MCFARLAND: It apparently does although I think we could amend it very easily to say a material violation of the act and probably take care of most of your concerns.

SENATOR CHAMBERS: Not on my time, because, remember, you all, nothing was wrong with the bill. Senator Chambers misread it. Senator Chambers is bringing up things that have no merit. I said all this yesterday. That is why I want you to pass this bill just like it is, just like it is. What did I tell you yesterday? Who was right as usual? Who exults in being right again? And who irritates people by being right? Do you know why I am right on this bill? Because I have studied it. I have studied the issue for a number of years. I ought to know what the bill says because I am not the introducer, and it is my job to know more about a bill than the introducer knows, but take the bill just like it is, and I don't want to see anybody coming in here, cringing and crawling on Select File, making amendments to do that which I tried to do in a kind, gentle fashion yesterday and was not allowed to do it, therefore, became somewhat irritated and miffed myself, but the consolation that I have is in being right, and I am rubbing it in on purpose. Because what we are dealing here with today and what we dealt with yesterday is not just a bill on regulating agents but the system of legislating, and what is going to have to be learned, if possible, is the ability to look beyond the one whose bill it

is to what the bill contains, and to look beyond the one who is offering an amendment to what the amendment offers. And if you allow me to irritate you to such an extent through what I say that you will turn against your own best judgment, then I own you. I control you and no man, even Ernie Chambers, should have that kind of power. That is dangerous but it certainly is enjoyable to the one who has it and wields it. I don't know whether Stradivari could play the violin but he certainly made some violins that were famous, and there have been people who played those violins expertly, and sometimes a legislature can be played in the same way that a musical instrument can be played by a virtuoso. This bill is unconstitutional. This bill attempts to enforce rules and regulations of the NCAA. This bill would make the State of Nebraska be an enforcement arm of the NCAA by making it a crime for an agent to do what the NCAA does not want done.

PRESIDENT: One minute.

SENATOR CHAMBERS: It is to keep intact eligibility of a player under rules and regulations laid down by the NCAA, which even those who understand the situation and would support this bill would agree are bad and unfair rules. And I want it clear what the Legislature is doing. Senator McFarland is taller than I am but he is a lot younger and I forgive him for having in the heat of youth stepped beyond what he may have...should have stepped. In age, there is not always wisdom, but in age, there sometime is wisdom. Old men for counsel, young men for war, and he waged a valiant war but he went after the wrong target, so I forgive you Senator McFarland, I forgive you. And, Mr. Chairman, with that, I withdraw all of the amendments that I have on this bill.

PRESIDENT: Thank you. Do you have anything else on it, Mr. Clerk?

CLERK: Mr. President, I do, Senator Lindsay would move to amend the bill. (See Lindsay amendment on page 1013 of the Legislative Journal.)

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Thank you, Mr. President and members. The amendment that I filed, rather than playing around with this bill any longer and I think Senator Chambers' arguments have gone directly to the criminal liability aspect of the bill,

let's get rid of the criminal section on it. It is three lines. You have got to pull the bill out, but it is the three lines that deal with criminal liability. My amendment moves to strike those and to insert, and it is actually in the paragraph before it, an additional section which would also make the athlete agent liable civilly for damages caused by violations of the act. That takes it out of the criminal side of the...criminal side and moves it over to the civil side. It eliminates those questions that Senator Chambers had with the bill, and I am sure if this amendment is adopted, Senator Chambers will jump on board, and he will be trying to push this bill through. I would urge you to, for those of you who are interested in the amendment, we go to page 14, lines 2, 3, and 4 would be stricken. Those words are "Any person who knowingly and intentionally violates the act shall be guilty of a Class III misdemeanor", and adds on page 13, a new subparagraph (d) at line 22, shall pay to the athlete damages incurred by the athlete by reason of the athlete agent's violation of the act. I think this treats the problems that Senator Chambers has with the act. I do see that his arguments have some merit as far as on the constitutionality. I like the concept of the act. I like the act. Let's make sure that it is a good act. I think this amendment will help to do that.

PRESIDENT: Thank you. Senator McFarland, please.

SENATOR MCFARLAND: Thank you, Mr. President. I won't oppose the amendment right now. I will tell you why. If there are concerns about that, and I think, quite honestly, Senator Chambers may have raised a legitimate concern, and I talked with the Secretary of State yesterday about it, I can come back, I will draft an amendment that will take care of it. I will tell you why the criminal penalty is included in there, and I will probably on Select consider whether a criminal penalty should be reinstated. The reason for the criminal penalty is that there are a lot of athletes who are used and exploited by sports agents, and yet when they find that they have lost money and that they have been misled and have been taken advantage of by sports agents, they are reluctant to file any civil proceeding because they don't want the embarrassment. They don't want to be perceived as a troublemaker. They tend to want to...they don't want their contract difficulties and their salary and all that kind of information being publicized in a court proceeding, and so they are reluctant to do anything about it. And the reason for the criminal penalty is not only to make it a

deterrent to violate sections of the act, but also to give the particular county attorney the authority to prosecute. If the athlete chooses to forego taking any action on behalf of himself, of course, the county attorney can prosecute even if the athlete did take action, but it is to give a criminal sanction and to oppose a penalty to that. So, for that reason, I don't have a problem with this particular amendment at this time, if that is the objection. It may very well be that we were going to amend that section anyway, and so I would suggest at this time just adopt the amendment, then we can vote on the bill. And I will be glad to address it on Select. Thank you.

PRESIDENT: Thank you. Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, again, going to the amendment that is being offered by Senator Lindsay, I read it, I would like to point out that there are different terms in this bill and his amendment is vague the way it is drafted because it says, pay damages to the athlete, but it doesn't tell which athlete. There are two categories that are described in the bill. There is a student athlete, there is a noneligible athlete, and the two are different. The amendment doesn't do what is needed to do...to be done by specifying which one is involved, so I would like to ask Senator Lindsay a question, his having heard what I stated. Senator Lindsay, which category of athlete would your amendment be addressed to?

SENATOR LINDSAY: It would be addressed to both categories.

SENATOR CHAMBERS: What damages do you envision being suffered that can be responded to in money by either category of athlete, because there are no punitive damages in Nebraska. What money damages would the athlete suffer?

SENATOR LINDSAY: I guess the most obvious example is if a player loses his eligibility by reason of an inducement given by an agent, he would be liable for that loss of college eligibility, whether that is...obviously, you are getting into the law of damages and what can be proven and what can't be proven. If you can prove that because of an additional year of college eligibility that that athlete may have gone higher in the draft or been able to negotiate a higher contract, then that is one element of damage.

SENATOR CHAMBERS: Senator Lindsay, would those damages be

viewed as speculative?

SENATOR LINDSAY: I don't know. I haven't heard the evidence, but it depends. Obviously, you are getting into an area that depends on the evidence. Now there is...it depends on each fact case. If the evidence isn't there to prove the damages, then, obviously, with or without this amendment, the cause of action isn't going to be there.

SENATOR CHAMBERS: Senator Lindsay, what would the measure of money damages be for one who may have lost eligibility but has suffered no money damages because he is not paid for what he is doing, he is not generating any income in any way, so damages refer...let me ask you this, does the term damages refer to money paid to a person to make him or her whole under the law, generally, is that what we are talking about, money as compensation for what the harm that had been done a person?

SENATOR LINDSAY: Correct.

SENATOR CHAMBERS: How could an athlete who is not making any money suffer monetary loss?

SENATOR LINDSAY: That is...we remunerate, or I should say, we pay damages to people not based just on monetary loss in every area of the law. For example, if you are in a car accident, somebody who doesn't have any monetary damages other than hospital bills is still entitled to compensation for pain and suffering or for disfigurement or a whole host of nonpecuniary damages.

SENATOR CHAMBERS: Senator Lindsay, what pain and suffering would result to an athlete for losing his eligibility?

SENATOR LINDSAY: That is a...it is a question for the jury. If a student athlete loses a year of eligibility and because of that is not allowed to participate in his senior year, that is a question for the jury as far as how much.

SENATOR CHAMBERS: Is a person under the laws of this state, Senator Lindsay, allowed to recover damages for emotional distress that comes from no physical injury done to a person?

SENATOR LINDSAY: Yes.

SENATOR CHAMBERS: Can you give me an example?

SENATOR LINDSAY: I believe there is a case involving a garbage truck, Watts Trucking, I believe, where a child saw his sister killed by a garbage truck.

PRESIDENT: One minute.

SENATOR CHAMBERS: But there was physical harm done to somebody in the transaction.

SENATOR LINDSAY: To somebody?

SENATOR CHAMBERS: Yes.

SENATOR LINDSAY: Not to the plaintiff, but somebody.

SENATOR CHAMBERS: Right, somebody was physically harmed. It is not a situation where you can go into court and say, somebody has done something that makes me very upset, I am unhappy about it, I am ill at ease, and I want to be paid for that. Let me ask the question specifically. How could an athlete who has lost eligibility get into court and recover a judgment when an athlete cannot even go into court and compel a school to allow him to participate in athletics, because participation in athletics has been ruled to be a privilege and not a constitutional right? So, if you (interruption)...

SENATOR LINDSAY: But the action is not against the school, the action is against somebody who by his or her violation of a particular statute prohibited him or her from ever getting the opportunity to participate.

SENATOR CHAMBERS: But on what would it be based if you don't have a constitutional right that has been violated anyway? It is not a right that you have anyway.

SENATOR LINDSAY: All legal actions are not based on constitutional rights.

SENATOR CHAMBERS: There is not a state right...

PRESIDENT: Time.

SENATOR CHAMBERS: ...that gives you...that you can use to

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LB 224

compel participation in an athletic contest or program at a school. Oh, you said time?

PRESIDENT: Yes. Thank you. May I introduce some guests, please, in the north balcony. Senator Landis and Senator Wesely have guests in the north balcony. There are 14 Northeast High School students in Lincoln with their teacher. Will you folks please stand and be recognized. Thank you for visiting us today. Senator McFarland, please.

SENATOR MCFARLAND: I would just call the question on this.

PRESIDENT: The question has been called. Do I see five hands? I do, and the question is, shall debate cease? All those in favor vote aye, opposed nay. Senator McFarland.

SENATOR MCFARLAND: Yes. Could we all just have a call of the house to call the question.

PRESIDENT: Okay, the question is, shall the house go under call? All those in favor vote aye, opposed nay.

SENATOR MCFARLAND: Accept call in votes, too.

PRESIDENT: All right. Record, Mr. Clerk.

CLERK: 9 ayes, 1 nay, Mr. President, to go under call.

PRESIDENT: Okay, the house is under call. Will you please record your presence. Those not in the Chamber, please return to the Chamber and record your presence. And call in votes have been authorized and the question is, shall the debate cease? Yes, call ins have been authorized.

CLERK: Senator Moore voting yes. Senator Byars voting, you had voted yes, Senator. Yes, sir. Senator Barrett voting yes. Senator Landis voting yes. You had voted yes, Senator. Senator Korshoj voting yes. Senator Hartnett voting yes. Senator Schellpeper voting yes. Senator Smith voting yes. Senator Beyer voting yes. Senator Chizek voting yes. Senator Scofield voting yes. Senator Bernard-Stevens voting yes.

PRESIDENT: Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays to cease debate.

PRESIDENT: Debate has ceased. Senator Lindsay, would you like to close on your motion. I would just suggest, ladies and gentlemen, will you stick around for a few moments so we can get this vote.

SENATOR LINDSAY: Again, I'd just reiterate that what the amendment does is to strip the bill of the criminal liability for violation of the act. I believe the bulk of Senator Chambers' objections have been to the criminal liability contained in the act. The argument, as far as constitutionality goes to the criminal liability, this would strip the act of that problem. It would further create the liability on the part of the agent for violations of the act so that the athlete could collect on the civil side as opposed to the criminal side. I would urge the adoption of the amendment.

PRESIDENT: Thank you. The question is the adoption of the Lindsay amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of Senator Lindsay's amendment.

PRESIDENT: The Lindsay amendment is adopted. Back on the advancement of the bill, Senator McFarland.

SENATOR MCFARLAND: Am I the only light on?

PRESIDENT: No, there is one other. There are two others.

SENATOR MCFARLAND: I will just pass on it. Senator Chambers, please, then Senator Lindsay.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, Senator Lindsay is correct. A lot of what I had said was addressed to the fact that there was a criminal penalty in this bill, thereby converting it to a criminal statute, but there still are problems with the bill aside from that. I wanted to take the thing that was most obviously wrong with the bill and try to draw the body's attention to it. Finally, the right person offered an amendment and the body accepted it, and that took away a considerable club from the bill, but you accepted it without a dissenting vote because the right one offered the amendment. No amendment that I offered to the bill had as

significant an impact on it as the one you just adopted without a dissenting vote, but, Senator Lindsay, I applaud you for having them adopt an amendment at least striking the criminal provision that should have been taken from the bill. That was necessary. The language that was added still does pose a problem, because when you have a definition section in a piece of legislation, the court, when it sees words in the act, will go back to the definition to see what that word or those words will mean. The term "athlete" does not appear in the bill in the definition section by itself. There is no definition of athlete. We don't know what an athlete is, so although it talks about a noneligible student athlete and it talks about a student athlete, it does not define athlete. A person could be embraced by this bill who has never participated in an athletic contest in this state. A person who attends a university but would be eligible under NCAA rules to participate is covered by this bill whether he or she has participated in an athletic contest or not, whether he or she has been on any of the teams or not. So problems still exist with the bill, and I think if Senator McFarland can find those in the body who will point out some of these issues and bring amendments, they can improve the bill, but between Senator McFarland and me, I don't think he needs to amend the bill at all in order to get it passed. If amendments are offered, I am going to have to discuss them so there will be some time taken with that. So if he wants advice from a person who has been here a long time, and since he was satisfied with the bill the way it came out of committee, he is probably still satisfied with the bill the way it is now. So I would advise him to offer no amendments, and advise the rest of you to offer no amendments, either, because nobody really cares about the form of the bill except me, and I am not going to offer any amendments, because I want the bill now to stay just the way that it is. Senator McFarland, I am not going to oppose the bill by offering amendments, but I am not going to vote for it because I cannot. The standards that I have set for myself are too high to allow me to vote for a bill such as this.

PRESIDENT: Thank you. Senator Lindsay, please.

SENATOR LINDSAY: Question.

PRESIDENT: Thank you. It won't be necessary, but thank you anyway. Would you like to close, Senator McFarland, on the advancement of the bill?

SENATOR MCFARLAND: Yes, I would be glad to. Quite frankly, the amendments that were offered before by Senator Chambers were defeated and justifiably should have been. This bill has been drafted by an ad hoc committee of the Bar Association. A number of attorneys have been over it, a number of attorneys have helped prepare it. I have helped prepare that. There have been a number of acts like this passed in other states. I think we said there were 13 states that had similar acts like this. The language is modeled after many of those acts. Quite frankly, I don't think this bill needs many amendments, if any, and I will tell you this. Between now and Select, I will review the criminal penalty aspects of the bill, and if there are any problems or any ways that we can improve it, it will be done. If anyone has specific amendments that they want to suggest to me or specific questions they want answered, I would be glad to do that, and we can do that off the floor or we can do it in conversation at any time, but I resent the process whereby people start writing up amendments and filing them on the floor of the Legislature when one never knows what the impact of an amendment will be. When you add an amendment or when you try to change a bill, you need some time to study it, and to just throw an amendment in, and then say, what is your reaction to it when you haven't read the amendment in the context of the whole bill is a very poor way to legislate. The proper way is to submit the amendments in committee. This is something that could have been done in committee and was not. The proper way is to submit the amendments ahead of time so they are published in the Journal and can be read and studied, and not be just throwing them into the hopper and no one has even a chance to know what they are voting on at the time the amendment is offered. So I would urge advancement of the bill. I hope there are enough people that haven't left, I appreciate your staying here after noon to do this, advance it. If there are any problems, we will take them up on Select, and then on Select, if you don't agree with the concept of the bill, you can vote against it. If you do think it is a good concept to protect athletes, you can vote for it. Thank you.

PRESIDENT: The question is the advancement of the bill. All those in favor vote aye, opposed nay. Please vote if you care to. Senator McFarland, yes.

SENATOR MCFARLAND: Could we just have a...is the house under call right now?

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LB 224, 557, 728

PRESIDENT: Yes, we are still under call. We could have a check in if you would like.

SENATOR MCFARLAND: Could we check in and just have a roll call.

PRESIDENT: Okay. Would you please record your presence. Please look up to see if your light is burning. If it isn't, please turn it on. Senator Baack, Senator Labedz, Senator Wesely. Thank you, Senator Wesely. Senator Lamb, Senator Pirsch, Senator Goodrich. We are looking for Senator Lamb and Senator Goodrich, Senator Pirsch, and Senator Labedz. Senator McFarland, we are looking for those four. Now we are looking for Senator Lamb, Senator Pirsch and Senator Labedz. I understand that Senator Lamb is on his way. Mr. Sergeant at Arms, how about Senator Pirsch and Senator Labedz? Now we are looking only for Senator Pirsch. Senator McFarland has authorized call in votes and the question is the advancement of the bill.

CLERK: Senator Labedz voting yes. Senator Goodrich voting yes. Senator Langford voting yes. Senator Eeck, you had voted yes, Senator. Senator Lamb voting yes. Senator Conway voting no. Senator Smith voting yes.

PRESIDENT: Senator McFarland, did you ask for a roll call vote? I have forgotten, it has been so long ago.

CLERK: You had voted before, Senator, yes.

PRESIDENT: Senator Chambers has asked for a roll call vote. Call the roll, Mr. Clerk.

CLERK: (Roll call vote taken. See page 1014 of the Legislative Journal.) 25 ayes, 7 nays, Mr. President, on the advancement of LB 224.

PRESIDENT: The bill is advanced. We will not take up the A bill. Mr. Clerk, anything for the record?

CLERK: Yes, Mr. President. I have a motion to place LB 728 on General File notwithstanding the action of the committee. That is offered by Senator Warner. That will be laid over, Mr. President.

Amendments to be printed to LB 557 by Senator Hefner; and to

March 8, 1989

LB 132, 224A, 224, 604, 775

you.

PRESIDENT: Thank you. The question is the advancement of the bill. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of 224A.

PRESIDENT: The bill is advanced. LB 132, please. Would you like to put some things in the record, please, Mr. Clerk?

CLERK: Mr. President, yes, I would. Thank you. Your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 775 and recommend that same be placed on Select File; LB 224, Select File. Mr. President, hearing notice from the Government Committee, that's offered by Senator Baack as Chair of the committee. And, Mr. President, Government Committee reports LB 604 to General File with committee amendments attached. That's signed by Senator Baack as Chair of the committee. (See pages 1022-25 of the Legislative Journal.)

Mr. President, LB 132 was introduced by Senator Wehrbein. (Read.) The bill was introduced on January 5, was referred to the Natural Resources Committee. The bill was advanced to General File. I have no amendments to the bill, Mr. President.

PRESIDENT: Senator Wehrbein, may I introduce some guests, please, before you start. Under the north balcony Senator Scott Moore has some members of his liaison youth group from Centennial High School in Utica and their sponsor. Would you folks please stand and be recognized. Thank you for visiting us this morning. Senator Wehrbein, please. Thank you.

SENATOR WEHRBEIN: Mr. President, members, thank you. This is a very straightforward bill that simply creates a cash fund in the Department of Water Resources. As you may well understand, they presently provide blueprint copies of maps, computer printouts, copies of data provided by other methods. In other words, photostatic copies of much of the material that they create in that department is now presently funded by General Fund, and then they are reimbursed. This simply would create a cash fund that would be created to funnel the money through, instead of having to annually appropriate money to the General Fund and

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LB 89, 224, 250, 335, 371, 811

presume we are ready to vote on the advancement of the bill. Those in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: 30 ayes, 2 nays, Mr. President, on adoption of the motion to advance LB 371.

SPFAKER BARRETT: LB 371 is advanced. Messages on the President's desk.

CLERK: Mr. President, an announcement that Revenue Committee will meet in executive session tomorrow at one-fifteen in Room 1520; Revenue Committee tomorrow, Room 1520 at one-fifteen.

Business and Labor gives notice of confirmation hearing, or a report on the confirmation hearing, I should say.

Amendments to LB 89 by Senator Chambers, LB 250 by Senator Schimek, LB 224 by Senator McFarland, LB 335 Senator Hall, LB 811 by Senator McFarland. (See pages 1269-71 of the Legislative Journal) That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Schellpeper, would you care to do the honors?

SENATOR SCHELLPEPER: Sure would. I would move that we adjourn until 9:00 a.m., tomorrow morning, March 22.

SPEAKER BARRETT: You've heard the motion to adjourn until tomorrow morning. Those in favor say aye. Opposed no. Carried we are adjourned.

Proofed by:

LaVera Benischek
LaVera Benischek

March 22, 1989

LB 224, 371, 449A, 569

SENATOR LINDSAY: Mr. President, I would move the adoption of the E & R amendments to LB 449A.

SPEAKER BARRETT: Shall the E & R amendments to 449A be adopted? All in favor say aye. Opposed no. Carried, they are adopted. Senator Lindsay, on the advancement.

SENATOR LINDSAY: Mr. President, I move that LB 449A be advanced, as amended.

SPEAKER BARRETT: Shall the bill, as amended, be advanced? Those in favor say aye. Opposed no. Carried, the bill is advanced. Any messages on the President's desk?

CLERK: Mr. President, I do. I have amendments to be printed, from Senator McFarland, to LB 224; Senator Withem to LB 371; and Senator Withem to LB 569. That's all that I have, Mr. President. (See pages 1302-03 of the Legislative Journal.)

SPEAKER BARRETT: Thank you, sir. Senator Korshoj, would you care to adjourn us until tomorrow morning.

SENATOR KORSHOJ: Mr. Speaker, I move we adjourn until nine o'clock, a.m., March 23rd.

SPEAKER BARRETT: Thank you. You've heard the motion to adjourn until tomorrow morning at nine o'clock. All in favor say aye. Opposed no. Ayes have it, carried, we are adjourned.

Proofed by:

Marilyn Zank
Marilyn Zank

March 27, 1989

LB 147A, 224, 683A, 807

of LR 63 as found on page 1356 of the Legislative Journal.) That will be laid over.

Attorney General's Opinion addressed to Senator Withem. (See pages 1357-58 of the Legislative Journal regarding LB 807.)

New A bill, LB 683A by Senator Landis. (Read by title for the first time as found on page 1358 of the Legislative Journal.)

Mr. President, LB 147A, I have a priority motion. I have amendments to the bill but I have a priority motion. Senator Schmit would move to bracket 147A until April 17, 1989.

SPEAKER BARRETT: Senator Schmit.

SENATOR SCHMIT: Mr. President, I move to bracket the bill till April 17th. If we do, fine; if we don't, it's okay also.

SPEAKER BARRETT: The Schmit motion is to bracket the bill until April 17 of '89. Is there any objection? We will proceed then by unanimous consent to bracket the bill. Mr. Clerk, the next bill, please, LB 224.

CLERK: Mr. President, LB 224, the next bill, Mr. President, the first item I have on 224 are E & R amendments.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that the E & R amendments to LB 224 be adopted.

SPEAKER BARRETT: Shall the E & R amendments to the bill be adopted? All in favor say aye. Opposed no. Carried. They are adopted.

CLERK: Mr. President, the first amendment I have to the bill is by Senator McFarland. Senator, this is your amendment on page 1271 of the Journal. It's AM1005.

SPEAKER BARRETT: Senator McFarland.

SENATOR MCFARLAND: Thank you, Mr. Speaker. I would move to adjourn till tomorrow morning at nine o'clock.

SPEAKER BARRETT: You move to adjourn until nine o'clock? I'm

sorry, Senator McFarland, I didn't hear the motion. Anything to read in, Mr. Clerk?

CLERK: Not at this time, Mr. President.

SPEAKER BARRETT: Thank you. The motion to adjourn until tomorrow morning at nine o'clock. Those in favor...machine vote has been requested. Those in favor please vote aye, opposed nay. Record.

CLERK: 2 ayes, 18 nays to adjourn, Mr. President. Mr. President, back to 224, Senator McFarland, your amendment is on page 1271.

SPEAKER BARRETT: Senator McFarland.

SENATOR MCFARLAND: Yes, Mr. Speaker, thank you. It's unfortunate that when you make a motion to adjourn you can't speak and give your reasons for it. I did have reasons for it. I wasn't trying to pull a fast one or anything. There are currently 15 amendments pending on this bill. Three of them are mine. Twelve of them are Senator Chambers'. This is a bill that has to do with the sports agent registration and it's a bill that was debated on General File for a long time. We have had a chance to visit briefly about, Senator Chambers and I, about what needs to be done and to try to expedite the matter. We have not come to a specific agreement at all on how the bill should be amended or whether it should be amended. What I had hoped to do was adjourn with the idea that we would pick up this bill tomorrow morning or at the next available time and perhaps at that time some of the amendments could be withdrawn. I had anticipated that 147 and 147A, the bracket motion would take some time so that we will have just adjourned at five o'clock. Senator Chambers has filed a motion to kill on this bill that will be coming up. And rather than waste the remaining 20 minutes of the session with a debate on a whole series of amendments, when he files that motion to indefinitely postpone I will just lay it over and I plan to talk with Senator Chambers. I would prefer that we not have a bill that has 15 amendments there that we're going to debate for a whole afternoon or a whole day. I think it's a good bill and it should be passed but I need a chance to look at the amendments. I have not seen any of the 12 amendments that have been filed. The three amendments that I have filed, two of them had been printed and the additional one will be printed in tomorrow's Journal. And, for

that reason, when the motion to indefinitely postpone comes up I will just request to lay it over and then we can take it up at the next available opportunity. That was my reason for making the motion to adjourn. I thought it should have been appropriate to but I understand your reason for voting no. And we can just deal with it this way with the motion to indefinitely postpone and then lay it over. Thank you.

SPEAKER BARRETT: A priority motion on the desk, Mr. Clerk.

CLERK: Mr. President, Senator Chambers would move to bracket LB 224 until Tuesday, March 28.

SPEAKER BARRETT: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, since I had just filed the kill motion and it would have been a friendly kill motion because I would have withdrawn it, by filing a bracket motion we can get to it very directly. So I'm going to ask unanimous consent to bracket LB 224 until tomorrow.

SPEAKER BARRETT: Are there any objections to the Chambers motion to bracket the bill until Tuesday the 28th, Senator Chambers? Are there any objection? If not, so be it. The next bill, Mr. Clerk.

CLERK: Mr. President, items for the record. I have amendments to be printed from Senator Chambers to LB 224; and Senator McFarland to LB 224. (See pages 1359-61 of the Legislative Journal.)

Mr. President, the next bill is LB 587. And the first item I have are Enrollment and Review amendments, Senator.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I would move that the E & R amendments to LB 587 be adopted.

SPEAKER BARRETT: Shall the E & R amendments be adopted to LB 587? Those in favor say aye. Opposed no. Carried. They are adopted.

CLERK: Mr. President, Senator Haberman would move to amend the bill. Senator, your amendment is on page 1254 of the Journal.

January 12, 1990

LB 224, 465, 1127-1133

SPEAKER BARRETT: Thank you. The question is the advancement of LB 465 to E & R. Those in favor vote aye, opposed nay. Record, please.

CLERK: 33 ayes, 0 nays on the advancement of 465, Mr. President.

SPEAKER BARRETT: LB 465 is advanced to E & R. Anything for the record, Mr. Clerk?

CLERK: Mr. President, new bills. (Read for the first time by title: LB 1127-1133. See pages 315-17 of the Legislative Journal.)

Hearing notices, Mr. President, from the Government Committee and from the Transportation Committee signed by their respective Chairs. That is all that I have.

SPEAKER BARRETT: Thank you. Moving to Select File, Mr. Clerk, LB 224, please.

CLERK: Mr. President, 224 is on Select File. E & R amendments have been adopted. When we left the bill in March of last year, I had pending an amendment from Senator McFarland. That amendment is now before us, Mr. President. Senator, I have your amendment that is on page 1271 of last year's Journal. It reads on page 7, line 10, after the word "the" insert "aggregate penal"; and strike beginning with the word "approved" in line 24 through the word "or" in line 25 on page 10.

SPEAKER BARRETT: The Chair recognizes Senator McFarland.

SENATOR MCFARLAND: Excuse me, Mr. Clerk, could you repeat which section. I remember the language now but I want to focus in on that.

CLERK: It is page 7, line 10, after the word "the" insert the words "aggregate penal"; and then also, Senator, on line 24, strike beginning with the word "approved" through the word "or" in line 25.

SENATOR MCFARLAND: Strike which language again?

CLERK: Strike beginning with the word "approved" in line 24.

SENATOR McFARLAND: Line 24.

CLERK: Right.

SENATOR McFARLAND: Okay.

CLERK: Okay, page 7, through the word "or" in line 25 on that same page.

SENATOR McFARLAND: Okay, yeah. Let me refresh people's memory on this bill. This is a bill to register sports agents who come into Nebraska for the purpose of contacting college athletes and soliciting their representation to negotiate with professional sports teams. There have been a lot of problems year after year with sports agents who jeopardize athletes eligibility at various institutions by trying to pay them money or give them cars or gifts and jeopardize their amateur standing in order to induce them into entering into a representation agreement for the purposes of negotiating a professional sports contract after the season is over. I am sure many of you recall some of the things that have gone on with Nebraska's football teams, but it has gone on...there have been problems nationally with this whole area. So this bill last year came before us, and after considerable debate, it was advanced from General File to Select File, and there are a number of amendments pending. I think a number of them are Senator Chambers' amendments and I assume that he would like to discuss a number of them. This is the first one that I have suggested and it has to do with the bonding requirements of the act. One of the requirements is that any sports agent who registers with the Secretary of State must post a bond of \$25,000, and the purpose of having a bond is that often athletes who have been misled or deceived or there have been misrepresentations made to athletes by sports agents, when they sue in court in Nebraska, it is difficult to impose a judgment that they might get in a Nebraska court on a sports agent who may be located in California or Texas or some place, and has property located in another state. The purpose of the bond is that they would have the bond posted in Nebraska. Then if the athlete was able to go to court, sue the sports agent under some kind of theory of misrepresentation or breach of contract or some other thing and got a judgment, at least there would be \$25,000 of that bond here in Nebraska that the athlete could then execute on and get compensation for that amount. Now this amendment, itself, is in Section 13 which deals with the

bonding requirements, and it just is a purpose of clarification. It was brought to me and suggested by some of the bonding companies who said that a surety bond, the present language is a surety bond in the sum of \$25,000. This amendment would change it for clarification purposes to indicate a surety bond in the aggregate penal sum of \$25,000, and then it would strike the language that the bond would not have to be by a company approved by the Secretary of State. It would only have to be written by a company that was authorized to do business in the state. So you wouldn't give the Secretary of State the burden of having to approve the insurance company or the bonding company that is issuing the bond. As long as that bonding company was authorized to do business in the State of Nebraska, then the sports agent could get a penal aggregate sum...aggregate penal sum bond of \$25,000 within the state. That would satisfy the requirements. So this first amendment is really for clarification purposes. I would urge you adopt it. I don't think there is a lot of controversy over this particular amendment.

SPEAKER BARRETT: Thank you, sir. Discussion on the amendment offered by Senator McFarland.

SENATOR LANDIS PRESIDING

SENATOR LANDIS: Senator McFarland, there are no lights on. You are recognized to close on your amendment.

SENATOR McFARLAND: Thank you, Mr. Speaker. You have gotten a lot younger and better looking, too. I would just urge adoption of the amendment. Thank you.

SENATOR LANDIS: Thank you. With that, we will proceed to voting on the amendment by Senator McFarland. Those in favor aye, those opposed vote no. It seems we have a number of people off the floor. If you could return to your desk and at least record your vote for or against the McFarland amendment, we can do what business capable of being done by this reduced number of senators. I will close the board in thirty seconds.

SENATOR McFARLAND: For a call of the house. I hope I...

SENATOR LANDIS: I am going to close the board in fifteen seconds. The Clerk will record.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of Senator McFarland's amendment to the bill.

SENATOR LANDIS: The amendment is passed. Mr. Clerk, do we have another item on the desk?

CLERK: Mr. President, Senator McFarland would move to amend. Senator, this is your penalty provision, on page 12, after line 21, insert the following new paragraph: Any person who knowingly and intentionally violates any provision of this section shall be guilty of a Class III misdemeanor. It was printed in last year's Journal as well, Mr. President.

SENATOR LANDIS: Senator McFarland recognized to open on his amendment.

SENATOR MCFARLAND: Thank you very much, Mr. President. This has to do with the misdemeanor penalties that are part of this bill. The original bill draft said that any person who violates any provision in the entire bill would be subject to a Class III misdemeanor. Last year, Senator Chambers raised the objection that there were going to be rules and regulations prescribed by the Secretary of State in the carrying out of this bill and that, in effect, you would have an unconstitutional delegation of authority to the Secretary of State to create rules and regulations that would be subject to a misdemeanor penalty. So what we have done with this amendment is to limit the misdemeanor to apply only to the particular section on page 12, and it would have to do with Section 17 which talks about an agent publishing false and misleading information, or knowingly giving false information or promises, or dividing fees with a sports league, or entering into an agreement by which he would offer anything of value to the athlete and, therefore, in effect, jeopardize his or her eligibility, those specific provisions. I think it takes care of the objections that Senator Chambers had about the Secretary of State being...or being subject to a misdemeanor penalty for perhaps violating a rule or regulation imposed by the Secretary of State. It limits the misdemeanor penalty only to Section 17 which talks about the prohibitions concerning actions by an athlete agent, and those are listed, if you want to take a look, on page 11 of the bill. I think there needs to be some kind of criminal sanction against sports agents who intentionally and knowingly mislead and deceive college athletes into representation agreements. This would be a misdemeanor penalty. It is not like they would...it

isn't a felony, it isn't a graphically serious offense but it would impose a misdemeanor penalty that could be prosecuted by a county attorney for any violations. So this is the type of misdemeanor penalty that is contained in many of the other states, Oklahoma, Texas, Alabama, that have implemented similar type of legislation. I would urge its adoption.

SENATOR LANDIS: Thank you, Senator McFarland. There are no lights on. Do you wish to proceed to a vote or to a closing?

SENATOR McFARLAND: I would just urge adoption of this amendment as well.

SENATOR LANDIS: Thank you. With that, we will proceed to a vote on the McFarland amendment. Those in favor vote aye, those opposed vote no. I encourage those of you who are at your seats to vote on this measure pro or con so that we can dispense with this issue and go to the next one. There are a number of motions on this bill and we will be here a long time if we don't handle these matters with dispatch. The Clerk will record.

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of Senator McFarland's amendment.

SENATOR LANDIS: Thank you, Mr. Clerk. The amendment is adopted. Mr. Clerk, what is the next order of business?

CLERK: Mr. President, I now have a series of amendments from Senator Chambers that I understand he is considering...I am sorry. I have one more from Senator McFarland, first, Senator.

SENATOR McFARLAND: Which one is this one, Mr. Clerk?

CLERK: Well, let me run a copy back to you, Senator, and I will read that real quick, but on page 5, line 5, strikes the word "transcripts" and in line 6 on page 5 strikes the word "professional" and inserts the word "character". And then we talk about aggregate penal. Actually, this part becomes...the second part of this amendment is the one we have already adopted, if I read it correctly.

SENATOR McFARLAND: Why don't we just withdraw that amendment, Mr. Clerk.

CLERK: Mr. President, Senator Chambers, then, has a series of

amendments that I understand he is considering withdrawing.

SENATOR CHAMBERS: I have considered it. I ask to withdraw them.

CLERK: Mr. President, Senator McFarland, you have the next motion, Senator, which is a suspension motion.

SENATOR MCFARLAND: I would like to withdraw that at this time.

CLERK: Mr. President, Senator Chambers would move to indefinitely postpone LB 224. Senator McFarland has the option to lay the bill over, Mr. President.

SENATOR MCFARLAND: And I would like to lay the bill over. Senator Chambers and I are going to visit and try and see if we can work out any compromise here, and I would ask it lay over.

SENATOR LANDIS: An admirable decision on both your parts, gentlemen, thank you. The bill will be laid over. Mr. Clerk, what is the next order of business? Senator Pirsch, the two items before yours on the Select File listing of the Speaker, LBs 257 and 240, both have their introducers absent at the present time, and unless I have a signal from somebody who is prepared to take up LB 240, the Chair would suggest we go to LB 87, to change provisions for consultations regarding plea bargains, and is prepared to call upon you to introduce that measure, if you are going to take that moment up, that issue up. Would you like us to stand at ease for a moment while you prepare or are you ready to go on with LB 87?

SENATOR PIRSCH: Ready to go.

SENATOR LANDIS: Are you ready to go? Fine, thank you. Mr. Clerk, would you read about LB 87 and inform us of that measure, please.

CLERK: LB 87 is on Select File. The first order of business are Enrollment and Review amendments, Mr. President.

SENATOR LANDIS: The Chair would normally call upon Senator Lindsay to adopt the E & R amendments. He is not there. Perhaps, Senator Pirsch, you would move to adopt the...Senator Scott Moore, the E & R Chairman emeritus, would you address the E & R amendments, please.

sometimes run together down at the stadium, and I was talking to him. I said it was too bad that a bill, 159, like this that is up before the body has to be passed over because there is so much legislation pending and so we were thinking, is there something that we could use as 159 as a mechanism for some good legislation? And we thought about a number of bills. We discussed a number of them. One of them that we did discuss and that Senator Ashford and I agreed about was the sports agent bill that I have had before the Legislature for several years. This bill has been advanced out of Judiciary before. It was advanced last year on a vote of five to one and it is a bill that was sponsored by me. It is a bill to address the problem that we have had with sports agents in our state for several years. At the hearing last year, we had several people support it. Coach Osborne came down and supported the bill. Coach Devaney has been in support of it. We have had...Senator Hefner and Senator Chizek have been supportive of it. It is a bill that we advanced this year earlier on General File on a 26 to 10 vote. The debate took some time because at that time there were a number of amendments pending by Senator Chambers. At the present time, LB 224 is on Select File but it has 11 amendments pending. All of the amendments are amendments to strike portions of the bill. As I recall, I don't think any of the 11 amendments pending are amendments to add to the bill or contribute to the bill in any way. We had amended it on Select File to satisfy all the concerns that have been raised by...some had been raised by insurance company about just the language of the bond that's required and we addressed that concern. Some had been concerned about the misdemeanor penalty that was there. We addressed that concern. It is a bill that I don't know of anyone really objecting to at this time except primarily Senator Chambers. And so over the lunch hour when we ran we decided, rather than let 159 just be passed over, that it could be used as a vehicle for some good legislation and legislation that is needed. The bill, LB 224, just basically would create the Athlete Agents Registration Act and it would require sports agents who recruit athletes in Nebraska to register with the Secretary of State, to post a bond, to be subject to the regulations of the Secretary of State and to provide specific information about their business and to address all the problems that occur. Some of you may be aware that there have been recent problems with sports agents in Nebraska and I guess there was recent publicity about Colorado football players flying into Nebraska to be entertained and one of the Colorado players allegedly was...sexually assaulted a student or an 18-year-old

woman here in Lincoln and there have been charges pending. The whole business of sports agents has been a very corrupt and troublesome business, particularly for athletes at Nebraska and also at other colleges within our state. So what I am proposing, I am sure you probably remember the debate we had on the bill, what I am proposing is to, in effect, strike all the provisions of 159, so-called gut the bill, and add the LB 224 to it. And I am having copies of the amendment...if you want to look at what LB 224, just look at it in your bill book. I have the Pages photocopying the amendment now and getting 60 copies, but it isn't back yet. I will be glad to distribute it. I expect it any minute, and I would appreciate your vote on it. I think it is a good bill. It's one the university supports. It's one that in the past has always been supported. I don't think we have had any really opponents ever testify against the bill. The only spokesperson who has really been against it has been Senator Chambers and he has had a long-standing policy against it. It is something that just come up today. It is rather abrupt. I would appreciate your help and I would yield the rest of my time to Senator Ashford.

PRESIDENT: Senator Ashford, please.

SENATOR ASHFORD: Yes, thank you, Mr. President, and members. Senator McFarland has worked for four years on this bill and he is going to be leaving the body at the end of this term, and we did have a conversation about this bill over lunch, and I mentioned to him that I had worked on this tort legislation for four years as well, and I know how hard it is to work on something so long and then not have it come to anything. I have an opportunity, if the voters return me here next year, to maybe talk about torts again. Senator McFarland will not have that opportunity for his sports agents bill. I think, also, Senator McFarland has had vast experience in this area. Could I have a gavel, Mr. President, please?

PRESIDENT: (Gavel.) Please, let's hold it down so we can hear the gentleman speak. Thank you.

SENATOR ASHFORD: Senator McFarland has the unique background, having been a pro football player, I think he is the only one in this body that was a pro football player, except for Senator Landis, that brief career...yeah, he tried and we all were behind him, but Senator McFarland has the unique perspective in this area. And the sports agent area is a matter, is an area