

January 19, 1989

LB 94, 247, 570, 576, 683-808

as yet, please contact Joanne immediately. If you don't have the bill that you are expecting, please contact the Bill Drafters Office immediately. Mr. Clerk.

CLERK: Mr. President, for the record, I have received a reference report referring LBs 496-599 including resolutions 8-12, all of which are constitutional amendments.

Mr. President, your Committee on Banking, Commerce and Insurance to whom we referred LB 94 instructs me to report the same back to the Legislature with the recommendation that it be advanced to General File with amendments attached. (See pages 320-21 of the Legislative Journal.)

Mr. President, I have hearing notices from the Judiciary Committee signed by Senator Chizek as Chair, and a second hearing notice from Judiciary as well as a third hearing notice from Judiciary, all signed by Senator Chizek.

Mr. President, new bills. (Read LBs 683-726 by title for the first time. See pages 321-30 of the Legislative Journal.)

Mr. President, a request to add names, Senator Korshoj to LB 570, Senator Smith to LB 576, Senator Baack to 570 and Senator Barrett to LB 247.

SPEAKER BARRETT: Stand at ease.

EASE

SPEAKER BARRETT: More bills, Mr. Clerk.

ASSISTANT CLERK: Thank you, Mr. President. (Read LBs 727-776 by title for the first time. See pages 331-42 of the Legislative Journal.)

EASE

SPEAKER BARRETT: More bill introductions.

ASSISTANT CLERK: Thank you, Mr. President. (Read LBs 777-808 by title for the first time. See pages 343-50 of the Legislative Journal.)

CLERK: Mr. President, I have reports. Your Committee on

February 10, 1989 LB 35, 36, 38, 42, 44, 45, 51
53, 60, 79, 110, 123, 140, 168
169, 189, 190, 207, 408, 607, 610
708, 775
LR 2, 29

for the record, Mr. Clerk, at this time?

CLERK: I do, Mr. President. Mr. President, your Committee on Judiciary whose Chair is Senator Chizek reports LB 42 to General File; LB 44, General File; LB 708, General File; and LB 110 as indefinitely postponed. Those are signed by Senator Chizek.

Mr. President, Revenue committee whose Chair is Senator Hall reports LR 2CA to General File; LB 607, General File with amendments; LB 775, General File with amendments. Those are signed by Senator Hall. (See pages 690-91 of the Legislative Journal.)

Health and Human Services Committee whose Chair is Senator Wesely reports LB 610 to General File with amendments. (See page 691 of the Legislative Journal.)

Mr. President, Report of Registered Lobbyists for this past week as required by statute. (See page 692 of the Legislative Journal.)

I have amendments to be printed to LB 408 by Senator Barrett.

Mr. President, communication from the Governor to the Clerk. (Read communication regarding signing of LB 35, LB 36, LB 38, LB 53, LB 79, LB 123, LB 190, LB 51, LB 60, LB 189, LB 207, LB 45, LB 168 and LB 169. See page 693 of the Legislative Journal.)

Mr. President, your Committee on Enrollment and Review reports LB 140 to Select File with E & R amendments attached. (See page 693 of the Legislative Journal.) That's all that I have, Mr. President.

PRESIDENT: We'll move on to LR 29, please.

CLERK: Mr. President, LR 29 was offered by Senator Langford. It's found on page 656. (Read resolution.)

PRESIDENT: Senator Langford, please.

SENATOR LANGFORD: Mr. President and colleagues, I offer this resolution with a great deal of joy because this gentleman plays cards and plays golf with Jack, my husband, every day, practically, in the summer. He has been instrumental in the

of government the opportunity to enter into the same kind of obligation as our counties, cities, and villages. It has worked out very well since they have been given that system. And so I move that we accept this bill, LB 692, and in the future it can be of significant benefit to our taxpayers.

SPEAKER BARRETT: Thank you. The question is, shall LB 692 be advanced to E & R Initial? Those in favor vote aye, opposed nay. Have you all voted? Record, please.

ASSISTANT CLERK: 26 ayes, 0 nays on the advancement of the bill, Mr. President.

SPEAKER BARRETT: LB 692 is advanced. LB 708, Mr. Clerk.

ASSISTANT CLERK: LB 708 was introduced by Senator Chambers. (Read title.) The bill was read for the first time on January 19 of last year. It was referred to the Judiciary Committee which reports the bill to General File, Mr. President.

SPEAKER BARRETT: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, since there were no committee amendments, I would like to go through the bill first, and then I have some clean-up amendments to offer, but I think it should be clear what the bill is designed to do. I will state it as briefly and succinctly as I can, then I will elaborate from the bill, itself. There is a set of circumstances existing in big-time intercollegiate athletics which is created by NCAA rules, which are very unfair. The NCAA behaves in a way that would make the fascist countries seem like paragons of democracy, but we have a set of circumstances where universities in order to be members of the NCAA, and they must be a member if they want to participate in intercollegiate athletic activities in this country or any of its possessions, they accede to these rules, and one of the rules places a limit on the amount of a Pell Grant that a participating athlete can receive. That limit is \$1,400. The Pell Grant is \$2,100. It is a federally financed administered program and the basis for receiving one is need. So it has to be clear in everybody's mind that we are talking about assistance based on established demonstrated need. The NCAA and universities, recognizing this status of such a player, has decided to impose a rule saying that the needy athlete can receive \$1,400 of this \$2,100. A nonathlete similarly situated, even on scholarship, can receive the full

\$2,100. What becomes of the overage? It goes into the Athletic Department's budget. What the university down here has indicated is the following: There is a total amount based on tuition costs at the University of Nebraska, which a scholarship athlete can receive. So what the university says is we allow that athlete, if qualifying for the full \$2,100 of the Pell Grant, to actually receive it. Then we reduce the assistance given by the university to accommodate that amount that the player would receive if he got the full amount of the Pell Grant. Now that is so much chicanery. When a person goes to a university and obtains a scholarship, he or she does not receive actual cash dollars. The presence of that student does not reduce the actual money that the university has in its coffers. But the Pell Grant poses a different situation. That is actual money that comes to that individual. The Pell Grant is designed to benefit the person, the student, that is, and not the institution. By the sleight-of-hand rules of the NCAA, \$1,400 of it is made available to the student and the other \$900, or the other \$900 will go, because I think the Pell Grant has been increased, will go to the school. So they make a paper transaction to cause it to appear that the player is getting the full benefit of the Pell Grant, but when there is an actual cash amount over the \$1,400 of the Pell Grant that the player gets, that cash goes to the university and, in fact, increases the actual dollars that the Athletic Department has to spend. I gave you a handout, and on the front of it, you will see an article from the NCAA News about comments made by Senator Claiborne Pell, whose bill it was that created the Pell grant, and he says, or the first paragraph of that article says, Senator Claiborne Pell told the NCAA Council April 19th, this is in 1988, that "an athlete's federal financial aid package should not differ from that of an equally deserving student who does not play sports", meaning there should not be discrimination based on the status of an individual as an athlete or nonathlete. If you go over to the third column of the article as it appears on this paper, you will see that

whereas the athlete receives only \$1,400, and at the bottom of the first column in that article are these words, "Many college football coaches favor eliminating the NCAA's cap on Pell Grant money. If that is the way they feel, why is the cap not eliminated? Because the NCAA is made up of a majority of smaller schools. These schools count on that extra Pell Grant money that the player cannot receive to supplement their athletic budgets. They frankly acknowledge that without taking that money that should go to the individual, their athletic departments would go under." But it seems to me that if the federal government were going to do its job, it would look into a situation which has a student qualifying for \$2,100 of federal aid receiving only \$1,400 of it and an institution taking the remainder. The Pell Grant program is not designed to be aid to institutions but aid to individuals, and under the NCAA rules, the aid is going to the institution. Now to go into some of the bill, the provisions, and I do want this into the record, there are some findings which explain the relationship between universities and colleges and the NCAA. Those findings state the eligibility requirements for receiving a Pell Grant, and the requirement that the player accept less. Here is the first part of the bill that actually would be operative law. It is on page 3, and if you disagree with this, you will disagree with the bill. "No college or university shall adopt, promulgate, or enforce any rule or regulation that requires a student to forego, relinquish, waive, or surrender a portion of a financial aid grant made available to financially needy students by federal law solely on the basis of or as a condition to participation by such student in an intercollegiate athletic program." What that says is that if you are an athlete and you want to participate in a sanctioned activity of the university, you have to agree as a condition of participation to give up assistance made available to you by the federal government. If you are a music student, there is no requirement on you that you do that. If you are an art student, English, journalism or any other area of study, if you are a student in any of those areas, this condition is not imposed on you. So I feel that this Legislature has the responsibility to enact laws to prevent unfair discrimination against any individual or group of individuals. Athletes are the most abused, set-upon, exploited group of people in this society. This Legislature did vote to enact a bill that under certain circumstances would allow a stipend to go

generate for this university every year. And then on the other hand, they want to require these athletes to give up assistance they are entitled to based on need. So you don't want to pay them and you don't want them to receive the aid that is available through the federal government to help them in this hellish condition that NCAA rules and a weak university system allows them to be brought under. My obligation, and I feel the obligation of the Legislature,...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...is to enact laws that will prevent that kind of discrimination. As we proceed during the discussion, Senator McFarland has promised to explain a letter that was written by the university dealing with nonscholarship athletes, and I think it is unfair how they are being dealt with and the university should not treat these young people in that fashion. But I will not go into that aspect of it until he explains the letter that was written. But here is the choice, either the law is going to protect all students similarly situated from discrimination, or the Legislature is going to refuse to enact a law because it feels bound by unfair rules of the NCAA. When I have a chance to speak again, I will explain other provisions of the bill that are designed to prevent the NCAA...

SPEAKER BARRETT: Time.

SENATOR CHAMBERS: ...from doing anything to the university for obeying this law.

SPEAKER BARRETT: Thank you. An amendment on the desk, Mr. Clerk?

ASSISTANT CLERK: Yes, Mr. President, Senator Chambers would move to amend his bill.

there because a fine can be imposed without requiring that a felony be found. So I want to strike that language, and on page 6, a measure of damages that was put in the bill was similar to that in another bill, and that measure would constitute punitive damages which would not be allowed under the law of Nebraska, so that would be the amendment, and I hope you will adopt it to strike that language. But while I have an opportunity, there are a couple of things that I would say on the bill in connection with those punishments, those penalties. At the bottom of page 4, once it is found that the university would be in violation of this law by withholding money from a student or a student feels the university is in violation, that student or somebody on that student's behalf could file a complaint with the Attorney General. The Attorney General would be required to conduct an investigation and render a finding. If he found, if he or she found that there was no violation of the law, that ends it. If it is found that there is a violation, within three days of that finding, the Attorney General would have to issue a directive to the university to turn over to such aggrieved student the amount of aid that student is entitled to receive, and that money would have to be turned over within 30 days of the issuance by the Attorney General of that finding. Then if the university was to be approached by the NCAA because the university is complying with this law and allowing these students to receive the full amount of aid they are entitled to based on their qualification for it, the bill says that no association, no intercollegiate athletic association, which would be the NCAA, shall impose or threaten to impose any penalty on any college or university for complying with this act. In addition to a fine being imposed on the NCAA for doing that, a cause of action is created in the bill that would allow the university to go to court and to seek an action at law, or in equity to make sure that this law is complied with. When you go into equity, you can seek an injunction and there is not a judge in the land, there is not a court in the land that would require the university to comply with a NCAA rule, rather than the law of the land. And the NCAA could not take negative action against the university. They want to impose, the NCAA, to give you an example, a random testing rule on all colleges and universities, and they have voted to allow that, but they said it cannot apply either in the State of Washington or California because that state, whichever of the two it

with its rule because the law of the state is paramount. There are a lot of statements made by coaches, athletic directors and others, the statements of which...the statements that they make are in all sincerity made. They believe the NCAA is more powerful than the Legislature. They believe the NCAA is more powerful than the courts, and the NCAA, itself, believes that, but the fact is whenever the NCAA has come against a state law, the state law has not been brushed aside. The NCAA has to take low. What I would like to see is a law at the federal level to either abolish the NCAA or greatly restrict the kinds of things that it is able to do because what that association does is harm students. They are really athletes, misnamed students, but to make everybody feel less uncomfortable here, I will call them students. Every rule, every law, every piece of legislation that the NCAA has enacted that mentions an athlete in any way is designed to hurt or restrict that athlete, either by denying him or her a benefit that every other student enjoys or imposing a burden that no other student not an athlete would tolerate. The way we could get rid of all of these NCAA rules, even the kind that I am talking about, is to impose them across the board on all students. Not one member of this Legislature would agree that for a reason not applicable to all students certain students at the university could not get student education opportunity grants or any other grants. None of us would agree to allow a student to be humiliated in front of a class and have his or her grades and academic standing revealed to the public, and we talk about privacy rights. But an athlete must agree to give up these privacy rights in order to participate in intercollegiate athletics, and that is why you will read about their failing grades on the SAT, and any other test including academic work at the school that he or she attends. Look at these young Pages who go to school. Do you think they would stand in front of a class because a professor said stand up and be reamed out, up and down, up one side and down the other, for flunking this test? But you will watch football games and you will see a coach maybe grab an athlete in the face mask, shake him, hit him in the face with the football, kick him. No other

about due process, equal protection of the law, all these concepts and apply them to other students and assure them rights, but not the athlete. The athlete, the revenue-generating athletes do something that nobody else connected with an institution of higher learning will do, and in the case of Nebraska, Oklahoma, and the other football factories, they are institutions of higher earning, they generate revenue rather than consume it. They generate revenue rather than consume it. Twelve million dollars, twelve million dollars in less than a year, they give countless hours of joy and pleasure and sense of being and self to people in this state. We don't want to pay them for that, but any other student at that university can be on a work-study program. The athlete cannot. Can accept money from anybody in any amount, even if you are on scholarship, the athlete cannot. Can be required to spend more time outside the classroom than in it on nonacademic work, they cannot put that requirement on any of you, but on the athlete they do. If there is a conflict between practice and a course that the athlete wants to take, the course has to be dropped so that practice can be attended. They couldn't do that to any of you. These athletes have been cut out as a group and put aside for every manner of discriminatory unfair treatment. You would not dream of applying NCAA rules across the board on all these other students. The injustice of it would immediately be seen and the students themselves would be in an uproar. But since we have these players who are risking serious injury, life threatening injury, permanently enabling...unabling, disabling injuries, they get nothing. They don't have to...if a student falls down the stairs because he or she is careless, they just tell you to be careless, but...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...for an athlete, they build flak jackets so when they have broken ribs they can still play. They build lightweight splints so if they have broken fingers or broken wrists or twisted muscles, they can still

programs that provide assistance for them to go to school must be foregone in order to participate in an activity of this kind.

SPEAKER BARRETT: Time.

SENATOR CHAMBERS: What I want to say is that what I am really speaking for at this time is the acceptance of my amendment that would remove the language that I touched on briefly.

SPEAKER BARRETT: Thank you. Discussion on the Chambers amendment? Senator McFarland, would you care to discuss the amendment?

SENATOR MCFARLAND: Thank you, Mr. Speaker, I would. The amendment, if I can refocus the discussion, the amendment, as I understand it, strikes the reference to felony, and clarifies the penalty provisions, and Senator Chambers has introduced that for that purpose, and I am fully supportive of that. I would like to take a little time now to address the bill, itself, some of the consequences of the bill, and some of the aspects of the bill that need to be considered. I was the only member of the Judiciary Committee who voted against this bill coming out of committee. It was voted out on a vote of 7 to 1. I am not in the habit of defending the NCAA. They are not necessarily one of my favorite institutions. They do do some very beneficial work, I think. I think that generally college sports is a good program in our society. There are abuses within those programs and within that institution. The thing that I want to clarify and the issue that causes me concern with this bill are the ramifications of it. I have passed out a letter that I received from Vice-Chancellor, Jim Griesen, at the University of Nebraska. I had inquired from him what was the status of the NCAA rules with regard to this particular issue. The issue, as I understand it, right now is that for the Pell Grant for the scholarship athlete there is not a great deal of risk for the university and the

recruited nonscholarship athlete, and it would put the university in direct confrontation with the NCAA over this issue. At the present time, if you look on page 2 of the letter that I have handed out from Vice-Chancellor Griesen, it talks about a recruited nonscholarship athlete, and that the recruited nonscholarship athlete has three options; one, the recruited nonscholarship athlete who gets an additional financial aid can either accept that financial aid with the understanding that he or she may not participate in varsity competition, or, two, decline the award so that he or she will be able to engage in varsity intercollegiate competition, or, three, accept the award and then gain Athletic Department agreement to count the individual as a scholarship athlete, and it is important to notice that this third option is really not a realistic option, particularly in basketball and football because they are already at their limits of 15 scholarships for basketball...

SPEAKER BARRETT: One minute.

SENATOR McFARLAND: ...and 95 for football. So under the present situation, the recruited nonscholarship athlete really has one of the two options. If the bill passed in its present form, it would force the university to violate the NCAA rule that says that you cannot have a varsity athlete who is...and try to count that as a nonscholarship athlete who is receiving that type of financial assistance and it would, thereby, by violating the NCAA rule, put the university in a direct confrontation and put the university in a real dilemma. The dilemma which I will try to explain when I get a chance to speak would be that it would force the university either to comply with state law, violate NCAA rules and be subject to sanction by the NCAA, or to comply with NCAA rules and then...

SPEAKER BARRETT: Time.

SENATOR McFARLAND: ...violate state law, and I will try to explain this further when I have an additional chance.

discussed because we are dealing with a complex system. The issue, itself, is not complex but the system created by the NCAA and the university's complicity in that system do combine for complexity. The issue is simple. Should a student be required as a condition of participating in a university activity be forced to give up assistance that no other student would have to give up, impose conditions on these people that are not imposed on other students. When I offered my bill to pay players, there were editorials indicating that Nebraska would be deemed a football crazy state and so forth. Contrary to that reaction, that bill, even though the Governor vetoed it, led to discussion all over the country and athletic directors, coaches, editorial writers, and others came out and have continued to come out in favor of paying the players, whether they call it pay, a stipend or whatever. So the people who indicated what the reception would be simply don't understand this particular issue and this area of human endeavor, but I do say that Nebraska can, indeed, be called a football crazy state if the Legislature, having had brought to it a discriminatory situation, will say we will let that discrimination stand because it is more important that Nebraska play football than that the students' rights be protected. It is an issue. It is a conflict. It is a clash of ideas, and we have to decide which is more important, the Legislature upholding the right of these students to be treated as all other students, or to turn our back on that type of discrimination and say that football is more important. As I told Senator McFarland, in a conflict between the NCAA and any institution, whether it is a college or university, I am anti-NCAA and pro-college, pro-university, no matter what. But when it comes to a combine of the NCAA and an institution against the rights of a player, I am pro-player all the way, no matter what and anti-NCAA/institution. These players have nobody protecting their rights. One of these other students could go to court and have something done if denied aid. The athlete cannot, and you all can sit comfortably with that kind of circumstance. I have heard senators on this floor speak about various incentive programs to help the students who need to go to school, and those are worthy

s-e-r-f, indentured servant work, their rights don't need to be protected, their rights don't need to be guarded. The university, as an institution, is more important than the players. I disagree. The aspect that Senator McFarland talked about, and he will get the opportunity to discuss it further because there are some things he and I have to get clearly into the record,...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...applies only to the revenue generating sports. The NCAA applies these kind of restrictions only to the athletes who participate in football and basketball. Some of you all asked me why do I say pay only the football players? Because the NCAA has set them aside for a special kind of discrimination. The amendment does only one thing. It strikes language, but there are two elements of language. It would correct the measure of damages and it would also eliminate all reference to a felony having been committed should the NCAA violate this bill. I don't want it to be a criminal statute so I want that language stricken and I hope you will adopt the amendment. Then the bill would be in the form that all discussions from here on would deal with.

SPEAKER BARRETT: Thank you. You have heard the closing and the question is the adoption of the Chambers amendment to LB 708. Those in favor of that motion please vote aye, opposed nay. Record, Mr. Clerk.

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

SPEAKER BARRETT: The amendment is adopted and the Chair is please to take just a moment to introduce some guests of Senator Scofield underneath the north balcony. Wendy

CLERK: I have nothing further on the bill, Mr. President.

SPEAKER BARRETT: Thank you. Senator Chambers, we are on the bill as amended.

SENATOR CHAMBERS: Yes, Mr. Chairman, so that the discussion can proceed, I will move that LB 708 be advanced to E & R Initial. My comments, oh, that is right, I am making a motion so I get 10 minutes. There are some things that need to be in the record on this because although members of the Legislature don't recognize the significance of it, whenever this Legislature does something, it is picked up in other parts of the country. The Legislature is watched. I have been called about front page articles on things this Legislature has done, even on LB 397 when there was maybe a two-inch column in some of the papers here, and I think that might be because there is a difficulty on the part of editors acknowledging that something so significant can be done by somebody for whom they have so much contempt. But, nevertheless, this area of big-time college athletics is causing considerable attention to be paid to it around the country. Recently the NCAA signed a multiyear billion dollar contract with the networks for covering basketball and a debate arose as to whether or not that money should be divided among the various conferences, the schools, or just how, but not one word about anything out of that billion-plus dollars for the players who make it all possible. In football, there are multimillion dollar contracts that have been made between the college system and the networks, but not one word about what goes to the players. So what I would want Senator McFarland to discuss, when he speaks again, is how this bill relative to the Pell Grant aspect would impact on these nonscholarship athletes. If he is coming this way, I will ask him but I didn't want to ask him while he was up at the front. Senator McFarland pointed out that based on the letter, a copy of which you have been given, nonscholarship athletes who have been recruited would be affected by this bill because if they receive

this case, because this applies to football, would he be allowed to accept the full Pell Grant or any part of it?

SPEAKER BARRETT: Senator McFarland, would you care to respond?

SENATOR MCFARLAND: I think I understand the question. If you look on the first page of the letter, it says for the recruited athlete. It can be a non...recruited nonscholarship athlete, if they accept any financial aid, which would include the Pell Grant, they could not participate in athletic competition on the varsity level unless they are counted as a scholarship athlete. They can participate as freshmen or as redshirts, or whatever, intermural, club competition, B team, but they could not participate on the varsity level.

SENATOR CHAMBERS: Members, I wanted that in the record so that you would see this bill with reference to the Pell Grant aspects will impact on the university, also, despite what they have said in this letter. They are not clear...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...of the entanglements that would result if this bill is passed, and I don't want to soft-pedal what this bill does. It would put the university on a collision course with the NCAA, but in the process of creating that collision course, I want the issue clearly drawn, the issue of what we are dealing with here, that this Legislature is going to agree that students can be compelled to give up something to which they are entitled in order to participate in a university sanctioned function. What some of these students ought to do but they won't because of the club held over them by the Athletic Department is sue the university charging that they are being denied

romantic idea about them from the movies and from our own experiences, the exciting movie where a player throws a pass and runs down and catches it himself and so on, and fur coats, and chrysanthemums, and dinner at the club or at home afterwards. We still like the idea of collegiate football and other sports. It has changed since the good old days and that is only, how many years ago, forty, thirty-five? Bobby Reynolds whom I always thought of as Mr. Touchdown, USA, and Johnny Novak, and a lot of those players who were still members of a college football team. So I guess I am going to have to give up that romantic idea because all of us who have that feeling about, and football seems to be the paramount sports, but there are a lot of young men and women involved in these sports that are subject to the NCAA rules. So we have to give up that romantic image. I always have resisted the idea of their having any income, but support and assistance so they can complete their education is something else again. And this idea of their not being able to receive...if they receive the full benefit of the Pell Grant, then they reduce the other benefit of the scholarship, I agree, that is not fair because you wouldn't do that to any other student, as far as I know. It is very complicated as far as the recruited and the nonscholarship students and the scholarship students. I won't speak to that but I do think we have to realize what pressure some of these young people are under, especially the football players, the temptations they have for someone to support them on the side, and that is against the rules. As I understand it, during the holidays a friend of mine said they were having some Chinese students come for dinner because they were so far away from home and so on, and they could invite the Chinese student for dinner, but they could not invite a football player for dinner. That, to me, is going a little too far with not being able to show a social courtesy to a young man who is a long way from home, whether he lives in China or wherever he lives. So I am supporting this bill and I hope the rest of us will, too, and my only question, and I am concerned about this, and I did talk to Senator Chambers. I will talk to Senator McFarland, too. I do think we have to be careful of putting the university crosswise with NCAA, but at least maybe this will send a message. I have one other

and for two years she worked during high school gave her tenure in this program. In her first semester, she will receive a check for 35 percent of the tuition, \$216.30, in addition to her hourly wages. I doubt very much that any athletes would be able to participate in that kind of program even if they had the time to work. So there is another good example of what other students can do and the kind of assistance they receive but the athletes are left out of it. So thank you very much. I will support the bill.

SPEAKER BARRETT: Thank you. A very special guest of Senator Langford under our north balcony, Admiral L.A. Snead, retired, from Palm Beach Garden, Florida. Admiral Snead. Thank you, sir. We are glad to have you with us. Further discussion on the advancement of the bill, Senator McFarland, followed by Senator Chambers.

SENATOR MCFARLAND: Senator Crosby, I still long for those romantic college days, of college sports, when you'd catch a touchdown and the cheerleaders would come out and congratulate you and all that. It never happened to me when I played but I still had that aspiration. I don't know, I suppose those days are gone. The thing I would like to do in speaking to the bill, itself, is try to put the issue in its proper context and explain the ramifications of it. For the scholarship athlete, if this bill passes, the Pell Grant does not create a situation where the university would have to violate NCAA rules, because what they would be able to do would be able to, for the scholarship athlete, give the full amount of the Pell Grant, reduce, for the excess over \$1,400 above room, books, board, tuition, and fees, reduce any overage of that and so that the athlete would comply with the NCAA rules. Where the conflict and the confrontation would have to occur if the bill passed is with the recruited nonscholarship athlete. Right now, my understanding is there are about three or five, three to five athletes each year who want to participate in varsity competition who do not have a scholarship and yet

kicker at the university who is probably not going to play very much at all unless one of the other place kickers gets injured or has a bad streak and goes into a slump. That player may likely not be on scholarship. Maybe all he can do is place kick. But he qualifies for financial assistance. Under the present system, he either can decline the financial assistance and go ahead and take his chance at some...he might get a chance to kick an extra point in a few games, or if the two people ahead of him get hurt or go into a slump or something, he might become the kicker, or he can just decline, or he can accept the award, financial aid, and go ahead and just say, well, I would only probably get to kick in a few games anyway, I am really not getting that much benefit out of it, I will just forego the participation. If an athlete is playing a lot and it really looks like he is going to play a lot of football or basketball or whatever, most likely he will be given a scholarship, like I was given a scholarship. I was a nonscholarship athlete initially, but then once I showed that I could play at the university and I earned a starting position, then I was given a scholarship so there was no problem that occurred. Now what would happen if the bill passes is that by state law in the situation of the nonscholarship athlete who is recruited, and most all of them are, most all of them get some kind of inducement or encouragement to come to the university. Even I did when I was a walk-on. They said we don't have a scholarship to offer to you but we think you can play and we'd sure appreciate it if you tried out for the team.

SPEAKER BARRETT: One minute.

SENATOR McFARLAND: For those type of situations, for the recruited nonscholarship athlete, the law, 708, if passed, would require the university to allow that player to participate and also require that that player received the financial aid. To comply with that state

SPEAKER BARRETT: Time.

SENATOR MCFARLAND: ...and you would be setting up most likely a lawsuit about which no one would be sure of the consequences of the decision. I will try to elaborate on this further.

SPEAKER BARRETT: Senator Chambers, please, followed by Senator Bernard-Stevens.

SENATOR CHAMBERS: Mr. Chairman, and members of the Legislature, Senator McFarland is giving some very clear and precise statements with reference to the bill, what it says, what it does, and the set of circumstances that will be created if it passes, and I am saying that if worse comes to worst, based on the scenario laid out by Senator McFarland, I have no objection to that occurring. I want that to occur. I want us to come face to face as policymakers with the situation where we say a private association demands that we allow discrimination against our students in a state supported institution. That is what we are faced with. Let those in the football world worry about those ramifications. Do we enact a law or fail to enact it when we see clear discrimination based on the inconvenience caused to those who are discriminating? Suppose, Senator Jacky Smith, there were a situation where they said that if a young woman at the university wants to study art and she is entitled to a Pell Grant, the only way she could study art is either to agree to pose for the class or give up her Pell Grant. She shouldn't have to do either one. There shouldn't even be a choice there. If you are entitled to the aid, you should just get it. That is the way it should be with these athletes. Why put them in a situation where they are on the horns of a dilemma, which means that either way you go you are hurt? We are a Legislature saying that kind of situation should be created for our students at a state supported school, and

Pell Grant. The only way they can qualify for the Pell Grant is to show that they are needy. So here you have got a person who has established financial need recruited by the university to come to play football but not given scholarship assistance. The university wants to use them. Then if they come to the university and give up that aid and they are still needy, and they are a part of the university's program, and because they are needy, and that was established and known by the university in the first place, they accept some money from somebody like me. I buy them a shirt. I buy them some clothes. I take them out to eat regularly, and the NCAA finds out about it. Those bureaucrats, who because the players make so much money have gotten loans over \$100,000 at low interest or no interest, are going to come against these players and enforce with a vengeance these rules that say if you accepted a shirt from Chambers, you violated the NCAA rule and you will lose your eligibility and the school goes on probation. Why should anybody be surprised? You knew you had a needy student here in the first place. You knew he was needy, and you made him forego the assistance that any decent person would try to help him get. You require him to give it up. Then when he behaves as a needy person and accepts something from somebody to meet that need, he loses his eligibility and all value to the university, then you will see the editorial writers, the people writing to the Public Pulse, and voice from the grandstand condemning that player for hurting the university's program...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...but never looking at the lack of ethics in a university system that would put these young people in those kind of impossible situations. How ethical is a university when it does that? How can they presume to teach courses on ethics? Ethics in engineering, ethics in business, why not some ethics in how the students, themselves, are treated if they happen to be athletes? Who cares about the athlete except when they are scoring touchdowns and giving pleasure to everybody and an occasion to drink, an occasion to wager

Bernard-Stevens.

SENATOR BERNARD-STEVENS: Thank you, Mr. Speaker. I will give whatever time I have to Senator Chambers.

SPEAKER BARRETT: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, and members of the Legislature, I get very exercised when this subject comes up. They cannot speak for themselves, they dare not sue the university. They are denied all kinds of rights that are taken for granted by others, and denied redress. Remember, the category of students that Senator McFarland talked about who were recruited but not given a scholarship are covered by NCAA rules, but those rules don't apply to all athletes, and I would like to ask Senator McFarland a question. As he comes back to the microphone, I am going to say a couple more things. There are revenue generating sports and nonrevenue generating sports. The vast majority of violations of rules when it comes to recruiting and paying players occurs in the revenue generating sports because the money is so good. Senator McFarland, when we are dealing with that category of athlete that you mentioned who are the recruited but nonscholarship, isn't it true that those NCAA rules denying aid to those athletes applies to only those in football and basketball?

SPEAKER BARRETT: Senator McFarland, please.

SENATOR MCFARLAND: In all honesty, I really don't know. The basketball and football are the revenue generating sports. I am wondering if it wouldn't apply to baseball as well, and I am not absolutely sure. I'd need to clarify and look at that.

SENATOR CHAMBERS: Mr

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SENATOR HANNIBAL: Motion passes. Senator Chambers, please.

SENATOR CHAMBERS: I move adoption of the amendment as discussed.

SENATOR HANNIBAL: Any discussion? Any closing, Senator Chambers? Motion before you is the adoption of the amendment. All those in favor vote aye, opposed nay. Record, Mr. clerk.

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment.

SENATOR HANNIBAL: Motion is adopted. Senator Chambers.

SENATOR CHAMBERS: I move that LB 465 be readvanced to E & R for engrossing.

SENATOR HANNIBAL: Any discussion? All those in favor say aye. Opposed same. It's readvanced. Mr. Clerk.

CLERK: Mr. President, may I read some items for the record? Mr. President, your Enrolling Clerk has presented to the Governor bills read on Final Reading this morning as of 10:45 a.m. (Re. LB 821, LB 822, LB 399, LB 823, LB 824, LB 825, LB 326, LB 827, LB 828, and LB 829.)

university for violating a provision of this law. The way to seek enforcement of this law by the student would be to seek a civil action and we're not talking about...

SENATOR HANNIBAL: Time.

SENATOR CHAMBERS: ...criminal punishments at all.

SENATOR HANNIBAL: Senator Nelson, on the amendment or on the bill.

SENATOR NELSON: The bill, please.

SENATOR HANNIBAL: Thank you. Senator Schmit, please, on the amendment. Senator Schmit, please. Senator McFarland, your light is on.

SENATOR McFARLAND: If there are no other lights on, could I just close on the amendment at this time?

SENATOR HANNIBAL: There are no other lights on other than Senator Nelson who is not going to speak on the amendment, and Senator Schmit who is not here, so I would recognize you to close on the amendment.

SENATOR McFARLAND: Just briefly, I would urge you to adopt the amendment. It does strike the penalty provision, the \$25,000 fine, if the university would choose to abide by NCAA rules and not comply with the particular language of the act. And I think that Senator Chambers said he is agreeable to it. I think it's a...it allows the university and somewhat limits a little bit of the pressure that would be put upon them by this bill. I would urge you to adopt the amendment.

another year.

SENATOR HANNIBAL: Your time is up.

SENATOR McFARLAND: But an interim study would examine all those issues. Thank you.

SENATOR HANNIBAL: Thank you, Senator McFarland. Senator Dierks, please, followed by Senators Beyer, Schmit, Chambers, Nelson and Crosby.

SENATOR DIERKS: Mr. President and members of the body, I would like to ask Senator Chambers a couple of questions, please.

SENATOR HANNIBAL: Senator Chambers, would you respond?

SENATOR CHAMBERS: Yes, I will.

SENATOR DIERKS: Senator Chambers, with regard to scholarship athletes, doesn't the university currently provide the full Pell Grant but reduces the amount of the athletic scholarship?

SENATOR CHAMBERS: That's what they say. But I believe, in effect, they are reducing the value of the Pell Grant to the player; or they are allowing the player more in the way of aid than the Pell Grant would allow and an overage in the Pell Grant results and it should go back to the federal government. They have tried, in a number of ways, to make it appear that they're doing what you have asked me so I'm saying the university says that what you indicated is what they're doing.

SENATOR DIERKS: Then does this bill address that? Does this change that any

admits exists right now? Are you in favor of that policy of discrimination?

SENATOR NELSON: I'm not saying the policy doesn't exist right now but I am saying that legally, and so on, and with the other implications of the athletic program we don't have all of this worked out that may put in jeopardy the rest of the programs at the university.

SENATOR CHAMBERS: Well, you're jumping ahead, Senator Nelson, what I'm asking you. Do you favor the continued existence of that discriminatory policy? Do you favor it?

SENATOR NELSON: I guess I would have a hard time saying yes or no. I favor let's study it and see where we're at and how far we are discriminating or if there is some other way that we can handle it.

SENATOR HANNIBAL: One minute.

SENATOR CHAMBERS: With whom did you talk from the university who filled you in on the information that you shared with us this morning?

SENATOR NELSON: I am a member of the Judiciary Committee and I did do some telephone calling at the university to see what the implications of this bill is.

SENATOR CHAMBERS: And with whom did you talk?

SENATOR NELSON: I spoke with Tom Krepel and had a meeting with him earlier in my office in regards to another education bill. And, at that time, I took the opportunity to ask him and tried to educate myself a little

SENATOR CHAMBERS: Okay, but the understanding...

SENATOR HANNIBAL: Senator Chambers, your time is up.

SENATOR CHAMBERS: Oh.

SENATOR HANNIBAL: Senator Dierks' time is up that you were using. Senator Beyer, please.

SENATOR BEYER: Mr. Speaker and colleagues, I've got a couple of questions I would like to ask Senator Chambers, if he would yield.

SENATOR HANNIBAL: Would you yield, Senator Chambers?

SENATOR CHAMBERS: Yes, I will.

SENATOR BEYER: Senator Chambers, you made mention of the fact that the money over and above what the athletes are allowed in the Pell Grant goes back to the university and you clarify in what way, shape or form you think it goes back. Or what do they do with that money?

SENATOR CHAMBERS: Well, Senator Beyer, what I indicated in response to a question from Senator Dierks that for the purpose of this discussion I will accept what the university says, that they start the aid package for the student by including the full Pell Grant, then they build on top of that institutional aid until they have reached the limit allowed by the university...by the NCAA. But there have been articles, numerous articles about colleges that have to supplement their athletic budget by the amount above the \$1,400 allowed by the NCAA to go to a player who receives a Pell Grant.

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LB 164, 520A, 708, 1004, 1032

the house is under call. Senators Schellpeper and Elmer, the house is under call. Senators Schellpeper and Elmer, please report to the Chamber. Senator Chambers. A machine vote has been requested. The question is the advancement of LB 708 to E & R initial. All in favor vote aye, opposed nay. Have you all voted? Roll call has been requested. Mr. Clerk, proceed.

CLERK: (Roll call vote taken. See page 664 of the Legislative Journal.) 18 ayes, 9 nays, Mr. President, on the motion to advance.

SPEAKER BARRETT: Motion fails. The call is raised. Anything for the record, Mr. Clerk?

CLERK: Yes, Mr. President, I do. Mr. President, Natural Resources gives notice of cancellation and resetting of a hearing, signed by Senator Schmit as Chair. LB 1032 has been selected as one of the Speaker's priority bills.

Senator Rogers has amendments to LB 1004; and Senator Schellpeper to LB 520A. (See page 665 of the Legislative Journal.) Mr. President, Senator Abboud would like to add his name to LB 164 as co-introducer. That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Schimek, please, would you care to adjourn us.

SENATOR SCHIMEK: Yes, thank you, Mr. President. I move we adjourn until tomorrow morning at nine o'clock.

