

APRIL 27, 2005

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

April 27, 2005 LB 57, 117, 348

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our acting chaplain this morning is Senator Heidemann. Senator Heidemann.

SENATOR HEIDEMANN: (Prayer offered.)

SENATOR CUDABACK: Thank you, Senator Heidemann. Appreciate that. I call the sixty-ninth day of the Ninety-Ninth Legislature, First Session, to order. Senators, please record your presence. Record please, Mr.Clerk.

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

SENATOR CUDABACK: Are there any corrections for the journal?

CLERK: I have no corrections, Mr. President.

SENATOR CUDABACK: Messages, reports, or announcements?

CLERK: Your Committee on Judiciary, chaired by Senator Bourne, reports LB 348 to General File with amendments attached. And Mr. President, I have a series of amendments to be printed to LB 57 by Senator Chambers. That's all that I have. (Legislative Journal pages 1315-1316.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go to General File, 2005 Senator priority bills, the McDonald division. Mr. Clerk, LB 117.

CLERK: LB 117, Mr. President, a bill by Senator Bourne, introduced at the request of the Governor. (Read title.) The bill was discussed yesterday, Mr. President. Committee amendments were offered by Senator Bourne, as Chair of the Judiciary Committee. Pursuant to a request for a division of the question, the committee amendments were divided into seven components. The first committee amendment is FA188, Mr. President. That consists...well, you have a summary sheet on your desk that describes what FA188 is. And that's where we are, Mr. President. (Legislative Journal page 1301.)

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

April 27, 2005 LB 117

SENATOR CUDABACK: Thank you, Mr. Clerk. (Visitors introduced.) Senator Bourne, would you like to give us a review on the contents of LB 117 and the committee amendments as well?

SENATOR BOURNE: Thank you, Mr. President, members. We're discussing the committee amendments which Senator Chambers has divided, and this component harmonizes the penalties between what's considered the most significant drugs, heroin, cocaine, and methamphetamine, and it also limits the amount that an individual...the amount of pseudoephedrine-based drugs that a person can purchase in a 24-hour period to 1,440 milligrams. That's the division that we're working on now, Mr. President. Thank you.

SENATOR CUDABACK: Mr. Clerk, for a first motion.

CLERK: Mr. President, Senator Beutler would move to amend this component of the committee amendments with FA...well, it was actually AM1316. (Legislative Journal page 1302.)

SENATOR CUDABACK: Senator Beutler, you're recognized to open on AM1316 to the first component of divided committee amendments to LB 117.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, as I became aware of this bill, one of the first things I did was to go back and have my staff pull the meth-related statutes and try to figure out what we've done and what we haven't done, as opposed to what we've done or haven't done with other drugs like cocaine and marijuana and heroin. And the fact of the matter is, we've covered most of the bases on methamphetamine, in the sense that we've gone back--and Senator Bourne has done a good job of going back with the committee and being sure that all of those tools that we characteristically use to fight a drug problem are being brought into play, and most of them have already been brought into play with respect to the methamphetamine problem. There was one area that involved possession that I wanted to bring forth, and I told Senator Bourne I'd bring it forth. And I'm bringing it forth to test the validity of this kind of provision, because I think,

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

April 27, 2005 LB 117

perhaps, it makes sense. We already have a statute that prohibits the possession of methamphetamine itself, and I think ephedrine, too, if I'm remembering correctly. But what we do not have is a statute that makes illegal the possession of pseudoephedrine, and the variation of that with a longer name, that we've been dealing with. And it seemed to me that it might be a useful tool for law enforcement, should they catch somebody with a car full of this cough syrup or these products that contain the precursors of methamphetamine in the marketing, or in the concoction that they make up. It might be good to use the possession statute, if they have in their possession quantities of those materials that could not logically be used for any other purpose than the illegal purpose. There is a statute--I should make you aware of this--with regard to having certain materials with an attempt to deliver, having methamphetamine with intent to deliver, possession with intent to deliver. So we've covered most of the bases. But we haven't prohibited the possession of these precursors with...in a large amount. So I set out an amount in the statute, which is five times as large as what you can buy in a 24-hour period, and indicated that possession of an amount in excess of that would be a Class IV felony, just as the possession of meth itself is. And it goes on to provide that this law wouldn't apply to bona fide businesses and persons in the pharmaceutical industry--manufacturers, transporters, wholesalers, or retailers, acting in the normal course of business, because of course, those people would have larger quantities of these items. I tried to think of any other situation where somebody might legitimately have a larger quantity, and that's one of the reasons why I'm bringing forth this idea, but I do intend to withdraw it. I need your help. Are there any other situations where a person could legitimately have large quantities of this material, and would it not be fair, even though these products in and of themselves are not prohibited drugs, they are drugs, they are materials that are used to make meth? And outside of the normal products that they're used for, there appears to be no legitimate reason to possess these items with the quantities of pseudoephedrine, for example, that we're talking about in the statute. So that's the idea, to try to make it...try to make the law tougher, but to try to do it in a way that's reasonable, and I'm interested in the ideas on the floor with respect to

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

April 27, 2005 LB 117

whether this can work, and whether there are exceptions or further delineations that we need to put into it to make it work right, and to make it work fairly. But one of the things that I'm most concerned about with this meth bill, the way it's set up right now, is that I don't believe it's enforceable at all. It doesn't have a logbook. If you go out and catch somebody with a bunch of cough syrup, large quantity of cough syrup in their car, you're not going to know whether it was bought within a 24-hour period. Without a logbook, you're not even going to know where it was bought, much less what time. So I don't think it's going to be enforceable, so I think we need to do more with this bill, and we will talk about the logbook later. But for now, I hope I can catch your attention on the idea of possession of these items, and I'm particularly interested in Senator Bourne's reaction, because I know he's worked with this for some time now. But that's the idea. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Beutler, your light was next, as you wished to continue, or...

SENATOR BEUTLER: Not at this time, Senator.

SENATOR CUDABACK: You don't? Thank you. Senator Engel, followed by Senators Chamber and Bourne and Beutler.

SENATOR ENGEL: Mr. President, members of the body, I was unable to get my light up in time yesterday, but I did want to talk a little bit about this particular bill. I think...I have personally...I know people personally who have been addicted to this drug and has actually destroyed their lives, so I know it's just a terrible drug. I'm so happy that you're enhancing the penalty. As far as I'm concerned, anyone who sells this drug, or gets anyone started on this drug, they should be piping light to them someplace. That's what they...they should keep them out of society entirely. But I know you can't do that, but at least you're making it tougher for them when they do go in. The...we've talked about treatment, we talked about incarceration, we talked about everything. But I think the only way...we have to do those things. We have to do those things. But the only way you're going to get rid of this nemesis is through education. You're going to have to start educating

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

April 27, 2005 LB 117

people from the kindergarten on through that...the evils of the addiction to methamphetamine, because these purveyors are going to the younger and younger people, younger children, to get them addicted to this. And as we have to educate the children, we have to educate the teachers, we have to educate the parents of the evils of this. This article that Senator Stuthman passed out yesterday that was in the World Herald, that should be in every classroom in our state, the state of Nebraska. I mean every classroom, so the kids that can't read it, they can see the pictures. The teachers can read it to them. And the other thing, see what can happen to you, just from that one first shot of...or shot or whatever, dose of whatever it is of this product. And from testimony we heard in Appropriations Committee when Senator Flood was in to see us, the person who testified said that one dose of this, you are addicted. And as far as treatment, it takes up to 18 months of intensive treatment in order to get rid of that addiction. So that's how powerful this stuff is. And once you're on it, you'll do anything to get back on...I mean, to keep your supply. And like Senator Flood said, the situation there in Norfolk and the school teacher selling it in Omaha, we read in the paper this morning, this 33-year old mother and a school teacher, selling this product, I think this penalty, as far as I'm concerned, should be piping right to her, too, especially in her position, a position of authority over children. So with that...one other thing I do want to mention. I was at a symposium with some Latin American people, in different countries down there, and this was brought up, as far as importation of the drugs in the United States. And these particular folks are interested in curtailing the use of drugs in their country, plus limiting the...getting rid of the deportation into our country. But what they said, and it's very, very true, as long as there's a demand, there will always be a supply. And that's why I think education is so, so important, in order to curtail this. So with that, I'll turn the rest of my time back to the chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Engel. Further discussion on the Beutler amendment to the first component. Senator Chambers, followed by Senator Bourne.

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

April 27, 2005 LB 117

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'd like to ask Senator Beutler a question.

SENATOR CUDABACK: Senator Beutler, would you yield to a question from Senator Chambers? Senator Beutler.

SENATOR CHAMBERS: Senator Beutler.

SENATOR CUDABACK: Would you yield?

SENATOR BEUTLER: Yes.

SENATOR CHAMBERS: Senator Beutler, did I hear you correctly acknowledge that these substances are not currently illegal to be possessed?

SENATOR BEUTLER: Senator, the...if...I have no understanding that they're currently illegal to be possessed, unless they're picked up under the drug paraphernalia law...

SENATOR CHAMBERS: Okay, well, let's...

SENATOR BEUTLER: ...which I haven't tracked down yet.

SENATOR CHAMBERS: ...get to your point. Your point is that even if they can legally be possessed, if they're possessed in a certain quantity, then that possession in that quantity should be the basis for a different attitude, meaning it should be considered illegal. Is that the approach you're taking?

SENATOR BEUTLER: That's the question I'm asking, Senator; that's right.

SENATOR CHAMBERS: Okay, thank you. And members of the Legislature, my comments are not to in any way disparage what Senator Beutler is aiming at, but I pay attention to things that I think can encroach on the rights of citizens. September 11, 2001, a tragedy occurred in this country, when those airplanes crashed into the Twin Towers, the Pentagon, and one crashed in Pennsylvania someplace. Because of that, panic swept the country and Congress, without even the members reading what they

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

April 27, 2005 LB 117

were voting on, passed the so-called Patriot Act, and it was one of the worst things to ever be enacted into law. When congressmen were told that it allowed the examination of library lists to see which kind of books people were checking out, the congresspersons pretended to be appalled and shocked, stunned, and said such was not their intent. Many things are in that bill which encroach on the rights of citizens, but whenever a panic arises and the politicians decide to ride the crest of that wave and exploit it, the rights of the citizens always will be given short shrift. Somebody has to be there and say, stop. Although there is panic developing about methamphetamine and its manufacture, I'm not going to join the panic. There is a life that people continue to live in this country. The vast, overwhelmingly vast majority of citizens are not involved in illegal conduct of any kind. When a small group of people are going to engage in conduct which society disapproves of, I am not going to sit by and watch everybody else inconvenienced, treated inappropriately, simply because of what that small group is doing, especially when there is nothing illegal on its face, about what the small group is doing. This bill before us does not regulate methamphetamine. When young Senator Flood was on his soapbox yesterday--he's a brand new member--he got carried away. He compared this bill and these products to methamphetamine itself. This bill does not regulate the sale and distribution of methamphetamine, except where you're talking about penalties and so forth. The thrust of this bill is to deal with legal, over-the-counter drugs that have a legitimate purpose, which have been shown to be effective for that purpose.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: So when people begin to blur the line and talk as though what we're discussing in this bill is methamphetamine, I have to stand and say, that's not correct. And I will oppose any efforts to do with this bill what might justifiably be done if you're talking about the drug, methamphetamine, or amphetamines. My time is up, but I'm going to turn my light on, and I'm glad that people are aware that we're going to have hours of debate on this bill. The first thing that has to be done is to keep a sharp line of demarcation between methamphetamine and the substances that we're talking

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

April 27, 2005 LB 117

about, which are legal, over-the-counter drugs. They're not like beer, where there is an age limit and so forth, but I won't try to go into that in these two or three seconds. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Bourne, followed by Senator Beutler on the Beutler amendment.

SENATOR BOURNE: Thank you, Mr. President, members. I'll be brief. I appreciate Senator Beutler's efforts in this amendment. He has indicated that he is going to pull the amendment and we're going to look at this on Select File. I do believe that it kind of controls the other end. But as Senator Chambers mentioned, this is a legal product and my legal counsel was saying to me that he has one child with an allergy of one kind and his wife has one of another, and he says we probably have more of this product in our closet than the law would allow, as proposed in this amendment. So I think there's some merit to this idea. I think, you know, it is hard after a certain point, if you have five or six or eight or ten boxes of pseudoephedrine-based product in your possession, all of a sudden it does seem like it's not necessarily for personal use and that you're going to be doing something else with it. So I think there's some merit to the idea, but I do think...and I appreciate Senator Beutler's willingness to float the idea and then withdraw the amendment, because I think we have to get these numbers right, so as to listen to what Senator Chambers says, in a way, in that this is a legal product and we have to involve ourselves in people's ability to purchase this product in the minimal way possible and yet still control the one essential ingredient of methamphetamine, and that's pseudoephedrine. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. Senator Beutler.

SENATOR BEUTLER: I would pass for now, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Stuthman, followed by Senator Friend.

SENATOR STUTHMAN: Thank you, Mr. President, members of the

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

April 27, 2005 LB 117

body. I've been listening to the debate this morning and listening to Senator Chambers, and I listened to Senator Chambers very closely yesterday. And he had some real good points in his comments. How do we solve this problem? And I would like to kind of maybe engage in a little conversation with Senator Chambers, if he'd be willing this morning.

SENATOR CUDABACK: Senator Chambers, are you available for conversation with Senator Stuthman?

SENATOR CHAMBERS: Yes, Mr. President.

SENATOR STUTHMAN: Senator Chambers, yesterday you mentioned in your conversation that, you know, we need to find something, some way to solve the problem. And the problem is the addictions to methamphetamine. Have you got some kind of an idea what direction should we be going, or how can we accomplish this? And I truly agree. This is what we've got to do. We've got to solve that problem.

SENATOR CHAMBERS: The first thing...and if I had a solution, I would lay it on the table. There has to be a line drawn between dealers, sellers I'm speaking of, and those who are addicts. There are some addicts who will just purchase the drug; others will try to manufacture it; but nevertheless, that line should be drawn. If you're going to make it a crime to possess this drug and distribute it, whether you're an addict or a dealer, and people are sent to prison, there should be some kind of treatment available where you're going to lock these people up. There currently are many drug offenses that put people in prison. There's a requirement in the law that they be given this treatment. The treatment is not there. There are requirements that before a person can be considered for parole, these programs have to be completed. If the program is not available, the person is willing to take it, but because of the unavailability of the program, that individual continues to stay in prison, when he or she is eligible to be paroled, bitterness continues to grow. When you put people out on the street and all you've done is try to punish them and they have an addiction, then I think you're sending people out there to go right back to what they were doing, perhaps with a vengeance.

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

April 27, 2005 LB 117

So society has to look at what this problem is, and some of the underlying factors. Sometimes it's poverty. When you get to these people who are not poor, it's because what people don't want to talk about, methamphetamine is a sexual drug. There's so much emphasis on the necessity of a man "performing." They talk about Cialis, if that's it, and Viagra, that men who might feel somewhat incapable will use methamphetamine because they can perform like a goat, on and on and on. They don't eat, they don't sleep; they just engage in sexual intercourse. But then when the time comes to pay the piper, they cannot perform at all. But they're still addicted to the drug, they have an additional stress point, so you might have a worse state than before. So these are issues that ought to at least be discussed. Some addressing of them should occur, but I don't really believe we will ever completely solve the problem. What I see as a difficulty is that these aspects are not even being discussed when we talk about bills such as this.

SENATOR STUTHMAN: Thank you, Senator Chambers. And I will agree with you that I think, I think we need to try to accomplish something, to the fact that people that are selling it or manufacturing it. You know, the pseudoephedrine, the cold tablets and everything like that, that is a legal drug, and a lot of people utilize them right. But I think there's that extra component of it, when they tried to get the meth, the pseudoephedrine, out of it, and make meth out of it, so that it can be utilized in a different way. That is where...

SENATOR CUDABACK: One minute.

SENATOR STUTHMAN: ...I think we really need to emphasize our discussion on today. How can we solve this problem? Let's get to the root of it. I do not want to see a lot of people going to prisons. We do not want them there. We've got people that should not be there. They need to be an asset to the communities yet. But the thing that I'm really concerned about is, is what is happening when the people get addicted to the meth. We're concerned about death penalty, very much concerned about death penalty, but the way I look at this is, death by meth. I received a call yesterday from an individual, crying on the phone. They said, go after the dealers, my grandson

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

April 27, 2005 LB 117

committed suicide.

SENATOR CUDABACK: Time, Senator Stuthman.

SENATOR STUTHMAN: Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. Mr. Clerk, an announcement, please.

CLERK: Mr. President, Natural Resources will have an executive session in Room 2022 at 9:30. Natural Resources, 9:30, 2022.

SENATOR CUDABACK: Thank you, Mr. Clerk. On with discussion of the Beutler amendment to FA188 to LB 117. Senator Friend.

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, I think the discussion is going in a direction that's appropriate. We...it's been brought up several times that education is an important aspect of what we're trying to deal with here in the state. Of course, it is. And I think the implication is, is that there's not enough of that going on. Well, I think that there probably would be some teachers, administrators, parents around this state that would be, I wouldn't say offended, but taken aback by the idea that this discussion isn't going on in their classrooms, in our schools, and in our homes. So I would say that that is...I would submit that that is happening. Could it happen more? You bet it could, and I think we're driving for that. And I think public policymakers, educators, journalists, folks around the state can promote that, and it can be effective. But what I would say--and I sat on the Judiciary Committee hearings in regard to this bill and other bills related to methamphetamine production and the efforts in that area--and we have a dilemma. And I come from a little bit different angle. The dilemma is this, as far as I'm concerned. The states around us and most of the nation, are moving toward regulation and enforcement, but contrary to the way some of this discussion is going, it's regulation and enforcement of a key ingredient that cooks need in order to produce this devastating drug, pseudoephedrine and ephedrine. Now 98 percent of the citizens or so would be inconvenienced, most of us included, by this type of legislation. But I'd like

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

April 27, 2005 LB 117

to make the point that that's--and I did briefly touch, based on this issue, with Senator Janssen yesterday a little bit about this--that's really what it is, an inconvenience. I know it's going to be a difficult situation, would have been even more difficult with a logbook at 1316...if 98...with AM1316. What I would say is, if 98 percent of the citizens are inconvenienced, part of the reason the logbook was pulled out in Judiciary Committee during the discussions was because we felt that was bit extreme, the logbook. Hard to enforce, as well. So where does that leave us? We've got a bill now, with committee amendments, if they're adopted, that takes a pseudoephedrine product--the key ingredient that all cooks need in order to produce this--Ajax, Windex, whatever they dump into this stuff, those aren't key ingredients. They need the pseudoephedrine. Pseudoephedrine products may be sold by any retailer but stored behind a counter in a locked container. That's an inconvenience. That's difficult. But we've decided we're going to do that, or we think we're going to do it with the committee amendment. Pseudoephedrine may not be sold in packages containing more than 1,440 milligrams of pseudoephedrine base. Pseudoephedrine may only be sold by individuals over 19. That's problematic, as well. I think we know that. But there's a reason for that, too. And it's an inconvenience. Pseudoephedrine may only be purchased by individuals 18 years or older, and identification must be presented at the time of purchase. Bingo! That's it. How many meth cooks do you know that are going to want to walk up to somebody in a store and say, here's my ID, hand it over. By the way, I'm going to need way more than 1,440 milligrams.

SENATOR CUDABACK: One minute.

SENATOR FRIEND: That is an inconvenience, but it makes sense to me, and I think it made sense to the majority of the committee. No person may purchase products containing...excuse me. I think I might have...no...products containing more than 1,440 milligrams of pseudoephedrine base within a 24-hour period. That's key, too. That's an inconvenience for us, but that's key, too. A violation of this requirement is punishable as an infraction. And finally, the retailer, I guess, would be subject to a civil fine, as well. That's an inconvenience, and

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

April 27, 2005 LB 117

that's problematic, but look. Here's where we're at. This is not regulation and attacking the meth cooks. We find any type of product where we're destroying...any type of ingredient, or any type of product where we're destroying people's lives, we're going to try to do something about it as public policymakers.

SENATOR CUDABACK: Time, Senator.

SENATOR FRIEND: That's our nature.

SENATOR CUDABACK: Time, Senator Friend.

SENATOR FRIEND: Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Friend. On with discussion. Senator Dwite Pedersen, following by Senator Chambers.

SENATOR Dw. PEDERSEN: Thank you, Mr. President, members of the Legislature. I will not speak long. I do want the body to know that I'm listening to the debate very closely, and Senator Engel talked about education, and I really believe that's one of the biggest things in the world. And we've got to get down to doing this education about not just no, no, no, but why no? I've had some success with trying to teach what I call the education on addiction period. What is addiction? Addiction is something that, in any case, that gives pleasure to some area of your life, thinking, thought, or actions. And not just why...of no, you can't use it, but why some of this...how this pleasure will end up turning around and being your worst enemy. I can tell you like I told you yesterday, in my years of counseling, that it wasn't too many years ago that we had some meth. And all of the brochures and law enforcement agencies have put them out, and all the groups that are against meth have been fighting it ever since, and the meth use is still going up. All the locking up, all the getting more stringent on the laws and punishments have not cut down meth use. Meth use is going up. I'm not against this bill, but I don't...but I'm not very optimistic that it's going to do a whole lot of changing, in my experience. I haven't got the answers, but I think we together need to start thinking out of the box, and I think treatment is really too

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

April 27, 2005 LB 117

late, but it does work. We need to do something beforehand, and we have to work on education, from the beginning of school, K through 12, and on up, if you need to. Again, my experience has been that the people who cook meth are not into it just for money, and I have met very few of them that were rocket scientists. They use it themselves. Now there are incidents like the teacher yesterday, who was arrested, and it doesn't sound at this point that she's a user. To me, that's a poor testimonial for our state and what we pay teachers, that this woman had to go to some other extreme to be able to make money, and money is also, when you have enough and more than enough, an addiction, and what pleasure that does not bring to us, by what we can buy or what we may have. But the beginning use, I'm sure...your...beginning of her sale was to feed her kids. And she's a school teacher, as Judge Marcuzzo, said yesterday, that she is above some of the others in our society, because she teaches. But we are not able to pay her enough to put her above others. That's the way I read the article.

SENATOR CUDABACK: One minute.

SENATOR DW. PEDERSEN: But the fact of it is, we're talking here about meth, something that is creeping up continuously, more and more, no matter what we do. And I want us to make sure that we're taking a close look that what we're doing will be some help, and not just another "feel-good" thing, and something that's going to cost a whole lot of money, and I'm talking that with lawyers, judges, probation officers, parole officers, jailers, and everything else. Because every time we do this, that price goes up, millions and millions of dollars. We want to spend our dollar wisely and make sure we're doing something that's going to count, and something that really is going to help these people. Thank you.

SENATOR CUDABACK: Thank you, Senator Pedersen. Senator Chambers, followed by Senator Flood.

SENATOR CHAMBERS: Mr. President, members of the Legislature, there are other issues that I'm going to touch on, such as the discriminatory application of the existing laws, and I'm going to talk about the case of a teacher in Omaha, teaching at a

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

April 27, 2005 LB 117

black elementary school, found to be a dealer in methamphetamine. The judge, the same hypocritical judge who signed those DNA orders to justify sweeps in the black community, who signed an order to compel a black man to give a DNA sample, when one of the victims in a one-person lineup cleared him. When the affidavit that the cop presented to the judge said, this individual was cleared by the victim, the judge nevertheless signed the order and made this man go through it. His name is Jeffrey Marcuzzo. This judge had this teacher before him and said, you're a teacher and I hold you to a higher standard than others. But since I know your momma and she works with the diversion program, \$10,000 bond. If somebody is accused of domestic violence, accused of any number of other offenses of a nonviolent nature, \$10,000 is almost unheard of as a bond in Douglas County. But if it's somebody that the judge knows, or knows the parent, then it's that small bond. I'm the one who has argued that the purpose of a bond is to ensure that the person shows up for court appearances. That's not the way they administer that system in Douglas County. They'll put \$500,000 bond on somebody in a New York second. But this woman, the drugs were found. They were in a quantity that shows she was a dealer. She acknowledged she sold the drug for money. Ten thousand dollars bond, and she's given a different handling by the court system. If that had been a black teacher in a white school, found to be a meth dealer, there wouldn't have been a \$10,000 bond. There would have been much harsher words spoken. You're supposed to be a role model. You're dealing with children. How do we know that you're not making this available? Don't you realize methamphetamine causes death? And all the things that have been said on the floor. If you're not...if you're not black, you don't have to hear that. When Senator Flood talked about the killings that resulted during that bank robbery in Norfolk, he mentioned that these guys had been on meth, and that had they not...had meth not been involved, maybe the killings would not have occurred. I was just on the verge, before I was called on, making the point with Senator Flood that obviously the courts don't feel that meth has that much impact on a person's ability to think and control his or her actions, because they sentenced them to death. So maybe meth is considered to have much worse effect on white people and their conduct will be mitigated because they were on meth.

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

April 27, 2005 LB 117

But if you're a nonwhite, meth has no impact on you whatsoever. It's like white people used to say, if you hit a black person in the head, you won't hurt them. Well, they should have talked to me about that before they made that generalization. But these are some of the things I'm going to talk about, and it will show you why I'm not going to be panicked and stampeded, like others will be, into putting all kind of restrictions on people, and you walk away feeling like you've done something. This bill, even if you had the logbook, is a Band-Aid. One newspaper account upped the amount the percentage of methamphetamine that comes into the state, at from 90 to 95 percent. You've not going to touch the availability of meth; you're not going to touch the number of people who use it. This is a "feel-good," politically-motivated bill.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: It will mislead the public into thinking that if it's passed, something is going to be done about meth use, and nothing will be done. Nothing. And as for that logbook, I don't want anybody on this floor to be misled about what that was for. The purpose of that was not to start a database. It was supposed to be an intimidation factor, concluding that somebody who's manufacturing meth won't want to sign it. That's all it was for, not to create a database. That's why you cannot let law enforcement provide the solution to social problems. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Flood, followed by Senators Aguilar, Stuthman, Combs, Friend, and others.

SENATOR FLOOD: Thank you, Mr. President. I was interested, listening to Senator Chambers talk about how a court would deal with somebody that committed first degree murder while under the influence of methamphetamines, and I find it interesting that, as a lawyer, he would also know that there is no defense in law to intoxication. If you're drunk and you're driving a car and you happen to commit motor vehicle homicide, that's still motor vehicle homicide, because it was your choice to take that alcohol, or do those drugs. Nothing changes up in Madison

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

April 27, 2005 LB 117

County with regard to the U S Bank murders, so I have a hard time buying into that argument. As far as the logbook being an intimidation factor, I'd be more comfortable if we had it all online so that the state patrol could go line by line and look at who's buying cold medicine. But Senator Chambers is very opposed to that. And I know the pharmacists have been very open about the fact that if the information had been on database or collected electronically, they wouldn't have a problem looking at that. So I'd be in full support of any efforts Senator Chambers wanted to make, to make that information available electronically to the state patrol, or any other law enforcement agency accredited in the state of Nebraska. Mr. President, I'd like to ask Mr. Bourne, or Senator Bourne, a question or two, if he's available.

SENATOR CUDABACK: Senator Bourne? Is Senator Bourne available?

SENATOR FLOOD: He might have stepped off the floor.

SENATOR CUDABACK: I do not see him, Senator Flood.

SENATOR FLOOD: I see him coming in the door there.

SENATOR CUDABACK: Senator Bourne, would you yield to a question from Senator Flood?

SENATOR BOURNE: Certainly.

SENATOR FLOOD: Senator Bourne, you and I have been talking about what level of restriction we should place, as a state, on the availability of pseudoephedrine products. In your opinion, other states have discussed making pseudoephedrine a Schedule V drug, which in Nebraska would be available only by a prescription. It would seem to me that would be a reasonable step to take, if we were really looking to curb the availability of pseudoephedrine. What would your reaction be to that?

SENATOR BOURNE: I agree, Senator Flood. How I look at legislation, it's incremental, and I think that the compromise, or what came out of the Judiciary Committee makes sense. I think it does something. I absolutely disagree with anybody who

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

April 27, 2005 LB 117

says that it's ineffective or watered down. I think it will go a long ways towards controlling the one essential ingredient of methamphetamine. However, I am not opposed at all to making it more stringent, and certainly Schedule V would do so, and I'm not adverse to doing that at all. If we truly want to solve the problem and make that jump, I would support that.

SENATOR FLOOD: Thank you, Senator Bourne. And I would agree with what he said. If the feeling of the body is that we need to get this off the over-the-counter shelves altogether and not just behind the desk, then maybe Schedule V is a reasonable extension of where this bill should go. This ingredient is absolutely necessary to making meth, and there's no reason, in my opinion, that anybody should oppose restrictions when you look at the effects. And granted, Senator Chambers has been pretty open about the fact that--and I agree--to a large extent, most of this meth is coming from the American southwest or possibly the country of Mexico. Now, that may be the case, but it's arguable that anywhere from 20 to 5 percent, depending on which statistics you look at, say that the meth is being made in Nebraska. And look at the arrests the state patrol and law enforcement agencies have made. I looked at a picture from a meth lab that had a children's toy--I believe it was a teddy bear--sitting next to the anhydrous ammonia. When that child returns to his or her bedroom for the night and cuddles up with a teddy bear that's been exposed to the chemicals that are necessary to make meth, that creates immediate clear and present danger at home, not to mention the fact that these...

SENATOR CUDABACK: One minute.

SENATOR FLOOD: ...folks that make meth anywhere in rural Nebraska or urban Nebraska, their primary mission in life is to make meth, and if they're using it, their primary mission is to take meth for recreational purposes. And family becomes secondary, providing for your family becomes secondary, employment becomes secondary, and before too long, they're an emergency room visitor, trying to put their life back together, if they're not in jail first. So I applaud Senator Bourne's efforts, the Governor's efforts, the Attorney General's efforts at trying to find a reasonable solution to curb the availability

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

April 27, 2005 LB 117

of the ingredients necessary to make meth. And if it means going to Schedule V, as Senator Bourne and I talked about, requiring a prescription to get cold medicine, I think that's a reasonable step. If it means we do a logbook or an electronic version of a logbook, or whatever is necessary, I don't think we can go too far in the protection of the citizens of the state of Nebraska. So I thank you, Mr. President, and return the balance of my time.

SENATOR CUDABACK: Thank you, Senator Flood. Senator Aguilar on the Beutler amendment.

SENATOR AGUILAR: Thank you, Mr. President, members. I want to totally agree with one of the things Senator Chambers said, and that is the need to expand treatment in Nebraska, and also the educational piece that Senator Engel talked about. Right now we're doing that, we're doing that. And do we need to expand on it? Absolutely yes. It's totally necessary. Right now we have drug courts in Nebraska, and we're working to expand them all over the state. That is a treatment program. It doesn't lock people up. Doesn't...we don't feel it does any good to lock people up. I couldn't agree more with Senator Chambers on that point. We have to get these people treatment, and we as a body need to find ways to do that more effectively, and all throughout the state of Nebraska. One of the other things Senator Chambers talked about that I found interesting, when he was talking about sexual performance while you're on methamphetamine, most of the studies that I've looked at actually says it causes impotence. So it's a little different take on it. And the other thing that's importance is the addiction of this drug. The addiction of this drug causes one to not allow one to experience pleasure the way most people do. The only pleasure that they know is the high, the extreme high from methamphetamine. Nothing else matters. They derive no pleasure from hugging their child, absolutely none. That's critical about this. That's why we need to do something. He also talked about this being a big splash for senators to get their names in the paper. That's not true. Senator, this is not a big splash. This is dipping our toe in the water. This is just the start of what we need to do, and whatever little bit we do will help this problem, help it immensely. We have to

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

April 27, 2005 LB 117

continue to do that. We have to continue to be vigilant in that area, and never cease to be. One of the other things...I'd like to, if I could, ask Senator Chambers a question.

SENATOR CUDABACK: Senator Chambers, are you available for a question?

SENATOR CHAMBERS: Always. Yes, I'll answer.

SENATOR AGUILAR: Senator Chambers, you had a concern about the part of the legislation that puts an age limit on people coming in to buy pseudoephedrine.

SENATOR CHAMBERS: Yes, yes.

SENATOR AGUILAR: With that in hand, can I...I want to ask you a question. I want to know if you're familiar with the term "smurfing," when it comes to pseudoephedrine?

SENATOR CHAMBERS: Well, let me say that I don't, so you can explain it to everybody. Okay, let me open the way for you. Smurfs are those little fluffy creatures, and you might need to...okay, you can take it from there.

SENATOR AGUILAR: Okay, that's exactly right. What it is in terms of pseudoephedrine, what drug manufacturers do is they'll go out and round up a bunch of grade school kids, give them some money and say, go to all these pharmacies and buy us some pseudoephedrine. That's what smurfing is. And that's why it's important that we have that piece within the legislation. It's very necessary. Another thing that's happening right now...and why do we need it behind the counters? I just had a reporter tell me yesterday, one of the news media people here, that they had a friend, went in to buy some Sudafed in the drugstore. Got to the checkout counter, and the package, two packages, were empty. Somebody had come in and stole the ingredients out of that already. That's what's happening out there, and that's how bad it is. I think I have a little bit of time left. I'd like to give that to Senator Friend, if I could. Thank you.

SENATOR CUDABACK: Senator Friend, about 1, 35.

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

April 27, 2005 LB 117

SENATOR FRIEND: One thirty-five, Mr. President?

SENATOR CUDABACK: Yes, sir.

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. Thank you, Senator Aguilar. I disagree with Senator Chambers' assessment of the situation. He's been here for over 30 years. I mean, he's seen "feel-good" bills come down the pike more than any of us. If I got a whiff in Judiciary Committee that this was a "feel-good" bill, I would have been there to help kill it, or I wouldn't have voted it out. And I'm saying that I'm any different, or any better than anybody else in that committee. But after three years, I can kind of get a whiff of some of those "feel-good" bills, too. I've seen them out here on the floor. My committee has probably kicked a few out. I apologize for that. But what I'm telling you is, I don't believe this is a "feel-good" bill. People, kids, teachers, parents, but especially legislators, we're reactionary by nature. Human beings are reactionary. It's how you deal with your reactions that's important. Everybody has those reactions. Controlled, deliberate maneuvering, after you have that type of reactionary feeling, is the key. I believe this legislation is controlled, it's deliberate. We're dealing with specific...

SENATOR CUDABACK: Time, Senator.

SENATOR FRIEND: Thank you.

SENATOR CUDABACK: You're welcome. (Visitors introduced.) On with discussion on the Beutler amendment, the first component, divided committee amendment. Senator Stuthman.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I will totally agree with Senator Aguilar and Senator Dwite Pedersen's discussion about treatment. We have to be, you know...really work on the treatment. But let's look a little bit further. We need to prevent it, so we don't have to treat the people. We can't continue to treat and treat and treat, if we're not going to work on the prevention. The only way we're

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

April 27, 2005 LB 117

going to prevent this is through education and by getting rid of the source of the problem. And the source of the problem is the pseudoephedrine that is needed to make meth. So how can we accomplish that? This product is very beneficial to people, if it's utilized right, for cold tablets, hay fever, things like that. I was really, really disappointed when I picked up the World Herald this morning and the Omaha teacher, a teacher, trying to educate kids. Now if she had just some cold tablets for the kids when they needed something, because they had a bad cold or a cough, or had allergies, the teacher could have, maybe, given some satisfaction to benefit them. But when we have an individual going as far as having the meth, and selling it to make extra money, and that individual is educating a lot of our youth, that is very disappointing to me. So you know, as I stated in my early conversation, you know, death by meth. Two other individuals, that Janelle Hornickel (phonetic) and Michael Wamsley (phonetic), where did they end up because they had meth? Yes, there was a weather condition that enhanced the event to happen, but can you imagine driving down the interstate when somebody is on this, and there are probably a lot of them on that, running head on into someone and killing innocent individuals, because they were getting high, or were high? I don't want to see these young people, you know, having to give their life just to feel good. I don't want to see these young people having to go to prison, just to feel good. I want these young people to be responsible. How do they become responsible? Through education, through awareness. How do they get that? Through their schools, through their teachers, and most of all, through their parents. But if the parent is also on meth, I feel sorry for the children. It's a real problem. We've got to concentrate on getting rid of the source, and prevention. We don't have room to pen everyone up. I want them people in the community. I don't want them to be getting addicted to it. I hate to see the events happen when there's just a pill given to a kid, and said, here, try this. You won't be so depressed. Just because your girlfriend left you, here, this will get you over it. Yeah, it got you over it all right. It got you hooked.

SENATOR CUDABACK: One minute.

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

April 27, 2005 LB 117

SENATOR STUTHMAN: And they continue to use it, just so that they can feel good. So I think we got to...we got to be very conscious as to what we want to accomplish with this. I think this bill is good, but it's only a small step. We got to concentrate more on prevention and concentrate on getting rid of the source of this deadly drug. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. Senator Combs, followed by Senator Friend.

SENATOR COMBS: Thank you, Mr. President, members of the body. I had signed onto this bill yesterday, because I do agree that meth is a real problem. I did go to see the state patrol make meth, and it was amazing to me how little it took--virtually a handful of meth tablets--and Senator Stuthman and Senator Aguilar were there with me to see and Margaret, too, that they took that and put them in a blender and came up with the powder. And the guy that did it was...had worked undercover busting meth labs. And it took just a little over an hour to make a gram of meth out of this handful of pills, and they said that was about \$600 in street value. So it is very easily made with small quantities. But I do agree that we have statistics and data right here, showing us that limiting the availability of it does limit the number of meth labs, but the negative that has happened, when other states around us have done this same thing is that now, the meth labs, they have fewer, but guess what? They've crossed the border and come into Nebraska. I do appreciate what Senator Chambers has been saying, because I myself am very concerned about mothers who are under the age of 18 that might not be able to purchase medicine for their children. Additionally, if you have a mother who's home that maybe just has a single mom with two children and she's got to stay home and take care of the sick baby, and she might have to send that 13- or 14-year-old brother or sister down to the drugstore to get some cold medicine for the baby. So I see that as a real problem. I'm not sure what the answer is, other than what I already got told that I couldn't do, was the liquids to be excluded, because the liquids are specific pediatric formulations, the liquids and the gels, that could be left out. My original understanding, from the state patrol training that I received down at the lab, was that they were not as

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

April 27, 2005 LB 117

easily converted, and other states did not prohibit them. But then I understood from Senator Bourne that, indeed, that's not true and that if I tried to bring that amendment, it would be fought. So I'm not going to bring that amendment, but I would be interested in finding more out about the use of liquid in meth labs that have been busted by the state patrol, how many liquid gels and liquids are they finding. You know, that would be of interest to me, if I could get that data. A side note, I tell a personal story. I shop at the Dollar Store quite a bit, and I shop...was shopping down here at the one on O Street, and this is about, oh, maybe six weeks ago I was in there. I was buying some cleaners and stuff, and I was checking out and this hopped-up guy--and I know he was hopped-up, I've seen him--he comes up to the clerk, interrupts our transaction and says, do you sell HEET? And the clerk was like, what? And, I need some HEET. And he said, I need five or six bottles of HEET, you know, like what you start your engines with. And she says, no, we don't have that. And I suggested to him, I said, well, I think you can just go right down the road here to Wal-Mart and pick you some up. And he said, I don't have a car. And then, you know why that scared me? I live right here in this neighborhood all week long, and that tells me that that guy lives in this neighborhood and he's got a meth lab, right here around the Capitol. I saw him; he was a hop head. I know it. So, you know, he went on down the street. I don't know where else he went, to find his HEET, but you know, we got this thing...all these common, household chemicals that are meth-alert items that, you know, you see people buying this stuff. You know what they're doing with it. Coleman fuel...

SENATOR CUDABACK: One minute.

SENATOR COMBS: ...lithium batteries, pseudoephedrine cold remedies, drain cleaners, and muriatic acid, deicer, starting fluid, HEET, and Coleman camping fuel. I think that the Dollar Store story just kind of exemplifies for me, hey, I got it around here and if they cannot get it, it might help deter some of the lab people that are around. And if that happens to just one lab, perhaps this "feel-good" bill is worth it, you know? It's like when preachers preach and preach the Holy Bible to the crowd, if one person gets saved in a week's revival, it's been

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

April 27, 2005 LB 117

worth it. So perhaps if one person gets saved with our "feel-good" legislation from a meth lab, or from the dangers of meth, or a child gets shielded from meth, then to me it's worth it. So call it feel good if you like. I think that it might help, and I...

SENATOR CUDABACK: Time, Senator Combs.

SENATOR COMBS: ...certainly don't want it in my neighborhood. Thanks.

SENATOR CUDABACK: Thank you, Senator Combs. Senator Friend, followed by Senator Beutler.

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. I enjoy when I get up here, being sometimes real vague, and letting everybody go, ooh, where does Friend come down on that? I don't know how many times--and maybe that's just my nature--I've had people come up and say, what do you think about that amend...I just heard you talk for 10 minutes. I don't know what you think about that amendment. That's enjoyable to me. Not here. AM1316 is a great idea. The problem is, AM1316 is problematic, because I think it defies a little bit of that sense of balance. Ninety-eight percent of the people inconvenienced, doing things by the book, doing things right, purchasing products with pseudoephedrine in them, because...for legitimate purposes, because they need it. Inconveniencing those people by doing the things that we've laid out, or that I laid out earlier, I don't think that's "feel-good." I think it will...I think we can...we will see some results. If we don't--I just talked to Senator Flood off the record--if we don't, as a legislative, and as I mentioned before, reactive body, we'll probably come back next year or two years from now or whenever, and tweak or enhance or twist the screwdriver, however we need to do it. But the fact of the matter is, I don't believe, in my mind it's a fact, I don't believe this is a "feel-good" bill. I would say, with all due respect to...and Senator Beutler spoke and that he's not exactly sure how he wants to finish up with this amendment, that this amendment could be problematic. The underlying bill I am totally in favor of. I would...Mr. President, I would yield the

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

April 27, 2005 LB 117

rest of my time to Senator Janssen, if he would so wish.

SENATOR CUDABACK: Thank you, Senator Friend. Senator Janssen.

SENATOR JANSSEN: Thank you, Senator Cudaback. Thank you, Senator Friend. There is no doubt that this piece of legislation is going to be a hardship on most retailers, but you know what? We learn to live with those, just like we have with tobacco. Tobacco now is locked up behind the counter, and I was at my store this morning and checked out that section, and looked at the products that we've been talking about that were on...we keep them on a drug rack now. And I was surprised to see how many products there were that contain this ephedrine or whatever it is. It's a very good cold remedy medicine, I mean, and it's something that we do sell a lot of. But we also lose a lot of it. You know, you check around most retail stores and there is a problem with that, and these things are expensive. I know I stopped a lady one day--it's been several years ago--well, she had two cartons of cigarettes in her purse and a bunch of Sudafed. She said she had some sick children. Well, the cigarettes certainly weren't going to help those sick children, but the Sudafed was. And so I think you're going to see more of this, if we don't lock them up. That's a good idea, and I was glad to see the logbook won't have to be laying behind the counter, collecting dust, which it would. And another thing we have to...we talk about the grocery industry that are selling it. But in my area, we have a large anhydrous ammonia plant. Now can you believe this? There were some young people, should have known better, stopped and drained some anhydrous ammonia into a five-gallon bucket, without a lid on it. Now you know what anhydrous ammonia will do to you.

SENATOR CUDABACK: One minute.

SENATOR JANSSEN: It will just burn the heck out of you. But they took off down the road, got in some loose gravel and ran in the ditch. And this whole five-gallon bucket of anhydrous ammonia got all over these kids. And it did; it burned them quite severely. Now I'm not saying that young people are the only ones that are doing these kinds of things. Adults who should know better also do those kind of things, too. So you

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

April 27, 2005 LB 117

see, people will go to just about any extreme to get ahold of these products. Locking them up behind the counter is great. It will work. We have our cigarettes locked up right now. We'll put those...we probably, in a small store like we have...we probably won't have enough room to handle all the products that we do now on an open counter. But we'll make that work. We can make that work. And I also have a little problem with...

SENATOR CUDABACK: Time, Senator Janssen.

SENATOR JANSSEN: ...having to be 19 years old to...thank you.

SENATOR CUDABACK: Thank you, Senator Janssen. On with discussion. Senator Beutler, followed by Senator Dwite Pedersen.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature. This has been a good discussion. It's been ranging far beyond...and this is not bad. It's been ranging far beyond the particular amendment that's in front of you, and the concept that's in front of you. But let me just tell you some of the things I've learned in the process of approaching this whole subject. And some of these things I knew before today, and some of them, I didn't. But they are really along the lines of possession. There are really a number of ideas going around, all of which have the potential for making this tougher and better. And the more I see these things, the more I truly believe we can put something together that is a little tougher. But let me give you a flavor for what's happening. I mean, first of all you have the current law, and the current law prohibits possession of these particular materials we've been discussing, if there is an intent to manufacture. Okay? But they have to prove an intent to manufacture, and that's the difficult part of that law. Whereas if you had a plain possession law, they wouldn't have to prove intent to manufacture. The nice thing about the intent to manufacture law, though, is if you can prove intent to manufacture, it doesn't matter what quantity of these materials that you have. So that's sitting out there as our current law. And then there's the proposal I'm making to you, that, forget about the

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

April 27, 2005 LB 117, 481

intent to manufacture, just make clear possession the problem, but put the amount of possession up at a higher level, so that you're excluding people who would be normally using it as a cold syrup, that sort of thing. What that level is, I'm not quite sure what's right, and that's part of what I wanted to hear about today, from people who have been involved in that. So that's the second approach. And then I discover, as I often discover, that Senator Aguilar is right on the tail of this particular subject himself, and I wasn't aware of a bill he has, that's LB 481, that the Judiciary Committee hasn't acted upon yet, but had not rejected. And his approach was this. He took that same current statute, which says that you can't possess these things with an intent to manufacture, and then he puts in language that goes along this line: Possession of a drug product containing more than a certain amount shall be prima facie evidence of the intent to manufacture. So you see, we're playing with ideas of amounts in possession, and what that means in terms of effectuating and prosecuting. So he's approaching it from a slightly different angle, and I think one that should be seriously considered here, as we move on to Select File. It's also interesting to note that Senator Aguilar felt the need for a logbook, and I...we'll talk more about logbooks later, when that amendment comes up. But the wisdom of a logbook is recognized in LB 481. And then the other existing law, which frankly I had forgotten about, which is also another approach that could be taken to this possession thing--some of you that have been around for awhile remember when we had...when we put into law the drug paraphernalia law. Now Senator Heidemann reminded me of that and made the connection between that and what we're doing today. And there is a connection. Listen to this broad definition under the drug paraphernalia law. Drug paraphernalia shall mean any equipment, products, and materials--materials, a drug input or a precursor of any kind...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...which are used or intended for use, or designed for use in manufacturing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance. So the whole matter can be approached from this angle, too. The current problem with this angle, one

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

April 27, 2005 LB 117

of the big problems, I'm sure, from the point of view of the prosecutor, is that these are infractions and misdemeanors, and not Class IV felonies, which is the case with the current law that requires intent to manufacture. So the penalty is small, probably offsetting the broadness of the definition in the...I'm guessing, with respect to the debate that we had on that bill originally. So I just wanted to point out those different approaches to you, and...

SENATOR CUDABACK: Time, Senator Beutler.

SENATOR BEUTLER: ...indicate to you that I think you should insist on something more here, because with a little thought, something more can be done, just in this one area.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Dwite Pedersen.

SENATOR Dw. PEDERSEN: Thank you, Mr. President, members of the Legislature. Actually, when I turned my light on, my thought was, and I think I'll stick to that, that I wanted to stand up and give Senator Chambers some credibility, which I don't very often do. But I wanted to give some of my experiences in the counseling field, the years that I've been there, you people, so you have some understanding. When Senator Chambers talks about what happens in his neighborhood, my ears perk up, because I have seen what he said happened, over and over again. You can see it yourself, people, if you go out to the prisons, and visit the jails. We have more minorities per capita, locked up, than we do white people. If you sit in a courtroom long enough, you will see it happen over and over again. And I don't think that's saying that we're racist, but it is saying that we are still putting down people who don't seem to be in our own class, our own neighborhoods. And one of the ways that I can prove that to you is, this meth problem is not new. All of you know that, and I've already told you that. But it's only come a real concern when we see people of stature, whether it be financial or political, have loved ones who end up in the addiction, and on the death rolls from this terrible chemical. We need to remember all people, and not just when it hits home. And I think the people in here do know that, but I want to bring it up

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

April 27, 2005 LB 117

and put it on the record that we make sure that we don't forget it at any one time. When you go in the courtroom and the attorney tells you to put on a sport coat and a tie, he tells you that because automatically the mind says, this person is going to be all right, just by the way they're dressed. And you bring a person right behind them that has long hair that has not been washed, and dirty jeans and a t-shirt and slept under the bridge overnight, with exactly the same rap sheet, conviction history, and you'll see that the person, in the same color, the person in the dirty clothes is going to get more than the other. Things are working better than that, and I think our judges in this state, I'm very, very pleased with, have attacked that and our Supreme Court has done a dynamic job in working on this. But we must not forget for a minute that it has to continue. These are our brothers and sisters, too. Thank you.

SENATOR CUDABACK: Thank you, Senator Pedersen. Senator Janssen, followed by Senator Chambers.

SENATOR JANSSEN: Thank you, Senator Cudaback. When I...when Senator Friend gave me the time, I ran out of a few things that I wanted to talk about, so I pushed my light back on. I believe that it's unnecessary to have someone, a clerk behind the counter selling these products, they have to be 19. But you can be 18 to procure it. So I had talked to Senator Bourne, and on Select File I will offer an amendment to lower that to 18. It really isn't going to help that much in small communities or larger communities, the way it is, too, that a lot of young people are under 18 years old, to find a job. And about the only place that they can find a job would be in a grocery store or a variety store, or something like that, that these products are sold. So I believe that I will offer this amendment on Select File, to lower that to 18. You know, and it bothers me that the more we talk about these things, and I know it's important and we need to discuss them, but it does raise a lot of curiosity in young people, when we start this, this type of legislation and we have these conversations on the floor. It raises...young people have...their attention is quite unique, and they, ooh, you know, what are they talking about? Are they talking about Luden's cough drops, are they talking about...I said that, because Senator Hudkins has a package of those laying

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

April 27, 2005 LB 117

on her desk. But Sudafed, NyQuil, these products, you know, they are...they help you feel good. I mean it's not going to cure your cold, but it's too bad that this is a base for some of the worst stuff that young people can take, not only young people. Now I'm sure that there are adults running around the streets that are going to try some of this methamphetamines or whatever they call them, to get high on. You know, I think there are a lot of things you can...young people can get high on right now. Athletics is one of them. I mean, you can go play volleyball, football, basketball, and I think you'll see young people aren't all druggies. I mean, they like to get high on playing volleyball, playing basketball, baseball, football, but there's always those few that, maybe they have just a little weakness, want to try something new, and once you get hooked on these products, you're done for. You've got a long road to hoe to get over that addiction. Well, thank you for listening to me, and I'll give the rest of my time to Senator Chambers, if he would like to have it.

SENATOR CUDABACK: Senator Chambers, about 1, 30.

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Janssen. In order that people will understand what I was getting at earlier, when I say this is a "feel-good" bill, I'm trying to get us to be realistic and look at the nature of the problem. I did not say this would not do anything. But if 90 percent of the meth currently available in this state is coming from another source, you will give the public the false impression that this bill is the cure-all. You're dealing with 10 percent of the substance that's supposedly is so devastating. So you tell people, we've got 100 people using methamphetamine. At most, if this bill is passed, there will be 90 of them continuing to use it, and the other 10 are going to find a way to get it. If these people who are cooking methamphetamine are so desperate, they'll break into grocery stores and any place where they think this stuff is. It's foolish and unwise to create the impression that this bill, even if you had the logbook, is going to make a dent in the availability of methamphetamine. It is not. And I defy anybody to stand on the floor and successfully challenge that. Even law enforcement people acknowledge it, so why do they want this? They say if

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

April 27, 2005 LB 117

they can stop running after these meth labs, they can give more time to stopping the drug from coming in. Well, these other drugs that they're supposed to be stopping are not being manufactured in this state. They haven't stopped them. They are a political body, and if they can create enough panic, they can cause local law enforcement agencies, those who fund them, to say, give us more cops on the street.

SENATOR CUDABACK: It's now your time, Senator.

SENATOR CHAMBERS: State patrol, give us more patrol. Yes?

SENATOR CUDABACK: It's now your time, Senator.

SENATOR CHAMBERS: Oh, thank you, Mr. President. Give us more state troopers. They're not going to stop meth. They're not going to stop it from being used, no matter what you do. So at least put this bill in perspective, that the Legislature feels a sense of desperation, futility, and impotence. There is, practically speaking, nothing the Legislature can do to address this problem in any meaningful way, if meaningfully addressing it means you reduce significantly the availability of methamphetamine. The Legislature can no more meaningfully address this problem than it can address farm subsidies that are controlled by the federal government. Everybody can moan and whine and talk about how unfair they are--even I have done it. But there is nothing a state legislature can do about that problem, even though the problem exists within this state. We need to settle down, step back, take a deep breath, and look at what it is we're doing, and if you accomplish everything this bill is talking about, will you have made a dent in the use of methamphetamine in this state? No! Acknowledge it. Don't pretend. That's what I mean when I say it's feel good. The logbook was not intended to create a database. It was not. The cops admit it. That's not what it's for. It's to be an intimidating factor. People who cook meth supposedly are so paranoid that if they had to sign their name to anything, they won't come to that store. That what's the psychological gimmickry was that attached to the logbook. There was no requirement that cops have any reason to go look at these logbooks, but they could just go and ransack them. They can

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

April 27, 2005 LB 117

take the names of everybody and whatever other information is there and take it. They don't have to suspect that anybody whose name is there has done anything wrong. All they did was purchase a cold remedy, or a cold treatment product. That's all. You all are too quick to go for what law enforcement says without even analyzing what they're telling you to do, and seeing whether or not it directs itself to the problem to be solved. And if so, does it go any distance in solving that problem? None of this stuff does. What this will do is put a crimp on the ordinary people who are not violating the law, who don't intend to violate the law. That's what you're doing. So I don't care if everybody on this floor stands up and says that I'm Looney Tunes. Fine. I'm still going to resist these things that I think are unwise, impractical, and that are not going to solve the problem. I'm the only one who will say that, and that's why I will be the only one who will say, I told you so. You all know the same thing I know, but you can't bring yourself to admit it because you want to feel like you're doing something. That's what I mean by feel good. When I talked about the case--shifting gears now--in Norfolk and the killings that occurred during that bank robbery, Senator Flood misunderstood me. I did not say that being on meth would go to the issue of guilt or innocence. It goes to the level of culpability, which is what you look at when you determine imposition of the death penalty. We're talking about mitigating and aggravating factors. They have nothing to do with the determination of guilt. That has been done already. So I did not suggest that if a person is under the influence of alcohol, that can be used as a defense against a crime that was committed. I didn't say that. Senator Flood made a presumption or an assumption not based on what I said.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: I talked about the death penalty, and I was pointing out that it's ironic, with all of the talk here about how meth, in effect, makes people go crazy and they do all kind of things they wouldn't otherwise do, when it comes to imposing the death penalty, all of a sudden that falls out of the equation. It does not make you crazy, after all. You're possessed of your faculties. You can plan, you can understand.

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

April 27, 2005 LB 117

Well, if those who committed the bank robbery can do all that, then you all have been misleading and deceiving us about the impact of meth, and how it overturns a person's ability to use rational thought and make rational judgments. I'm showing once again the double standard. When a political move is to be made, there will be overstatement and exaggeration. When time comes to apply it in another area, then those kind of statements are not going to be used, because you want to put somebody in the electric chair. That's what I'm talking about, and I'll keep...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...talking those things and drawing the comparisons and the contrasts. Was that my third time, Mr. President?

SENATOR CUDABACK: It was, Senator Chambers.

SENATOR CHAMBERS: Thank you.

SENATOR CUDABACK: Thank you. Senator Howard, followed by Senator Flood.

SENATOR HOWARD: Thank you, Mr. President and members of the body. As with any of society's problems, this one has many layers. The problems that I dealt with over the years of working in social work were with families and the devastation that chemical usage cast upon the children that came into our care. Originally, this started with alcohol abuse, moved into crack cocaine, cocaine. And now methamphetamines are a scourge that's placing an increasing number of young persons, children, and infants into the care of the state. This is a time to look at this. This is a time to take some action. I think Senator Bourne's bill has many merit qualities to it, and I appreciate that he's brought this in. In talking to my pharmacist over the weekend, she endorsed the idea of keeping a logbook, so that people had some responsibility in the purchases that they made. She also informed me that there are some cold-allergy medications that don't contain the ingredients that are necessary in meth production. As a matter of fact, Sudafed, which is a major brand name in cold treatment, has no longer

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

April 27, 2005 LB 117

included this ingredient in their product. And it occurred to me that if this well-known cold medication is able to eliminate that, others should be as well. So I endorse Senator Bourne's bill, and I'd like to offer the remainder of my time to him. And he is not interested. (Laugh) Thank you, Senator Bourne.

SENATOR CUDABACK: Thank you, Senator Howard. Senator Flood.

SENATOR FLOOD: Thank you, Mr. President. You know, it's my concern, if we don't do something...and I know that Senator Chambers has been very up-front about what he thinks this will do, and that's very little, to curb the meth problem in Nebraska. The Midwest environment that we're in, when Oklahoma has made some very serious decisions, you know, the state of Iowa is getting very aggressive with curbing the sale of pseudoephedrine, pretty soon states around us will make decisions on the restriction of the sale of pseudoephedrine. And I don't want somebody driving into Nebraska to see a sign that says, welcome to Nebraska, the meth state. This is where you come to get your pseudoephedrine. Stop by our convenience stores. Stop by our grocery stores. Get as much of it as you want. We don't want to restrict the sale of it. And then we have more meth labs than we have today. Then we've become the central location for meth labs. And meth labs are as prominent in Nebraska as a Quonset is on 40 acres outside of one of our bigger cities, like Grand Island, or Kearney, or North Platte, or Norfolk, or, it doesn't matter. We don't want to be the dumping ground for meth labs. That's why I say we do something. We could use another 100 troopers. We could use another 50 troopers. We could go out there and have a K9 unit in every patrol car, to help us get the probable cause to search a vehicle. I'd support that if we had the money and if it was reasonable to curb the meth situation in Nebraska. The fact is, I think today, by having those discussions about law enforcement, we're getting at a very specific problem. And Senator Chambers and I have had a very cordial conversation about logic here. And he and I discussed this. If pseudoephedrine is the main ingredient to make meth, and meth is a drug that is killing Nebraskans, my question is, why shouldn't we restrict the sale of pseudoephedrine, like we do for alcohol, tobacco, and other products? And I guess if Senator Chambers is

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

April 27, 2005 LB 117

willing, I'd like to ask him that question, have a dialogue on that very issue, because I think we both have a position that we both believe is logical.

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: First of all, Senator Flood, I'm delighted to have an exchange with somebody as thoughtful as yourself. And that's not being...that's not cheesing up. First of all, tobacco and alcohol have already been restricted in their availability by the law. You have to be a certain age. With Sudafed and these other products, there is no such restriction. There is nothing harmful about them whatsoever. The same cannot be said about alcohol and tobacco. So I do not want to see these legal products restricted. But if the pseudoephedrine, any other product, by whatever name, part of it, is as harmful as people are saying and is resulting in death, ban it. Ban it completely from this state, so that nobody can legally have it, these manufacturers cannot send products into this state that have it. That's what I would say, if what I'm hearing is really true.

SENATOR FLOOD: What would you think of making it a Schedule V drug, so that people that have the cold symptoms can get relief after they see a provider that's verified the fact that they are eligible for a cold remedy?

SENATOR CHAMBERS: What we would be doing is jacking up the price, making it unavailable to the poor people, and increasing the income of pharmacies and doctors, which should not be even a side aspect to what is being attempted here. Putting it on the schedule is not the thing that ought to be done. Ban it, so it's not available to anybody.

SENATOR FLOOD: Okay. What if you're an indigent family from Bennington who has a cold, and it costs 15 bucks to get in the car, drive to Council Bluffs, drive back, to get cold medicine in Iowa, because you can't get even a prescription for it...

SENATOR CUDABACK: One minute.

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

April 27, 2005 LB 117

SENATOR FLOOD: ...in Nebraska? Aren't you putting the same cost on the working poor by banning it that I would be by putting it as a Schedule V drug?

SENATOR CHAMBERS: If this product is as devastating as people say, we would simply have to say, the products that contain it are not available in Nebraska; you'll have to find a substitute.

SENATOR FLOOD: Is alcohol devastating?

SENATOR CHAMBERS: I have said that I would ban it. But I haven't attempted to, because that's not the approach that I'm taking. And I do not say ban this. I'm saying, if what I'm hearing is true, this product is more...the end result, not the Sudafed itself, but what it would be used for...is more devastating than alcohol and tobacco. So ban it. If it was no more harmful than those two, we wouldn't be having this discussion, I'm sure.

SENATOR FLOOD: So you don't...oh, is that the end? You don't support the restrictions on the cold medicine, but you do support the restrictions on alcohol and tobacco? See, I don't draw a line between the two. You have, because I...

SENATOR CUDABACK: Time, Senator Flood.

SENATOR FLOOD: Okay. Thank you, Mr. President.

SENATOR CUDABACK: On with discussion, Senator Price, followed by Senator Beutler.

SENATOR PRICE: Mr. President, members of the body. (Cough) Excuse me. (Laugh) I was just offered some Sudafed by Senator Chambers. This interim, I probably was contacted by maybe seven persons, suggesting that we introduce legislation to address, after a long length of time of needing it, the meth problem. And so I was preparing a bill, found out Senator Bourne was preparing a bill, found out the Governor was preparing a bill. And with the help of the state troopers, this is the bill. It is a good bill. I'm supporting it. I had a phone call one evening at my home. It was from a young man. And he was

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

April 27, 2005 LB 117

stating he believes in health of persons. But he said, how far are you going to go if you agree to put materials behind the counter? Are you going to put sharps, razor blades? Are you going to put rubbing alcohol? Are you going to put aspirin, which can be taken in overdoses, you know, to injure people's health? How far are you going to go? When will this stop? It's my son, who's a Wallgreens manager in Detroit. And he just...he's very supportive of the movement against meth. But he said, when does this stop? When a person sees people in protective clothing going in and cleaning up a meth lab site, here they're in protective gear, but yet people choose, make this choice to ingest something that is so hazardous to their health. Then there are houses. What is the condition after the meth lab? I was reading some statistics here. Some states, local law enforcement officials estimate that one lab can cost between \$3,000 to \$10,000, with as few costing as many as \$150,000 for cleanup. As it stands now, the hazardous waste cleanup costs are being entirely absorbed by taxpayers. It's extremely unfair. Some cleanup costs for a two-bedroom home is around \$6,500, plus additional fees to prove the property is clean. Some owners decide to forego this price tag, however, by either demolishing the property, or abandoning it. I remember back when this first started, you know, there were anhydrous tanks that people would tap and get the ammonia out of there to cook. And I always thought, as a farmer's daughter, you know, how dangerous this was. And then the people began locking the tanks. (Cough) Excuse me. I may have to take Senator Chambers up on his offer. Then many materials are dumped out into areas and dumped into rivers, streams, or just abandoned. And of course, that is a cost there also. Statistics about meth: Methamphetamine kills...

SENATOR CUDABACK: One minute.

SENATOR PRICE: ...by causing heart failure, brain damage, and stroke. It causes more damage to the brain than alcohol, heroin, or cocaine. Women are more likely to use meth than cocaine. Meth users are the hardest to treat of all drug users. The average meth cook annually teaches ten other people how to make meth. It's a pyramid scheme. Every pound of meth produced leaves...every pound of meth leaves behind five pounds of toxic

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

April 27, 2005 LB 117

waste that is routinely dumped into streams, fields, and sewage systems. Methamphetamine-induced paranoia has led to numerous murders and suicides. I believe we as state leaders need to take a stand. It's an expectation that our constituents believe that we should do. It's time to address it. We identify, we shut down,...

SENATOR CUDABACK: Time, Senator.

SENATOR PRICE: ...but this is the time. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Price. Senator Beutler, followed by Senator Stuhr.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, Senator Chambers and I start from a similar but not quite the same starting point, in the sense that we feel that this bill in its current form does very little. He would argue that it even misleads the public into thinking that we're doing something. In any event, I think where I differ from Senator Chambers...and maybe I don't differ from Senator Chambers. Maybe Senator Chambers has always been listening...willing to listen to reasonable solutions. But I think what he's saying and what we're searching for here, hopefully, is a way to make this bill more meaningful, to do more about the meth problem, to the extent that we can, within the bounds of reason, considering all of the interests that we need to balance. And I hope you're all willing to search for ways to do more, because I think they're out there, and I think the Judiciary Committee has in fact already identified some of them, and we just need to get together and build on what they've done. But I would like to ask Senator Flood a couple of questions, if I might. And Senator Bourne, maybe I should be addressing them to you. And I'll switch over and address them to you if it seems more appropriate. But I wanted to start with Senator Flood, since I think he does have at least some prosecutorial background. Is that right, Senator Flood? You did used to prosecute, did you not?

SENATOR CUDABACK: Senator Flood.

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

April 27, 2005 LB 117

SENATOR FLOOD: I'm usually on the other end of the courtroom than the prosecutor, as a defense attorney. But...

SENATOR BEUTLER: Oh, okay.

SENATOR FLOOD: ...I have great respect for what prosecutors do.

SENATOR BEUTLER: Well, either way. Yeah, you know what...you know more about what's happening than most of us do. But what I wanted to ask you is this. At the federal level, I know you're acquainted with the fact that the federal government is considering making pseudoephedrine--and perhaps the other drug also...the other component also, I'm not sure about that--a Schedule V drug which, as I understand it, means that you need to have a prescription in order to obtain it. Is that correct, for openers?

SENATOR FLOOD: Schedule V means something different in different states. But in my opinion...well, in Nebraska, Schedule V would require a prescription from a provider.

SENATOR BEUTLER: So the federal government, you think, can require us to require a prescription on this? They have the power to do that?

SENATOR FLOOD: My suggestion would be that if we look at it legally, the federal government, through the Food and Drug Administration, issues the DEA license to providers. And a provider would be not only regulated by the state of Nebraska here in our state, but also by the federal government's terms and conditions of use, and conditions of use on a DEA license. So I would think the federal government could address the issue. Whether they make it Schedule V or they have a different way to identify that is a separate issue. But I think they could require a prescription from a provider that has a valid DEA license before you get a Sudafed product, or a pseudoephedrine product.

SENATOR BEUTLER: Okay. So with respect to that part of the bill that deals with how you...under what conditions you can buy

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

April 27, 2005 LB 117

these products at point of sale, all of that that's in this bill would become nongermane, or would not be needed, if the federal government required prescription. Is that accurate?

SENATOR FLOOD: Are you talking about the federal preemption of a state law issue that we may have if we pass this and the federal government goes a step higher than us?

SENATOR BEUTLER: Yes.

SENATOR FLOOD: That's a legitimate question. It would appear on its face that it would be a health and safety regulation that the federal government could preempt here with...

SENATOR CUDABACK: One minute.

SENATOR FLOOD: ...tougher federal law. I guess I would be hesitant to comment on whether the preemption would actually occur, because it's a complicated analysis, and I'm not familiar with what the federal government has done on this level before.

SENATOR BEUTLER: Okay. Well, I'm not suggesting that we do nothing because the federal government may do something. You never know what the federal government may do, obviously. And especially in these tight fiscal times, they may be reluctant to get into more...anything more that requires any expenditures on their part. And I don't know if this would require significant additional expenditures on their part to regulate or not. But what I wanted to get to...and I'm not going to be able to do it with the time I have left, so I'll move to it next time. But I want to ask you about what a prescription means. I want to go back one step and be sure I understand when you require a prescription and when you don't, and why you do, and for what purpose, and whether there's a logbook with prescriptions, because I always have to sign...

SENATOR CUDABACK: Time, Senator Beutler.

SENATOR BEUTLER: ...when I get a prescription. Other people tell me they don't. So I want to know the basics of that law a little bit.

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

April 27, 2005 LB 117

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Stuhr, on the Beutler amendment to FA188.

SENATOR STUHR: Thank you, Mr. President and members of the body. I've not yet had a chance to comment on this bill, but I am very supportive, because I think we all know that meth is a very serious problem in, particularly, our rural areas, and actually across the state. I do agree that probably this bill in the current form does not do as much as we would like. I think that we do have to look at some of the stiffer penalties. And I was looking down on the amendment...list of amendments, and I see that Senator Beutler does have an amendment a little bit later requiring the log book. When I read the paper this morning, one thing dawned on me, and...as they were talking about the discussion, is, if you have, let's say, a 24-hour drug store, you'll probably have three different shifts of people working that eight-hour shift. Or...yes, three. And how are they going to know if someone comes in and buys a drug on that first shift and then comes back on that third shift and buys it again? To me, we are not solving this problem. And Senator Beutler, I know that whenever I get a prescription, I always have to sign a card. I think maybe this logbook is a perception in our mind. What would be so difficult, again, just to sign your name and file it, which the druggist could then do? And at least if there is some need to check that file, there would be something there to check. So we sign...we have to sign for prescriptions, at least I do. And I'd be interested to know if everyone...if that is. I'm understanding it is a new requirement, because I know a year, or maybe 18 months ago, that wasn't necessary. So I just wanted to add that comment, is that I think this is an important bill. But I think we need to look at the other side, and where is the accountability? I'm afraid we're just not going to have it. Thank you. And I would give the rest of my time back to Senator Beutler...or, to Senator Beutler.

SENATOR CUDABACK: Senator Beutler.

SENATOR BEUTLER: Senator Stuhr, thank you very much. I don't see Senator Flood. Senator Bourne, let me pursue the question

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

April 27, 2005 LB 117

of prescriptions a little bit,...

SENATOR CUDABACK: Senator Flood.

SENATOR BEUTLER: ...so that...

SENATOR CUDABACK: Senator Bourne, rather. Senator Flood is not here.

SENATOR BOURNE: Yes.

SENATOR BEUTLER: ...so that we all understand, or at least I understand. But a prescription is required because a drug that's not used in accordance with certain rules will be dangerous to a consumer, or could be used in a way that's not legal by the consumer passing it on to somebody else, and so we control that substance by prescription. Is that...isn't that more...is that a fair statement of what prescriptions are all about, Senator Bourne?

SENATOR CUDABACK: Senator Bourne.

SENATOR BOURNE: Senator Beutler, I will be honest with you, I don't know the exact details. I'm getting them.

SENATOR CUDABACK: One minute.

SENATOR BOURNE: But I would say that it seems to make sense to me that the law, or the Health or Human Services, or whoever control...whatever agency it is that controls this area, I would say that they have made a determination that a particular drug is what they call exceptionally dangerous. And those drugs would require a prescription. And that is, I think, what they are stating when they determine whether or not a prescription is needed, that it is so dangerous that a doctor's guidance or observance or approval is required to obtain the drug.

SENATOR BEUTLER: Okay.

SENATOR BOURNE: And I will tell you, if I could, just for a second, there are states, and I can give those to you, that have

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

April 27, 2005 LB 117, 481

determined that pseudoephedrine-based drugs are exceptionally dangerous drugs, and they are requiring a prescription to obtain that. And that is what Senator Flood is talking about. I'm hearing some people in the body saying that it's not strong enough, it's not strong enough. And I absolutely disagree with that. And I know you've...

SENATOR CUDABACK: Time.

SENATOR BOURNE: ...said that yourself.

SENATOR CUDABACK: Senator Beutler, you have spoken three times, but you're recognized to close, being yours is the last light.

SENATOR BEUTLER: Okay.

SENATOR CUDABACK: Senator Flood, did you wish to be recognized? Your light just came on.

SENATOR FLOOD: Yes, Mr. President. I'd like to yield to Senator Bourne any time that he would need, if he so desires.

SENATOR CUDABACK: Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. Thank you, Senator Flood. Senator Beutler, if you have any additional questions, I'd be happy to try to answer them.

SENATOR BEUTLER: I do. Just tell me, theoretically, since we're determining that these materials are potentially dangerous, i.e., they can be used to make meth, why would that not come under the general theory of a prescription and be dealt with accordingly?

SENATOR BOURNE: Well, you had mentioned a bill that Senator Aguilar had, and I think it was LB 481, that dealt with that exact subject. And that's what he's advocating. And quite honestly, it had a favorable hearing in the Judiciary Committee. And as I mentioned earlier, I think that legislation is generally done incrementally. You know, we take steps all along to solve the problem. I'm not averse...I think that this

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

April 27, 2005 LB 117

pseudoephedrine-based drugs, they are so dangerous to society, given that that is the absolute one ingredient meth cooks need to make meth, I would not be opposed to requiring a prescription for any pseudoephedrine-based product, including liquids, tablets, infants, whatever it would be, infant drug...you know, drugs for children, if that's what it takes. I hear a lot of pharmaceutical companies grousing about this. They, in my opinions, are not trying to solve the problem. And if what it takes to solve the problem is a Class V designation, where this drug would require a prescription, I'm all for that.

SENATOR BEUTLER: The last question that I wanted to ask along these lines, there is confusion in the minds of many people, including myself, with respect to what you need to do...well, a prescription can only be sold by a pharmacist. Would that be accurate?

SENATOR BOURNE: I think it's accurate to say that a doctor writes the prescription. I know there are some instances where a PA, or physician's assistant, under a doctor's guidance or direction, can write a prescription. That prescription then has to be taken to a drug store or called in to a drug store where a pharmacist or a pharmacist intern under the direction of a pharmacist fills it.

SENATOR BEUTLER: Okay. And then when they show up at the pharmacist for a particular drug that I use, for example, I always have to sign in order to get the prescription. Now, other people tell me they go to a pharmacist, and they're dealing with the same level of drugs, and they don't sign. And they tell me that sometimes one pharmacy will have them sign for a drug, and the other pharmacy, for the same prescription, will not have them sign.

SENATOR BOURNE: Senator Beutler,...

SENATOR BEUTLER: Is there a law or a rule on this?

SENATOR BOURNE: I would imagine that they have to keep track of who purchases Class V medications. Now, I will tell you that in my neighborhood there's a small drug store, and when I go there

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

April 27, 2005 LB 117

to...with a prescription, whether it be for myself or my son or my spouse, I do have to sign a book. Now, then, there's also another drug store that sometimes I go to, because it's a little more convenient, that's a national chain drug store, and I have never signed there. But I'm assuming, either way, maybe the chain drug store has computerized technology that tracks what I purchase, tracks the Class 5 drugs purchased, and the smaller, family-type pharmacy doesn't have that technology, so they require you to write it in. I think either pharmacy, no matter which pharmacy it is, they are tracking who purchases Class V drugs.

SENATOR BEUTLER: Okay. So they have a logbook of sorts for that?

SENATOR BOURNE: I don't disagree with that. But I think the objections...yes, I agree with that. I think the objections on the pharmacists, though, in...as it related to this particular measure, is that there...being it was a paper logbook, that it's really not very efficient.

SENATOR CUDABACK: One minute.

SENATOR BOURNE: That, I think, was the objection.

SENATOR BEUTLER: What do they use for prescriptions? What kind of logbook? Isn't it...wouldn't it be a paper logbook, I assume?

SENATOR BOURNE: As I said before, I think some of the smaller, family-owned drugstores do still have paper. I do...I think, though, the national chains have some sort of a computerized system.

SENATOR BEUTLER: Okay. And then, if it's a Schedule V drug, you would first need a prescription. But it also could be...it would also only be sold at a pharmacy, is that accurate?

SENATOR BOURNE: Right. I don't think you can fill a prescription at the grocery store, I mean, unless it had a pharmacy within it. I think a prescription...excuse me, under a

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

April 27, 2005 LB 117

federal law--I've just been handed this--under federal law, it has to be...you have to...it has to be filled by a pharmacist, and you do have to sign...or, it has to be under some sort of a logbook.

SENATOR BEUTLER: Okay. Thank you,...

SENATOR CUDABACK: Time, Senator.

SENATOR BEUTLER: ...Senator. That helps with some of the basic information. Thank...

SENATOR CUDABACK: Senator Friend.

SENATOR BEUTLER: ...you, Senator Cudaback.

SENATOR CUDABACK: This will be your third time, Senator.

SENATOR FRIEND: I'd like to call the question on this amendment, Mr. President.

SENATOR CUDABACK: Senator Friend, that won't be necessary, because there are no further lights on. Thank you, anyway. Senator Beutler,...

SENATOR FRIEND: Thank you.

SENATOR CUDABACK: ...you're recognized to close.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I think this has been a very good discussion, at least from my perspective. I've learned a lot. As I indicated to you earlier, I made a commitment to Senator Bourne that this amendment would be for discussion purposes only. Both of us were comfortable with that approach, because as we've learned in the discussion, there are several different approaches here that might be taken to the question of possession of these particular drugs, and how you get them. So with that, I think we should move on with the conversation. And I would withdraw the amendment, and ask the Clerk to refile it on Select File.

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

April 27, 2005 LB 117

SENATOR CUDABACK: So ordered. Mr. Clerk, anything further on FA188? Nothing further on FA188. Open for discussion on FA188. Senator Chambers.

SENATOR CHAMBERS: Mr. President, I would like to ask a question of Senator Bourne, if I may.

SENATOR CUDABACK: Senator Bourne, would you yield to a question?

SENATOR BOURNE: Certainly.

SENATOR CHAMBERS: Senator Bourne, this division deals basically with penalties. Isn't that correct?

SENATOR BOURNE: Penalties? Yes, Senator Chambers. It also deals with the amount of pseudoephedrine-based product an individual can purchase in a 24-hour period.

SENATOR CHAMBERS: Right. Thank you. Members of the Legislature, that aspect of the bill I'm not going to spend a lot of time discussing at this point, because at any place along the course of our handling of this bill, those things can be dealt with, because they're specific numbers, specific penalties, and it doesn't require, from my standpoint, a lot of discussion on the floor other than to say that we might have to look at some of them. I want to consider how we treat people who have an amount that might show the person is a user, as opposed to that which would designate a person as a dealer or a trader or a manufacturer, and so forth. I want to go back to some of the general things that I want to get across about what the Legislature is doing. Senator Erdman has posed some very searching questions to me, and they show that he has thought about this. I've thought about it. So I'm going to just kind of discourse about the subject matter of our exchanges. One of the things he asked me was if I really mean what I...well, he didn't say "really," but if my position is that the majority of meth that's used in the state comes from outside; therefore, what the state is attempting to do here is not of a great amount of consequence, should the state do nothing. Is that what I'm saying? That's not what I'm saying. I'm indicating that there

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

April 27, 2005 LB 117

should be a frank acknowledgement by the Legislature that what is being done with this bill, or any other bill, is going to have no significant impact on the availability or usage of meth. The number of people using it will not be diminished to any appreciable degree. The impact on individuals using it will not be changed at all. The number of sellers is not going to be impacted at all. So what I am thinking about doing is drafting what are called findings. The Legislature hereby finds and declares; then put something to the effect that the scourge of methamphetamine is recognized; the use of certain substances found in legal products is acknowledged; the Legislature, by attempting to restrict the availability of these legal products, hopes that some impact will be made on the manufacture within the state of methamphetamine; however, the Legislature recognizes that upward of 90 percent of the methamphetamine in this state for use and sale comes from outside of the state; the Legislature further finds and declares that what is being done with this legislation is all that the Legislature feels is available to be done; and conclude that even though the recognition of the minimal impact...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...on the overall problem of methamphetamine use and sale, nevertheless, the Legislature enacts the following, and then put all this stuff in. But I wouldn't agree with everything that you've got here. But there should be some disclaimer, so that people will realize that the Legislature recognizes the limited impact. I mention again, in the few seconds I have, as skewed and ineffective as federal farm programs are in alleviating the problems faced within individual states, there is practically nothing a state legislature can do to address that problem or the farm crisis that may exist within such state. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion on the first component of the divided committee amendments. Senator Flood.

SENATOR FLOOD: Thank you, Mr. President. Now, Senator Chambers has really made a point of highlighting the felony provisions of

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

April 27, 2005 LB 117

this bill as amended by the Judiciary Committee, and calling attention to the fact that you can be charged with a IB/IC felony, regardless of...or, in light of how much pseudoephedrine and methamphetamine together you have on your hands. He raises an interesting point, one that I'd like to comment on. The state of Nebraska did get serious about methamphetamine some time ago, when we made the possession of methamphetamine a Class IV felony. We got serious about methamphetamine manufacturing when we made it a Class III felony. Law enforcement has done an excellent job, in my opinion, of being very...paying a lot of attention to this issue, and methamphetamine and the pseudoephedrine thefts across the state of Nebraska, and the anhydrous ammonia. And we've seen a number of convictions, and we've seen meth labs busted. And in and of itself, no law we pass is going to certainly stop the problem. But here's the benefit I see, in a courtroom, to upping the penalties, outside of what Senator Chambers has discussed with the punitive aspect. As we develop drug courts across this state, the best time to intervene with an offender, I've heard from several folks, is when that person is sitting at the county jail, they've been charged with very serious crimes--IB felony, maximum, life imprisonment; IC felony, 50 years maximum imprisonment--and the prosecutor, together with the team that compromises the drug court...that consists of the drug court, says to that person, you have an option here, because you're in possession of methamphetamine, of participating in a two-year program, that is not easy, that is not a copout, that is a way for you to address these issues with counseling and treatment, or you can sit in Tecumseh or Lincoln or York. Senator Aguilar has been the leader on drug courts. Senator Bourne has been very supportive of drug courts; the Governor, the Attorney General. Drug courts make sense. Upping the penalties gives us more leverage to get through and make a connection with somebody. Right now, first offense, possession of meth, oftentimes, as a Class IV felony, is probation; maybe the work camp, depending on your age, in McCook. Second offense is a year in prison. I'd like to see it be a IB felony, an enhanceable penalty if you're doing meth in prison or you're selling meth in prison, because that's the one place we send these young kids who are high on meth, hoping that they'll get some...they'll see the light and stop using, get out, and make a

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

April 27, 2005 LB 117

change. And the fact is, some of these folks go into our prisons and find a way to continue using, so I've been told. I can't substantiate that with any direct facts. But it would be hard to keep a product like that out of a prison when you've got a large population of nonviolent, meth-addicted offenders. Drug courts, I would imagine--and Senator Aguilar, I'd want you to comment on this--I think would appreciate the higher penalty, so that they have more leverage. And Senator Aguilar, I'd yield any time to you to maybe comment on that, because I know drug courts are something that are very important to you.

SENATOR CUDABACK: Senator Aguilar, about 1, 30.

SENATOR AGUILAR: Thank you, Senator Flood. And you're exactly right. I do. You know, anything that we can do to bring more people to the table, to get involved with drug courts, is exactly what needs to happen. Because you know what, it works. Drug court works. Locking them up, throwing away the key, that's old-fashioned. That doesn't work anymore. We've got to do it through a treatment program. That's the only thing that helps with people addicted to methamphetamine and other drugs like cocaine. It works fantastically.

SENATOR CUDABACK: One minute.

SENATOR AGUILAR: And I see more and more efforts going throughout the state to expand that, and I'm happy for that. Thank you, Senator Flood, and Mr. President.

SENATOR CUDABACK: Senator Flood. Senator Chambers, you're recognized.

SENATOR CHAMBERS: Mr. President, members of the Legislature, if I had hair that is as delicate as that on the heads of my colleagues, I'd be tearing it out of my head right now as I listen to these discussions. Members of the Legislature, it would be good to go back and read some of the debate at the Constitutional Convention, when they were talking about the Eighth Amendment to the U.S. Constitution, and some of these other things that relate to criminal punishments and the creation of crimes. Legislatures have the power and authority

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

April 27, 2005 LB 117

to criminalize conduct. The purpose of annexing a punishment to a crime, or conduct that has been criminalized, is to fit the punishment to the crime. That's all the purpose the penalty is for. It's not to serve to give drug courts leverage. It's not to serve the purpose of encouraging prosecutors to overcharge. I read not just the laws we have in the books; I read the codes of ethics that govern lawyers and judges, and all kinds of commentaries and treatises on the ethics of the law. When a prosecutor deliberately overcharges, that implicates ethical considerations. And this is the difference between having politicians make these determinations, and having people with a broader perspective on the law and its purposes. It may be very alluring to say, annex very harsh punishments to these offenses, to run people into drug court. Not everybody is going to get that opportunity. These harsh, overly harsh penalties can be applied selectively and discriminatorily. The reason the U.S. Supreme Court first overturned all death sentences in this country was because of the way they were discriminatorily imposed. The court never abolished the death penalty because the penalty itself was found to be unconstitutional, but because of the discriminatory way in which it was imposed. When you initially embark upon creating penalties, and you acknowledge that it's not to punish the crime, it's not because the Legislature thinks that this penalty fits the crime, or shows to the public how serious the crime is viewed to be, but rather as a gimmick to help drug courts, you are using an illegitimate basis to create a penalty. The Legislature can do it. But it ought not. And that's why I have to fight against so much that this Legislature does. I take seriously not just the words we put on the pages of these statute books, but how they will be applied in the real world. And I take it more seriously, obviously, than my colleagues in the Legislature. And that is indeed unfortunate, because I'm not going to be here forever. But I will fight these attempts. When Senator Flood was talking to Senator Aguilar, he was saying that it would enhance the use of drug courts, or give them leverage. And the time to really put the screws to somebody is when he or she is facing a...

SENATOR SCHIMEK PRESIDING

SENATOR SCHIMEK: One minute.

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

April 27, 2005 LB 117

SENATOR CHAMBERS: ...possible harsh punishment, and you scare them into going into the drug court. Is that what the laws are for? It shouldn't be. And I think it is not the reason. So once again, I will assume the role of the one who has to stop bad legislation. And if you would talk to some people who understand the law and the purpose of it, you would see that what I'm suggesting is based on truisms within the law and the ethical community. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Chambers. (Visitors introduced.) Senator Chambers, your light is next.

SENATOR CHAMBERS: Madam President, members of the Legislature, I must continue along the path that I was going. Rather than take time at this point to look at the punishments that are being recommended by this bill, I've stated that I'll do that at a different time, because there are general comments I need to make for the record. The legislators should try to broaden our scope. We should read and study the works of people who have given their lives to addressing the issue of crimes and punishments, how you go about trying to fit a punishment to the nature of the crime. Courts, when they're confronted on appeal with a defendant who has been convicted and sentenced making the allegation that the penalty is overly harsh, the courts start by saying that they're going to look at the sentencing range available based on legislation. Then they're going to look at the nature of the crime. But in general, if the sentence falls within the perimeters set out by the Legislature, the appellate court is not going to disturb that sentence, absent what the court calls an abuse of discretion. And that occurs, to make it simple, when a court has an invalid reason or an unjustified reason for taking an action, or when the action taken does not fit the circumstances before the court. So although some sentences have fallen within the range allowed by the Legislature, a court, when given the proper information, has modified some sentences because they were unduly harsh. In a number of instances, death penalties, even in Nebraska, have been reduced to a sentence of life imprisonment, because the sentence of death was inappropriate. That is based on the idea and the concept of fitting the punishment to the crime. When we

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

April 27, 2005 LB 117

talk--again, I have to emphasize it--about a politically motivated bill, all of the other principles are supposed to be thrown out the window in the interest of making political hay. I will do all I can to make that as difficult as I possibly can. What troubles me is that there are others besides myself who are trained in the law, but you don't hear them talk about these issues. I'm the one who raises them. I'm the one who discusses them. And I don't just talk about them. I try to do what I can to make sure that the court applies these principles when they're reviewing the conduct of prosecutors and judges for their ethical content. I have filed complaints against prosecutors and judges. And although those findings, unless made public by the agency that does the imposing of discipline, unless they make those matters public, they are confidential. I have maintained the confidentiality of findings made against various prosecutors in this state. I could make it public and embarrass the prosecutor, and nothing could be done to me, because I'm not a member of the Bar Association. The court cannot punish me for that. I'm not bound by the ethics that bind lawyers in the code of responsibility. But I've kept those things confidential. I've gotten judges disciplined publicly, and gotten one of the worst rats on the bench removed. So mine is not theoretical. I know these things because I study them. I have...

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...contact with experts from all over the country. They don't just write to compliment me on something I've done; they seek my opinion on specific issues that they're considering. I've already gotten inquiries from around the country about the bill that I wrote on DNA and the restrictions on samples being taken. There are people with far more training of a formal nature in the law than I have. They have practiced the law, but they don't draft legislation. When they read what I've drafted, they like it, and they want more information. But you all don't respect it. It means nothing to you. But I'm going to put it in the record, so that judges and others to whom it does mean something will know that at least one person is

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

April 27, 2005 LB 117

looking at those principles that ought to guide a Legislature in dealing with crimes and punishments. Mr. President. Mr. President, was that my third time on this?

SENATOR CUDABACK: It was, Senator.

SENATOR CHAMBERS: Thank you.

SENATOR CUDABACK: No further lights? Senator Bourne, you're recognized to close on the first component of the divided committee amendments to LB 117.

SENATOR BOURNE: Thank you, Mr. President, members. I appreciate the debate we've had. Just to remind you what FA188 does, it harmonizes the penalties to those drugs that we have determined are exceptionally dangerous. That's heroin, cocaine, and methamphetamine. And it also limits the amount of pseudoephedrine-based products that an individual can purchase in a 2,400...or, excuse me, a 24-hour period, to 1,440 milligrams. And as I mentioned in my opening, that's about a 48-tablet pack of Sudafed. So it's not a particularly onerous amount limitation. I would urge your support of this component of the divided committee amendment. And I think, because we've had an extended debate, people have wandered off, if I could get a call of the house, Mr. President, and then a machine vote would be fine. Thank you.

SENATOR CUDABACK: There's been a request for a call of the house. All in favor of the house going under call vote aye; those opposed vote nay. Record please, Mr. Clerk.

ASSISTANT CLERK: 15 ayes, 0 nays to go under call, Mr. President.

SENATOR CUDABACK: The house is under call. All unexcused senators please report to the Chamber. Unexcused senators report to the Chambers. Unauthorized personnel please leave the floor. The house is under call. Senator Engel, would you check in, please. Senator Cunningham, Senator Heidemann, Senator Cornett. Senator Howard, Senator Louden, and Senator Kremer, the house is under call. Senator Kruse, Senator Kremer, the

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

April 27, 2005 LB 70, 70A, 117, 645, 709

house is under call. All unexcused senators please report to the Chamber. Senator Kremer, would you check in, please. Thank you. Senator Bourne says...has requested a machine vote on the question of FA188, first component of divided committee amendments. All in favor vote aye; those opposed vote nay. You may now vote. Have you all voted who care to? A record vote has been requested. Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1316-1317.) The vote is 43 ayes, 0 nays on the adoption of FA188, Mr. President.

SENATOR CUDABACK: FA188 has been adopted, the first component of the divided committee amendments to LB 117. I do raise the call. Mr. Clerk, items for the record, please.

ASSISTANT CLERK: Mr. President, your Committee on Enrollment and Review reports LB 70 to Select File with amendments; LB 70A to Select File. Amendments to be printed: Senator Brashear to LB 645, and Senator Synowiecki to LB 709. (Legislative Journal pages 1317-1322.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Mr. Clerk, next component of the divided committee amendments.

ASSISTANT CLERK: Mr. President, the Judiciary Committee would offer FA189. (Legislative Journal page 1322.)

SENATOR CUDABACK: Senator Bourne, to open on FA189, the second component.

SENATOR BOURNE: Thank you, Mr. President, members. FA189, I'll read it to you, says: Any person knowingly or intentionally possessing a firearm while in violation of subsection (1)--and subsection (1) is possessing, manufacturing meth, or trafficking of meth--shall be punished by the next higher penalty classification than the penalty prescribed in subsection (2), which is the manufacturing, distributing of less than 10 grams of meth; subsection (7), which deals with cocaine penalties for the manufacture or distribution of cocaine; subsection (8), which is base cocaine; subsection (9), which is heroin; or

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

April 27, 2005 LB 117

subsection (10), which is saying that the penalties for meth are the same; but in no event shall such person be punished by a penalty greater than a Class IB felony again, it enhances the penalty for a meth dealer or manufacturer that uses a firearm while they are conducting this activity. This seems to make sense to me. It's justifiable. Meth...people on meth, people manufacturing meth, tend to use the drug. And generally, meth users are extremely paranoid. They tend to be impulsive. There have been situations in our surrounding states where individuals...excuse me, where police officers, law enforcement individuals, have gone in to shut down a meth lab and have been faced with meth cooks on the drug that have used firearms against them. And it simply is an enhancement designed to protect law enforcement and thus protect the community. I would urge your adoption of this component of the Judiciary Committee amendments. And I would be happy to answer any questions.

SENATOR CUDABACK: Thank you, Senator Bourne. You've heard the opening on the second portion of the divided committee amendments, FA189. Open for discussion. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is a provision which was separated out to be dealt with individually, because it did not fit well within the other divisions. I support this amendment. I will vote for it. I did not vote for the last one, because I still have some questions about the nature of those penalties, the suitability. But I didn't vote against that entire division, because I don't have that much objection to most of it. I will use this one as an opportunity to say a few more things about what it is the Legislature is doing here. I should ask a question of somebody, but I won't right now. I will just draft up my findings, and then see whether I can get the body to agree to adopt them as an amendment. Not hopeful that the body will, because it's difficult for anybody to acknowledge openly that an action which is being taken is not going to have that much consequence associated with it in terms of solving the problem that is being addressed. Keep in mind that by some estimates, and they've been published, over 90 percent of the methamphetamine available in this state comes from outside of this state. If you pass this bill, you are not going to eliminate every meth lab in this

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

April 27, 2005 LB 117

state. So you're not even going to cut out the 10 percent that may be locally or domestically produced. If you're not going to get rid of all of them, that increases the amount that's going to be available when you add it to what is coming from outside this state. I'd like to ask Senator Bourne a question.

SENATOR CUDABACK: Senator Bourne, would you yield to a question?

SENATOR BOURNE: Certainly.

SENATOR CHAMBERS: Senator Bourne, we've heard various law enforcement individuals and their agencies give the representation that if they didn't have to commit so much effort to these meth labs within the state, more time could be given to trying to interdict that which is coming into the state from outside.

SENATOR BOURNE: That...absolutely, Senator Chambers. You've characterized the testimony we received exactly.

SENATOR CHAMBERS: Now, Senator Bourne, I don't recall any of those agencies ever telling us what resources or how many more people would be committed to this effort. I could have just missed it. Was any given that you can recollect?

SENATOR BOURNE: You know, Senator Chambers, I don't remember asking that question. I don't remember anyone on the committee asking that question. But I do think--maybe Senator Pederson can comment to this--I do think that there is in the appropriations bill some additional officers that are going to be given to the state patrol. Now, I don't know if that has anything to do with the meth or not.

SENATOR CHAMBERS: Thank you, Senator Bourne. And that's suitable for my purposes. I don't believe more cops are going to be put to work on this issue. Why should they? They don't stop other drugs. If they happen to see somebody who looks like what they call, quote, a Mexican...and they've stopped Native Americans because they thought they were Mexicans because they have long, straight, black hair, these highly-trained state

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

April 27, 2005 LB 117

troopers, and other white cops. So if he looks like a Mexican, he's stopped. Why is he stopped? A pretextual reason. The car went over the center line. This person happens to have meth, so they stumble on a bust. Then it's problematic whether a court is going to allow the...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...evidence in, because if the stop was found to be pretextual, it violates the constitutional right against unreasonable stops, searches, and seizures. There was no probable cause to stop the person in the first place. I'm very distrustful of the police. I don't believe that any additional resources are going to be dedicated to interdicting the meth that comes into this state. This bill, if enacted into law, is not going to do anything of consequence. If it's signed by the Governor, the day after it takes effect, you're not going to notice any change. The week after, the month after, the year after, nothing. But the Legislature and the Governor and the Attorney General will feel good, because a bill was put into law. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. And you may continue.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Bourne and his staff, the staff of the Judiciary Committee, have worked hard on this subject. Senator Aguilar has given time to it. So have others. I have no question that people throughout the society with any awareness, even if it's only anecdotal, about the scourge of methamphetamine, I have no doubt that they are very sincere. I have no doubt that any and everybody aware of this problem, who would like to see it go away, would do anything they could to see that accomplished. But here's where the disconnect comes in. They cannot admit that they can't solve it, they can't do anything, taking the course that this Legislature is taking, to do anything about it. Let the federal government ban ephedrine and pseudoephedrine. Let the federal government declare it one of those substances so dangerous it cannot be used or possessed legally by anybody in this country. Why can't it do that? Why

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

April 27, 2005 LB 117

won't it do it? Because there are big drug companies that make money off the products. That's what you all don't want to look at. You're operating in a vacuum. You will not look at the economic incentives to keep ephedrine and pseudoephedrine available broadly. Not through prescriptions, not by putting it on the fifth or the fourth or whatever schedule you're talking about putting it on. That's preposterous. You all have been put in the sandbox again. You're being allowed to play on the playground. You are not going after the spider. The spider puts the web, you knock down the web here, he spins another one over there, and you knock down the web. You won't go after the spider, you're afraid to. Are you going to tell me that the only pharmaceutical product that can alleviate the symptoms of a cold--because nothing can cure the cold--the only active ingredient that can alleviate the symptoms of a cold are ephedrine and pseudoephedrine? Is that what you're saying? I don't believe that's true. You tell these companies they can't use those substances, and they'll find something else. They probably got something in their back pocket right now. Because they say, at some point, some politician is going to see how to kill the spider, and when the spider is dead, we'll just bring this other substance into play. You think these drug companies are not sitting back, considering the possibility that one of their products is going to be taken away? They're not as dumb as the members of this Legislature. It is so frustrated being here. I feel like the only sane person, with two or three other cohorts, in an insane asylum. Why do people waste time writing treatises on the law? Why does a Supreme Court waste time adopting a code of professional responsibility for lawyers? Why does it waste time adopting a code of judicial conduct for judges? Why does the American Bar Association spend time puzzling its way through these issues and laying out ethical principles to guide the conduct of lawyers and judges, and courts will adopt these codes and attach penalties to them if they're violated?

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Why are those things done? Why do medical ethicists spend so much time reviewing questions, having conferences, seminars, and publishing papers? Certainly not for

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

April 27, 2005 LB 117

the consumption of legislators. We make the laws. Doesn't that soak into anybody's brain? And the laws we make bind the conduct of people. And we ought to use some judgment, some intelligence, some wisdom. But it's not found on this floor, with certain notable exceptions. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Aguilar.

SENATOR AGUILAR: Thank you, Mr. President and members. I want to correct one of the things that has been said here a couple times this morning. Senator Chambers, for one, uses the figure of 95 percent, or something like that. And I have seen that article...that number in one article. But all the rest of the information I've ever had puts that figure around 80-20. So 80 percent of the meth coming into Nebraska comes in, actually, and 20 percent manufactured here. Now, what good are we going to do? I'll try to explain that briefly, what good we're going to do. We're going to prevent some labs in Nebraska. Can we prevent them all? No way. But we can prevent one. And I think the importance of that statement is how most...a lot of meth labs are discovered. A lot of meth labs are discovered after someone goes to the hospital with severe burns from an explosion in a meth lab. That's how most of them are discovered in Nebraska. So what that means is, people are getting hurt. And sometimes it's innocent children getting hurt. So this goes way beyond feel-good. This goes to stopping...preventing some labs. We have to do something. I'm not one to just throw my arms up in the air and say, well, we can't win every battle, so let's give up on it. I think we need to fight it--I think Senator Bourne said it best--incrementally, one step at a time. Whatever we can do to fight this scourge, we need to do it. That's our responsibility as legislators, to protect the people of Nebraska. This legislation does that. It will do that. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Aguilar. Senator Howard, followed by Senator Beutler.

SENATOR HOWARD: Thank you, Mr. President, members of the body. As I'd mentioned earlier, when I talked to my pharmacist down at

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

April 27, 2005 LB 117

the grocery store, the local grocery store, I was surprised to learn that Sudafed in fact is using ingredients that aren't useful in meth-making in their cold remedies. According to her, they pretty much were seeing the handwriting on the wall in terms of the ingredients, and what would be behind the counter, or not as accessible. So having shared that information, I'd like to offer my time to Senator Chambers.

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. Bless you, Lady Howard. These drug companies are motivated by money. And where money is involved, things will happen. If there were a financial incentive, then the federal government would do something. But they're not going to run afoul of those who contribute to their campaigns. That's why I say you're playing in the sandbox. And by the way, if Senator Aguilar's statistic is correct, although I've seen the other one in more than one place--I happened to see it most recently this morning, I think, of the 90 percent and above--I feel so much better knowing that 80 percent rather than 90 percent of the meth will still be there. When you have to parse a number in that fashion to justify what you're doing, it shows that what you're doing is of little consequence. You do feel better, and that's all that it is. I'd like to ask Senator Aguilar a question.

SENATOR CUDABACK: Senator Aguilar.

SENATOR AGUILAR: Yes.

SENATOR CHAMBERS: Senator Aguilar, if this bill passes, do you think it will stop...it will put out of commission all of the drug labs in this state?

SENATOR AGUILAR: There's no way it could stop all of them, but it will stop some, Senator.

SENATOR CHAMBERS: What percentage do law enforcement give that they think will be stopped?

SENATOR AGUILAR: I don't think they give a specific percentage.

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

April 27, 2005 LB 117

And that really wasn't a criteria, an important criteria for me. If it stopped one, if it saved one life, that's worthwhile to me.

SENATOR CHAMBERS: But if the labs are discovered not through good police work, but because one blows up and somebody is hurt, this is not going to put another tool in the hands of the police, in as far as their nosing around and finding these labs. Isn't that true?

SENATOR AGUILAR: I'm not exactly sure. It wouldn't help in that case if everybody died in the explosion. But there's others that hopefully would be prevented from doing the same thing.

SENATOR CHAMBERS: So this is a bill full of hope and wishing. And I'm not saying that to put anybody down. In reality, that's the most that can be said about this bill. There's a hope that it will do some good. Isn't that true?

SENATOR AGUILAR: Not at all. Of course there is a hope, but that's not the only reason. There's facts out there that says it will prevent labs. It's obvious, if you take some of the pseudoephedrine, restrict the sales so that not as much is available, then it's going to do some prevention work at the same time.

SENATOR CHAMBERS: Is this going to restrict the sales sufficiently to cause those who are the cooks now to go out of business?

SENATOR AGUILAR: If I had my choice, it would restrict it even more, but...

SENATOR CHAMBERS: Well, not your choice. Okay, let's say you'd restrict it...the best thing to do would be to ban pseudoephedrine, wouldn't it? That would be the best thing.

SENATOR AGUILAR: I couldn't agree more. (Inaudible) expand on that...

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

April 27, 2005 LB 117

SENATOR CHAMBERS: Then why don't we do that...

SENATOR AGUILAR: May I expand on that just a little bit?

SENATOR CHAMBERS: Why...are you willing to do that in the state of Nebraska?

SENATOR AGUILAR: First...let me explain it, if you'll give me the time.

SENATOR CHAMBERS: Then will you give me some of yours? Because this is might be my...

SENATOR AGUILAR: Absolutely.

SENATOR CHAMBERS: ...last shot. Okay.

SENATOR AGUILAR: First of all, from what we heard in committee, I believe it's Pfizer, one of the pharmaceutical companies, is trying to come out with a product that replaces pseudoephedrine and accomplishes the same purpose. What I would do at this time is encourage more pharmacies to get on board with that philosophy and do that. If they can produce a product that gives the same relief as pseudoephedrine without having a...without being a precursor for methamphetamine...

SENATOR JANSSEN PRESIDING

SENATOR JANSSEN: One minute.

SENATOR AGUILAR: ...manufacturing, why can't we all benefit by that? Why can't we do it? Is it because the pharmacies are worried too much about the bottom line? Are they selling too much pseudoephedrine? Is that the problem here?

SENATOR CHAMBERS: I'm talking about the drug manufacturers who produce the products, not the pharmacists who dispense them. The drug industry is controlled by the federal government. The federal government can put restrictions on what products they use. The federal government, however, will not do that if any substantial percentage, or if a large manufacturer tells

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

April 27, 2005 LB 117

Congress, don't mess with this or your contributions from us will be diminished. Nothing is going to be done. If a point is reached where other substitutes are found, then the federal government may step in and say, we think it's time to do something about this, and they might take a step, because the drug industry will have righted itself, it will have enough of these products...

SENATOR JANSSEN: Time.

SENATOR CHAMBERS: ...available, and they won't need pseudoephedrine. Thank you, Mr. President.

SENATOR JANSSEN: Thank you, Senator Chambers. Senator Beutler, your light is next.

SENATOR BEUTLER: Senator Janssen, members of the Legislature, I think now we're on a section that is very circumscribed in its effect. It basically says that any person knowingly and intentionally possessing a firearm shall be punished by the next higher penalty classification. Is that the section we're on, Senator Bourne? Is it not? Okay. The...it says they'll be punished in the next higher classification than the penalty prescribed in the various sections of the bill for the basic underlying offenses. And all of those penalties are felonies to begin with. In other words, they're very harsh penalties to begin with. When you move them up to another level, I'm not sure that does anything in terms of deterrence. And the thing that bothers me about that sort of approach, not only the fact that I don't think it really has any deterrent effect once you're at that high level of offense, anyway, but it's that we're once again giving prosecutors and judges the opportunity to put people in jail for a longer period of time, which is the very thing that Senator Bourne has been fighting against, and doing a good job of fighting against; that is, getting people out of the prisons and into treatment. And it seems to me, what bothers me a little bit about this, in addition to the fact that I don't think it will be effective, is that it continues to emphasize the severity of the penalty, as opposed to the certainty of prosecution. I think one thing that's remained true in the law over the years--and there are many things in the

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

April 27, 2005 LB 117

criminal law that we seem to go back and forth on--but everybody seems to agree that certainty of punishment is more important than severity of punishment. And certainty of punishment also means that these people will get into treatment programs, assuming we have the treatment programs, which, again, we're...Senator Bourne is working very hard towards that. But the part of the bill that seems to me that can lead to greater certainty of punishment is the point of sale part of the bill that deals with the potential of identification and logging in. And if you had a central database--and I want to talk a lot about that when we get around to that discussion--a central database, from where state patrol people can sit over at the state patrol and look and see who's buying what at all of the different pharmacies around the state, then you would have certainty of punishment more. You'd be catching more people, getting more people into treatment. And that also has its down side, of course. Senator Chambers will be quick to point out the down side, in terms of the consumer cooperation that's needed to do this, and in terms of potential, if not actual, violations of privacy. But beyond this particular section, I wanted to go back into the section that we just approved, because I think Senator Bourne has done some good things there that is very hard to do as Chair of the Judiciary Committee, for a variety of reasons. And that's starting to bring the various penalty provisions into some sort of logical proportion as they apply in different parts of the statute. And Senator Bourne, I wanted to ask you, if I could, about pages 13 and 14, basically. And...

SENATOR JANSSEN: One minute.

SENATOR BEUTLER: ...and what you're doing on those pages...and we'll need to come back with this...to this, because my time is running out, but what you're doing on those pages with regard to making the law more logical and uniform. And it seems to me that it all starts out with the provisions...starting on subsection (8) is where I will start, Senator. And I probably need not start at this minute, because my time has run out. But I want to ask you, on pages 13 and 14, whether we're increasing or decreasing penalties in these various areas by virtue of your effort to make things, equally abhorrent things, punished

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

April 27, 2005 LB 117

equally, which is a good principle of law. And...but I'm interested where...

SENATOR JANSSEN: Time.

SENATOR BEUTLER: ...in which direction that takes us in the various areas.

SENATOR JANSSEN: Thank you, Senator Beutler. (Visitors introduced.) Senator Chambers, your light is on next. And this is your third time.

SENATOR CHAMBERS: Yes. Mr. President, members of the Legislature, I'm going to repeat for the third time what I had said about this penalty area. I'm going to deal with that later, but not through discussion on the floor, because I've got to look at it and try to digest it. And naturally, I'll talk to Senator Bourne and the very competent staff of the Judiciary Committee. But at any rate, going back to the comments I'm making about this bill, I don't want Senator Aguilar and others who have worked in this area to think that I'm disparaging or brushing aside or dismissing the value of what they've done. I'm saying, though, it is a specie, s-p-e-c-y...or is it s-p-e-c-i-e? In the sense of money, or something of exchange, it is a specie of limited value. If you go into a store and you have a ton of gold, and you want to buy a lunch meat sandwich, but the proprietor has no lunch meat, your ton of gold is of no value there in obtaining what you want. Now, the proprietor may say, I'll sell you my entire store for your gold, but I can't sell you what you want to buy. And the holder of the gold says, well, the only thing I'm interested in purchasing is what I asked you for. I don't want your store. I thought, because of the nature of your establishment, you would have the item that I want. Since you don't have it, I'll load up my gold and go elsewhere. The effort that Senator Aguilar and others have put into this subject would go a long way if applied to a matter over which the Legislature has more power to do something effectively. The Legislature cannot have any significant impact on this problem. The state patrol has had no significant impact. The sheriffs and the local police have had no significant impact. And they're the ones who have got the guns,

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

April 27, 2005 LB 117

the nightsticks, the saps, the pepper spray, the handcuffs, the power to take people's freedom, and the discretionary authority to take people's life. And they have not had any significant impact on this problem. So all that the Legislature can do is put some words into the statute book. It is not prudent, in my opinion, while the Legislature is going through this process, to give the impression that this bill is going to have a substantive impact on the availability and use of methamphetamine. It is not. Does that mean nothing should be done? I'm not saying that. But since nothing of significance is going to be accomplished, there are things that this bill would require of ordinary citizens that I don't want to see happen. Why have them inconvenienced for no purpose? There should be a compelling state interest, an overriding state interest, to justify encroaching on the rights or even the convenience of the citizens who are not violating any law. The Supreme Court once stated, one of the judges, at any rate, a person in America has the right to be left alone by the government. You don't have to account for why you exist, why you're standing where you're standing, why you're walking down the street. But cops ignore those things, because they have all these discretionary powers that I've mentioned. And they hound and harass and even kill people unjustifiably. I, as a member of this Legislature,...

SENATOR JANSSEN: One minute.

SENATOR CHAMBERS: ...am not willing to put additional tools of harassment in their hands. The stuff that they wanted which was taken out and which some senators think should be put back in this bill, such as the logbook, was not put there for the purposes the senators are talking about. They were put there as intimidating factors. They were put there to increase the amount of paranoia one of these people might feel upon entering one of these establishments. So the senators are talking about making use of something which the law enforcement people know will not even be achieved. And if it is, it's of no impact. A database is of no value. So this provision, as Senator Beutler pointed out, does have some issues that can be worked out that need to be looked at. But I'm not going to spend a lot of time on those specifics at this time. There were other matters I

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

April 27, 2005 LB 117
 LR 12, 93, 94

would rather have discussed, and that's what I've tried to do. But when the bill is in the final form, based on amendments that are adopted, that doesn't mean...

SENATOR JANSSEN: Time, Senator Chambers.

SENATOR CHAMBERS: ...I'm through looking at it. Thank you, Mr. President.

SENATOR JANSSEN: Thank you, Senator Chambers. Mr. Clerk, items for the record.

CLERK: Mr. President, I have no items. I do have a priority motion. Senator Howard would move to recess until 1:30 p.m.

SENATOR JANSSEN: All those in favor of recess, signify by saying aye. Those opposed. We are in recess.

RECESS

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good afternoon. Welcome to the George W. Norris Legislative Chamber. Senators, the afternoon session is about to reconvene. Please check in. Record please, Mr. Clerk.

ASSISTANT CLERK: There's a quorum present, Mr. President.

SENATOR CUDABACK: You have any items for the record, Mr. Clerk?

ASSISTANT CLERK: Mr. President, I do. A new resolution, LR 93 and LR 94, offered by Senator Kopplin; amendment to LR 12CA to be printed from Senator Schimek. (Legislative Journal pages 1323-1324.)

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

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

April 27, 2005 LB 117

ASSISTANT CLERK: Mr. President, under consideration was LB 117. When we recessed at lunch, we were considering FA189. (Legislative Journal page 1322.)

SENATOR CUDABACK: You heard the Clerk state the present situation. Those wishing to speak to FA189 to LB 117 are Senators Stuthman, Aguilar, and Beutler. If you wish to continue, leave your lights on. Senator Stuthman, you're recognized.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. First of all, I would like to engage in a little bit of discussion with Senator Bourne, if I could so so, please.

SENATOR CUDABACK: Senator Bourne, would you yield?

SENATOR BOURNE: Certainly.

SENATOR STUTHMAN: Senator Bourne, in this divided portion of the bill, tell me just exactly how much the penalties are increased or what does this really do in comparison to what we have right now as far as drug offenses.

SENATOR BOURNE: Great question, Senator Stuthman. Basically, this change would be the same as the enhanced penalty for dealing when we, you know, we do the dealing of drugs on schoolyards, where it enhances the penalty. This one, however, says that if you are doing this type of conduct and you are knowingly or intentionally possessing a firearm while in the process of possessing or manufacturing or trafficking meth, then the penalty described is enhanced by one. So if you were manufacturing, distributing less than 10 grams of meth, and you have a firearm, it would be a Class II felony. If you are manufacturing, possessing or trafficking meth, have a gun, and you are in violation of the cocaine penalties, then it's a Class IB felony; and the same for base cocaine. It just basically takes them up one gradation. So if it was a, you know, a Class II felony, it goes up one degree simply because of the firearm.

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

April 27, 2005 LB 117

SENATOR STUTHMAN: And that makes it a greater penalty by increasing it one level.

SENATOR BOURNE: Right, one level of felony if you have a firearm in your possession while you're possessing, manufacturing or trafficking meth. So again, this isn't...this is...and this is...when I say "possessing," it's the significant amount. So it will be...this wouldn't be the person like the school teacher who got arrested the other day. It would be the person that's out there making or manufacturing large quantities of this product.

SENATOR STUTHMAN: Okay. Thank you. This is the concern that I have in my local area and it's also a concern of the law enforcement, and I'll give you just a primary example of some episodes that happened in my community. There are several homes where you know that it is...it seems to be that that's where there's an exchange of drugs taking place. Towards the weekend, Thursday afternoon, it's almost like a drive-up of McDonald's because so many cars there. There are so many...so many cars. They're from out of state, from other counties, other communities that come to that establishment, you know, all hours of the day and the night. Law enforcement did, you know, did come onto that property and did take several individuals in custody. What is a real concern of the law enforcement is, is the next morning, you know, they just make their bail. They're on the phone. They know the numbers to call to get \$1,000 here and \$1,000 there to make bail. You know, within a few days, you know, it's going on again. And law enforcement has talked to me and they said, you know, there's really...you know, the penalties aren't stiff enough, you know, because we're really not accomplishing what we want to do, and I'll totally agree with that. But I think realistically, you know, should we be making these penalties greater or should we be working on the other end of it, the source of it; you know, get rid of the source so that we don't get the people in this situation? And I'll totally agree with Senator Aguilar. You know, if we can make a little bit of a difference with this bill, it's going to be an accomplishment. It's not going to reach nearly what I would like to see it do. I would like to see, you know, since the main ingredient and the only ingredient, you know, to make

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

April 27, 2005 LB 117

meth is...

SENATOR CUDABACK: One minute.

SENATOR STUTHMAN: ...is pseudoephedrine, you know, maybe we need to take a drastic step, eliminate pseudoephedrine from being sold in Nebraska. I know that's not very sweet words to the pharmaceutical companies because this is a highly profitable business to be in. You know, I think we need...we need to really, really concentrate on, you know, do we want to accomplish something or do we want to make just a little bit of a dent? But I think if we make a little bit of a dent to start with, it is an accomplishment. We need to work on the prevention part of it. And I think, you know, and I truly support this area, this division of the bill, and I think we need to continue and expand on that. Otherwise, we're not going to accomplish anything. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. Further discussion on FA189? Senator Aguilar, followed by Senator Beutler.

SENATOR AGUILAR: Thank you, Mr. President, members. Want to talk a little bit about something that...the discussion before recess was going around why the federal government hasn't done something to this point. I just want to point out that they have introduced legislation. Right now they have Senate Bill 103 which was introduced by Senator Talent from Missouri. What that bill does is make all pseudoephedrine products Schedule V drugs. Now, what would happen if that was passed and came to Nebraska? We would be impacted a little differently than most states because our Schedule V regulations are different. Most states say that you...a Schedule V drug can only be purchased at a pharmacy. In Nebraska, however, Schedule V drugs, you have to have a prescription and they can only be purchased from a pharmacy. Now, I think that would impact Nebraska detrimentally and that would have the effect that Senator Chambers alluded to. That would have an impact on poor people. That's not what we want to accomplish with this bill. So I, if that were to pass, I already have an amendment ready that would make Nebraska's Schedule V regulations the same

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

April 27, 2005 LB 117

as the rest of the states. So that's one thing we're concerned about, one thing we're looking at. Also, Senator Chambers had some comments about what the logbook does, and he's absolutely correct as far as some of the discussion about the logbook. It was twofold. Number one, there was a paranoia aspect. We've been told that, you know, the addicts are very paranoid and wouldn't want to go up, sign their name. But the other way, the other reason for it was a method for law enforcement to track who's buying this stuff. So it's twofold. It's twofold in that interpretation and I feel that is a step, but I would like to go a lot further with it and have a centralized database that law enforcement had automatic access to. Thank you for that and, with the time remaining, I had promised Senator Chambers earlier the rest of my time. If he still wants it and is available, he may have it.

SENATOR CUDABACK: Is Senator...yes, he is. Senator Chambers, about...

SENATOR CHAMBERS: Thank you.

SENATOR CUDABACK: ...2, 50.

SENATOR CHAMBERS: How much time would I have, Mr. President?

SENATOR CUDABACK: About 2, 52, Senator.

SENATOR CHAMBERS: Thank you. Senator Aguilar, thank you very much. There are other issues that I'm kind of working on, too, so even if I'm not right here, I'm somewhere in the vicinity, lurking, looming, and skulking on occasion even. This bill is an attempt to do something of value. I didn't get to hear everything Senator Stuthman said, but he had mentioned something about this is lucrative. I guess he meant selling this particular product, so I won't try to address that, and my failure to do so doesn't mean I agree with him. I just didn't hear all that he said. But this is what I want to talk about, scheduling this drug. Sudafed is not addictive. Nobody has alleged that. Sudafed is not currently one of those drugs that requires a prescription. There are many, many people who rely on it. There are other cold medications which will not work for

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

April 27, 2005 LB 117

some people. There are individuals who have allergies and this might be the only drug that works, in terms of giving whatever relief you can get if you have a cold. To get these...at these few people who are the scofflaws, I'm not going to agree to inconveniencing everybody else, and by inconveniencing everybody else you're still not touching the problem significantly. That's my frustration with this whole approach. People ignore that and they stand up here and say make it a schedule drug. I'm against that. Putting it behind the counter, I have no problem with that whatsoever. They can put it in the basement, which nobody is going to do,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...but that's to make the point that when I say I'm opposed to certain restrictions, that is not one of them. I do want us to discuss, when we get to it, in detail this idea of limiting the age at which the purchase can be made. There are elderly people who cannot get around. There are younger people who will go to the store for them who do not drive motor vehicles, so they have no driver's license. And because they'd be under 18, they cannot purchase this. (Speaking as an elderly person) So old man Chambers is going to say, Senator Bourne, will you...will you hobble over to the store and get me some of that Sudafed? And Senator Bourne will say, well, Senator Chambers, I used to fix cars but I can't even drive them now, so we're going to have to talk to Senator Synowiecki, if he has got his driver's license back. And that's what you're dealing with. (Laughter)

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: But people don't care, but I do. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Beutler.

SENATOR BEUTLER: Senator Bourne, could I go back over with you what we started to go over before the penalty sections on pages 13 and 14 of the bill? And as I indicated previously, I'm

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

April 27, 2005 LB 117

glad to see you're able to get done some blending in of the statutes so that they are more proportional. But I wanted to understand kind of in which direction penalties went when you did this leveling...

SENATOR BOURNE: Right. Senator, if I can just answer your question?

SENATOR BEUTLER: Sure.

SENATOR BOURNE: Basically, this raises the penalties for methamphetamine and heroin so as to be similar to cocaine, but only for those people who manufacture and traffic methamphetamine. So it basically harmonizes those drugs that we have established in the past as exceptionally dangerous, cocaine, heroin and methamphetamine, and treats them all similarly.

SENATOR BEUTLER: Okay, good. And so the conversion from ounces to grams, the end result is that the penalties for amphetamine and methamphetamine are increased.

SENATOR BOURNE: Right. But when you talk about ounces and grams, you're talking about grams of base.

SENATOR BEUTLER: Okay.

SENATOR BOURNE: So I don't...if we...I don't know what that would be in an ounce, to be honest with you, but we're talking...we're not talking about the ounce of the pill, we're talking about the amount of pseudoephedrine base that's within the pill.

SENATOR BEUTLER: Okay. And the reference to base, or we know that refers to base because that's somewhere else identified?

SENATOR BOURNE: It is and I'll find it for you, Senator.

SENATOR BEUTLER: I'd take your word for it, Senator. Senator Cudaback, thank you. That's all I wanted to ask about at this point in time.

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

April 27, 2005 LB 117

SENATOR CUDABACK: Senator Beutler, are you finished?

SENATOR BEUTLER: Yes.

SENATOR CUDABACK: Thank you. Next speaker will be Senator Janssen, on FA189.

SENATOR JANSSEN: Thank you, Senator Cudaback, members of the Legislature. Looking at the amendment, a person knowingly or intentionally possessing a firearm while violation of this subject...of this subsection, what...bearing a firearm or possessing a firearm, right now it is legal, I believe, to possess a firearm if it is in the open. I'm sure...Senator Bourne, would you verify that?

SENATOR BOURNE: Certainly. I believe you're right, Senator Janssen, that if Senator Synowiecki wants to walk through his district out in south Omaha with a handgun strapped to his side, that's legal to do.

SENATOR JANSSEN: But at the present time, it would be illegal to have that concealed.

SENATOR BOURNE: Unless he can...right, unless he can show that he needed it for a business purpose. As I understand, there's some language in the statute that would provide him with an affirmative defense.

SENATOR JANSSEN: Okay. Well, all right, if the person was legally carrying...or had in his position a firearm, would they still be subject to this section then?

SENATOR BOURNE: If they are in the process of manufacturing or trafficking methamphetamine, yes.

SENATOR JANSSEN: Okay, but nothing with the purchase?

SENATOR BOURNE: No.

SENATOR JANSSEN: Okay. Thank you. Thank you, Senator

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

April 27, 2005 LB 117

Cudaback. I'd give the rest of my time to Senator Chambers, if he wanted it.

SENATOR CUDABACK: Senator Chambers, did you wish to use the remainder of Senator Janssen's time.

SENATOR CHAMBERS: Yes, I will. Thank you, Senator Janssen, and I presume that Senator Janssen talked about, excuse me, some of the questions that might arise even with this provision, and I'm sure it will be adopted. It's one of those that I will discuss further after all of the amendments have been...or the divided question, individual parts of it, have been added to the bill. There will be time to discuss it further, and I will do that with Senator Bourne, as the chairperson of the committee, and others who have an interest. Senator Flood has expressed quite a bit of interest, and all of those others. I don't want to seem unreasonable, but what is being attempted here seems unreasonable to me. I care about old people, not just because I'm old but a funny thing, when I'm around old people and they're my age, I don't feel old, and they tell me I'm not old. I say, man, I'm as old as you are. You are? I say, right. I say I take care of myself. And they say, well, why do I look so old, talking about himself? I say, well, I don't know, but if somebody asks you, tell them you spent eight or nine years in a prisoner of war camp and that's what it does to you. But the point is this. If we were on another kind of bill where we're having to show our concern for the elderly, we would be making all the right statements. People would give anecdotes about Grandma Sally or Great-Grandpa John and Uncle "whoever," because that's what we're talking about. But when we come to a real situation that relates to how older people are going to be affected by what we do, we don't care about them because you got to get them meth cookers. So the elderly go by the boards. Next time we have one of those issues and the hypocrites stand on this floor and talk about how they care about the elderly, I'm going to say, you're a liar. I won't actually say that, I'm too urbane, cultured, civilized, polite, respectful--and what was that other one--debonair. And that was a lie right there. (Laugh) So I have been known to shade the truth. But I'm saying it now, so I won't say it then but I'm saying it now, and you know what I'll be thinking.

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

April 27, 2005 LB 117

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Why don't you care about the elderly? You're so eager to get at somebody. I'm going to quote something that is a mainstay of Anglo-Saxon meaning white, Caucasian, jurisprudence: Better that 100 guilty escape than that one innocent suffer. But the philosophy is here: Better that 10,000 suffer so that six or seven will be inconvenienced--talking about the meth cookers. You think they're not going to get what they need to make this product? It is so narrow in terms of outlook to do some of the things this bill is contemplating. Not putting it behind the counter, I don't care about that. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion on FA189, the second component? Seeing no lights on, Senator Bourne, you're recognized to close on the second component of the divided committee amendments to LB 117.

SENATOR BOURNE: Thank you, Mr. President. I tell you, since it's after lunch and we've kind of drifted, I'm going to ask for a call of the house, and then if you would just let my time run, then I'll make my close as people filter in.

SENATOR CUDABACK: As you know, your time is running. There's been a request for a call of the house. All in favor vote aye; those opposed, nay. Record please, Mr. Clerk.

CLERK: 21 ayes, 1 nay, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unexcused senators please report to the Chamber. Unauthorized personnel please leave the floor. The house is under call. The house is under call. All unexcused senators please report to the chamber. Senator Combs, Senator Cornett. Senator Chambers, would you check in, please? Thank you. Senator Mines, Senator Kremer, Senator Smith, Senator Connealy. Senator Janssen, would you check in, please? Senator Smith. Senator Bourne, if you would like to, you may continue.

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

April 27, 2005 LB 117

SENATOR BOURNE: Thank you, Mr. President, I will. This is the, oh, I believe it's the second component of the divided committee amendment, and this one, it's FA189. And while there was some discussion on it, it certainly didn't seem to have a lot of opposition. It basically enhances the penalty to the next class up of penalty for those people who knowingly and intentionally possess a firearm while manufacturing or trafficking...while they are manufacturing or trafficking methamphetamine. I'd appreciate your support in adopting this component. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Bourne. All members are present or accounted for. Senator, did you request a certain way, a machine vote? A machine vote has been requested. FA189, the second component, divided committee amendments to LB 117. All in favor vote aye; opposed, nay. We're voting on the second component, FA189, of the committee amendments to LB 117. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 36 ayes, 1 nay, Mr. President, on adoption of committee amendment, FA189.

SENATOR CUDABACK: FA189 has been adopted. I do raise the call. Mr. Clerk, next component.

CLERK: Mr. President, the next component, FA190, which consists of lines 11 through 13 on page 17 of the original committee amendment. (Legislative Journal page 1324.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Bourne, you're recognized to open on the third component.

SENATOR BOURNE: Thank you, Mr. President, members. This is a component that seemed to make sense to us in the Judiciary Committee, and it seems to be consistent with the way we tried to control other products, for lack of a better word, that we feel should only be purchased by people of a certain age. And the amendment says, "Sold by a person 19 years of age or older, in the course of his or her employment, to a customer 18 years

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

April 27, 2005 LB 117

of age or older with the following restrictions:" So in context, that's what the amendment says, FA190. But what...basically what we're trying to do is, in order to purchase products containing pseudoephedrine base, and again we've already...well, we've adopted a portion of that where it calls for the limit to be 1,440 milligrams of base. In order for a person to purchase that product, they have to be 19 years of age or older. And I believe that's similar to the purchase of...or excuse me, I said this wrong. If you want to buy Sudafed, the person that you are going to purchase it from at the store has to be at least 19 years of age or older. That is the age that we already have in law for the purchase of alcohol. And that person must be in the ordinary course of his or her employment...and if you remember, the green copy of the bill said it had to be a pharmacist or a pharmacist intern or a tech, and so what we did is we felt that that was going to be too restrictive on our rural citizens here in Nebraska because a lot of times in rural Nebraska they don't have pharmacists or pharm techs and so we thought it would be too onerous on those citizens to go out and drive however long to get to a pharmacy, or a place where pharmacists would be, to purchase this product. So what we did is we tried to restrict it so that the 16-year-old clerk wouldn't sell too many packages of the drug. We felt 19 years of age, there was a precedent for that because that's the age for the sale of alcohol. They have to be in the course of her employment to a customer, and the customer has to be 18 years of age or older. So in order to buy it, you have to be 18. In order for the clerk to sell it, they have to be 19. Again, there a precedent for this in our statute. Right now to buy alcohol...or excuse me, to sell alcohol, you have to be 19 years of age. To sell cigarettes or to purchase cigarettes, you have to be 18 years of age. So to sell it you have to be 19, to buy it you have to be 18. That, in a nutshell, is what the amendment does. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Bourne. You've heard the opening on FA190, the third component by committee amendments. Open for discussion, Senator Janssen, followed by Senators Beutler and Chambers.

SENATOR JANSSEN: Thank you, Senator Cudaback, members of the

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

April 27, 2005 LB 117

Legislature. This is the section, Senator Bourne, that I'm not going to do anything on General File, but I do want to do something on Select File. I believe that if you're able to buy those products at the age of 18, then I would like to see it a little lower, but I would settle for 18 on...at the point of sale. Especially in the rural parts of the state, you know, we employ a lot of younger people, and because that's...we feel as though it's a community service by employing young high school kids, and 18 is actually a little too old. But I realize the situation. Sometimes you wonder if a person 18 has any more brains than they have at 16, but I would settle for 18. So...but I will wait until Select File to put that amendment on. Thank you, and I give the rest of the time back to Senator Bourne, if he'd like to have it.

SENATOR CUDABACK: Senator Bourne.

SENATOR BOURNE: Thank you, Senator Janssen. I appreciate your comments and, you know, your input as a business owner is valued and we'll do everything we can to accommodate you if we can come to that agreement. I think this makes sense. I think that there's also a component of training that's incumbent on those folks that are selling this. And our thought in committee was is that a 19-year-old would be more receptive to the training because, quite honestly, what's going on now, as I understand it, there is a limit on how much a product can be sold. But sometimes what happens is that they'll say, oh, we'll just ring it up in two separate transactions. And the thought was that if you were 19 years of age, you'd be a little more receptive and a little more responsible to whatever training hopefully the merchants will put into force in order to carry out this act. So again, there's precedent for this. In order to sell alcohol, you have to be 19 years of age. And that's why we did this. So I would appreciate your support on this amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne and Senator Janssen. Did you wish to have your time back, Senator Janssen?

SENATOR JANSSEN: No, I'll waive.

SENATOR CUDABACK: Thank you. Senator Beutler.

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

April 27, 2005 LB 117

SENATOR BEUTLER: Senator Bourne, I'm interested in this language as it relates, because this language talks about who the seller is, and then it relates to language down at the bottom of that pages, on 24, 25, and 26, where it says, any person who sells drug products in violation of this section shall be subject to a certain penalty. And I wanted to clarify a couple of things. First of all, let's say we have a Walgreens store. It's not the company that's subject to the penalty, but rather the person who sells the product. Is that right, to begin with?

SENATOR BOURNE: Yes, Senator Beutler. And again, if you also notice that that is existing law, the language that you're looking at in lines 24 through 27. It is a civil penalty that would go towards the individual who sold the drug that is in this section, but...and yes, it does go to them individually, not the company.

SENATOR BEUTLER: Okay. So the penalty is against the individual, and then...which is not a particularly good incentive for the company in terms of the training that you're looking for. But anyway, the person who sells, let's say in Walgreens there are two people. One is up at the cash register and one is back where the drugs are sold. And the drugs are behind the counter and somebody comes up and says, I want six packages of this, which is beyond your limitation that you have up above. And the person behind the counter gives him six packages, and he goes to the front of the store and checks it out. Who is the person who has violated the law?

SENATOR CUDABACK: Senator Bourne.

SENATOR BOURNE: Senator Beutler, again as I read this existing portion of the statute, and again I hope you recognize this is not new language, but I think the answer to your question, under the existing statute, it would be the clerk or the individual who sold the drug.

SENATOR BEUTLER: The one who actually rang it up on the cash register and took the money.

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

April 27, 2005 LB 117

SENATOR BOURNE: That's how I read the existing statute. It's not new language.

SENATOR BEUTLER: Okay. So with your...there are several things I wanted to ask about in that regard. First of all, if you have a store that has two or three different shifts of people, it would be...let's say they have three shifts. Let's say it's a 24-hour store. So you have three different cashiers there, and the same person could come in and buy from three different cashiers within a 24-hour period. And without a log, these three people really have no way of knowing if that person is violating the law. Wouldn't that be right?

SENATOR CUDABACK: Is that a question, Senator?

SENATOR BEUTLER: Yes.

SENATOR BOURNE: I could see where that could happen, Senator Chambers...or excuse me, Senator Beutler.

SENATOR BEUTLER: Okay. Well, that's one thing that I wanted...I mean, I'm trying to deal with the whole question of whether we need a log or not. And that's one area where...

SENATOR BOURNE: If I could offer, Senator Beutler,...

SENATOR BEUTLER: Sure.

SENATOR BOURNE: I think that goes more towards the amendment you discussed this morning that limits the amount that an individual could have in their possession, rather than the logbook.

SENATOR BEUTLER: Okay. Well, I can how it would relate to both. And I know this is existing law, too, and you're trying to work with existing law. But the penalty for the one who does sell is \$50 per day. So if that person just up and sold a whole, say, five times the...

SENATOR CUDABACK: One minute.

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

April 27, 2005 LB 117

SENATOR BEUTLER: ...24-hour limit to a buyer who came in, the penalty for that, regardless of the amount that they're able to turn over, is \$50 in that one day. Am I reading that right?

SENATOR CUDABACK: Senator Bourne.

SENATOR BOURNE: I believe you already have...

SENATOR BEUTLER: Certainly, it's a first violation.

SENATOR BOURNE: Right.

SENATOR BEUTLER: Okay. The whole idea of a log, it seems to me, has some validity in terms of the internal store regulation and of what their employees are doing because the condition is that no customer shall be allowed...

SENATOR CUDABACK: Time, Senator Beutler.

SENATOR BEUTLER: ...to purchase or acquire over a certain amount.

SENATOR CUDABACK: Time, Senator.

SENATOR BEUTLER: Okay. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. (Visitors introduced.) Mr. Clerk, motion on the desk.

CLERK: Senator Chambers would move to amend the committee amendment. (Re. FA205, Legislative Journal page 1324.)

SENATOR CUDABACK: Senator Chambers, to open on your amendment to...FA190.

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, if you turn to your gadget, you will see that in lines 12 and 13, my amendment would propose to strike the words, "to a customer 18 years of age or older." Up to now, I've made general comments about the bill itself, a word or two about the

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

April 27, 2005 LB 117

specific provision that might be considered at that moment for adding to the bill or adopting, and now we're getting to some of those areas where I would like to see changes made. I shouldn't reveal my hand at this point, but Senator Landis was talking to me and I let him know what my view on the bill is. It is not my intent to try to stop this bill at this point. There are issues that need to be thoroughly discussed, and that discussion is taking place. I have not offered amendments on the other propositions because when it came to the penalties, more study has to be given to that by me before I'm willing or feel prepared to offer any amendment. The matter of the gun is something that can be looked at, but it is not complicated so it does not require a great deal of discussion and I don't have any amendments prepared for it. But when it comes to this part of the bill, I do have a problem. In explaining to Senator Landis as succinctly as I could what my approach is, I will try to say again what I tried to say to him. I do not believe that this bill, in whatever form passed, even if you had that book, that logbook, is going to have any substantial impact on the amount of methamphetamine available and being used in this state. Since any bill that is enacted into law is not going to have any appreciable effect or impact whatsoever on the amount of methamphetamine or the consumption of it, that ineffective bill should not contain encroachments on the rights and the needs of the vast majority of citizens who are not going to engage in any kind of questionable conduct. So, to put it in a question, why inconvenience a thousand people because you're concerned about the conduct of one person, and what you put into law to get at that one person is not going to address that, it would make no sense then to inconvenience all these others. So when you pass this ineffective bill into law, I don't want it to contain encroachments on the rights of citizens because there's no compelling reason for that encroachment when the bill is not going to achieve the desired end. Let the bill be passed into law, let people who have not paid attention get the impression that the enactment of this bill is going to solve the meth problem in Nebraska. Go ahead and do that, but don't at the same time use it as an excuse to discommode, inconvenience a lot of people who need to use Sudafed for legitimate reasons. So rather than say amphetamine or methamphetamine or pseudoephedrine or whatever, I'm going to use the brand name of

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

April 27, 2005 LB 117

what it is I'm talking about. There are people of all ages who use Sudafed. Right now, anybody with the money can go into the store and purchase it. Some stores have it behind counters, in glass cases which are locked, and have taken other precautions, none of which I object to. Creating an artificial barrier for the vast majority of the people in this state, in fact I will say all of the people because the number or the percentage of people cooking meth is so infinitesimally small compared to all of the people who are using Sudafed throughout this state that I can say you're unconvincing all of the people who make use of this legal across-the-counter drug. Don't inconvenience them when by so doing you're not even going to stop the bad guy from doing what he wants to do. You think he won't get ingredients that are needed? Let's say that he can't, but he wants to stay in the business. Then he'll find somebody who is hustling the substance and tell him, hey, I'll sell it for you. That's the way you hook people into selling other drugs. They're addicts, you give them a little bit, then you pay them off in drugs, and you make them sell drugs. And if they don't come up with the money or they steal the drugs, then you kill them. That hasn't changed. This bill is not going to change any of that. When people want to compare it to beer and tobacco, those are substances that harm. They do harm. Tobacco products kill. We're talking about a medication that helps enhance health. To equate a health-producing medicine with drugs that kill, cripple and damage the mind, I think is inappropriate. The fact that you have certain restrictions on those who sell alcohol and tobacco is no justification for carrying those restrictions over to deal with a product that not only is legal but it generates health. People do not buy Sudafed to get high. They're talking, the ones who want this bill, and who want to put restrictions, they're talking about an end product of which the substance, the active ingredient in Sudafed, can be used and is necessary to produce that end product. The Sudafed, however, is being discussed here as though it is the end product. It is being discussed as though it causes people to lose their minds, to commit crimes, to suffer deleterious health effects in their own body. That's not what Sudafed does. That's not what it's intended to do, and it will not do that. So we don't even have an equivalency here between Sudafed and any of these other harmful substances. Therefore, to say that a person has to be

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

April 27, 2005 LB 117

18 years old before a purchase can be made, I feel is unreasonable, and I will fight against that. If I lose it here, am I going to try to stop the bill from moving? Not on your life. But if that remains the form of the bill, my attitude toward the bill will change. There are people I know who need this drug. I don't mean they'll die if they don't have it. It is essential that they have it to enjoy a relatively decent life. Others have talked about things they've read in terms of the harm done to people who use meth and the harm that people who use it may do to others. I'm looking at those people who haven't done anything wrong except to be a human being, cursed with an ailment that is benefited by the use of Sudafed. And now, because an infinitesimally small percentage of the population misuses it, all of those others are to be inconvenienced. So these elderly people that I've touched on before who have to send somebody to the store can forget about that. For those of you all who don't know what's happening in the world, you do not just call a kid off the street and put money in his or her hand and say, go to the store and get me this. You may never see your money again.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: It could be somebody who might feel that, because you've got this money and you're so free with it, you might have a lot more in your house, so it might be like an invitation for somebody to come in and knock you in the head and take what they think you have, whether you have it or not. So if a relationship has grown up between an elderly person and a youngster, it should not be broken, destroyed, and as a result the elderly person cannot get this legal product which he or she needs. That's what I'm fighting for and those are the people I'm concerned about. These meth cookers don't terrify me. And I don't mean I'm in favor of what they're doing, but I'm not going to sacrifice elderly and other innocent people to satisfy the whims of politicians who are riding the crest of a political wave when they know that this bill is not going to substantially impact the use or the availability of meth. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard

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

April 27, 2005 LB 117

the opening on FA205, offered by Senator Chambers to the third component of the divided committee amendments. Open for discussion, Senator Chambers followed by Senator Aguilar.

SENATOR CHAMBERS: Thank you, Mr. President. I appreciate what Dwite Pederson handed out to us, "The Meth Menace," but looking at the construction of this statement on the front of it, "Battling the fast-paced spread of methamphetamine may mean attacking it from several fronts." No, you attack it on several fronts, not from. You attack it on these different fronts. Senator Dwite Pedersen didn't write that. The geniuses who put together this document did that. Do you see why I tell you that the use of language is something that I'm cursed to pay attention to? We should proceed with care in the language we use to draft legislation. We should proceed with even more care in the content of that legislation. I'm going to go back to what I was saying about why I object to a person having to be 18 years old. Farther down in one of the other divisions a person would have to show identification and it's specified as being an operator's license or state identification card as proof of identification. I don't think any of that should be done. You are not going to achieve your purpose if you put all that in the bill. You can harm the interests of innocent people. Why do harm when you can't achieve what the alleged purpose of the bill is? I'm not going to go around here and call the names of senators and ask them do they care about elderly people, because as I look around here, you're not as old as I am, but everybody has got some years on them, so they have parents who probably could be described as elderly. But maybe their parents are not in the circumstances I'm describing. They have somebody who will go to the store and make the purchase for them, so they don't care. Here's the example. If I got a 500-pound table and poor Arnie of the Ernie and Arnie team would walk past that table and one of the legs would come loose and that table, having three legs, cannot stand upright and it would fall, and that corner without a leg landed on his foot. And Arnie responded like other human beings said, ouch--well, that's what I would say; he uses more colorful language--and I look at him and I say, Arnie, what's the matter with you? Why are you making all that noise? He says, well, this table is on my foot. I say, I don't feel anything. You don't hear me carrying on

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

April 27, 2005 LB 117

like that. Why don't you stop? He says, well, if your foot was where my foot is, you'd be carrying on like I am. Some people have to be experiencing something before they can believe that it's detrimental. Other people are able to empathize. It doesn't have to be happening to them. They can perceive the harm it's doing to the other person and understand why that person is behaving as he or she is. And if that person is in pain, an attempt may be made to alleviate it. Even though the one doing the alleviating feels no pain whatsoever, there's an identification with the misfortune of another. So if your elderly parents, if elderly people you have befriended, if elderly people you know of but they're not acquaintances or associates of yours but you just happen to know about them, are not facing a problem, you may conclude that no elderly people face problems. And if they do, it's their own doing because all the elderly people I know don't have those problems. So God is probably bringing justice to them. Well, you all, if you have that attitude, are not the kind to do anything to make the world a better place.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Those of us who can see the problems that people have who cannot help themselves feel an obligation to do something to rectify that set of circumstances. So when we just look at these words as words on paper and don't translate them into how they're going to affect people in the world right now, it would be very easy to reject my amendment, leave this language here because the Governor wants it, and say, forget about those elderly people. I cannot do it, I won't do it. But at this point, I won't try to stop the bill. I'm mighty tempted but sometimes we have to resist and overcome temptation. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion on FA205, Senator Aguilar, followed by Senator Preister and others.

SENATOR AGUILAR: Thank you, Mr. President. Senator Chambers, I'm going to ask you a little question here and I'll give you a little background first. I'm a little concerned, I'm also

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

April 27, 2005 LB 117

concerned with senior citizens and their ability to get this. But my concern, and I certainly don't speak for Senator Stuthman and Senator Bourne, this is my own opinion, I'm wondering if, in your mind, there is another number we could talk about. If 18 does not work for you, is there another number? I'm very adverse to leaving it wide open and I'll explain why. I mean, there's so many situations where somebody that is manufacturing methamphetamine can get his little brother and call him, give him 40 bucks and say, here, go find five of your friends, go to the drugstore, buy some Sudafed. I mean, it's as simple as that. That can happen. At that young age, they don't know the difference between right and wrong. They don't know what they're doing is a crime and where that Sudafed is going to be turned into methamphetamine. So I'm wondering, I'm just wondering out loud to you, and you can have the rest of my time to answer this, if you like, if there's another workable number in there that we can at least talk about.

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Senator Aguilar, when you're doing with a social problem like we're dealing with here, there's no perfect solution. There are problems, no matter what you do. When a court is faced with a situation in the context of a lawsuit, the court must make a decision. It cannot come down with a no decision. So it has created what it calls a weighing process. It weights on the one hand what is asked for by one person against what might be in the best interests of society. There's a clash between a societal need and an individual right. If the individual right is going to have to give way to give the other side who is representing society what they want, the one representing society has to show there's an overwhelming or compelling need and justification to overbalance the individual right which ordinarily is guaranteed by the constitution. It can't be just a matter of convenience or speculation or hoping. There is something very firm and definite that will have to be shown to exist to justify overcoming the individual right. You're either going to have to show a strong societal harm that can be dealt with only by doing away with this individual's right, or you can show that the individual right is really not that consequential. And so, if society can show any worthwhile

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

April 27, 2005 LB 117

basis, they can overcome that right. When I go through this weighing process in my mind, I come down on the side of elderly people because they are harmed in so many ways. When it comes to healthcare, providing pay for the utilities to keep them warm in the winter or cool in the summer if possible, sometimes just to keep their lights, their gas and their water turned on, I don't want to inconvenience them otherwise when it comes to their personal health. Maybe you and I can have a cold and we will throw it off without using any medication. Somebody else can be so elderly or so infirm that a cold could be the entree to pneumonia or emphysema or anything else. I don't know what all. So they have to preserve their health to the extent that they can. If anything comes along that can harm or weaken them, they try to nip that in the bud. I think the interests of the elderly overbalances the fear that people have of one of these meth cookers sending these kids into the store to buy this methamphetamine. With the rest of the things you have in the bill, the purchase, the amount that can be purchased is limited. It won't be where they can say, take \$40, go in the store and buy me as many of these as you can. If a group of kids came in together,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...and each one was going to try to purchase what the law allows, that could be sufficient to raise suspicion so the clerk would not sell it to any of them. But if one child comes, accompanied by some friends, and one box of Sudafed is going to be purchased, the fact that there is a group of kids should not prevent that purchase from being carried out. So I come down on the side of the elderly. If there is another number, a lower age, I haven't given my mind to that yet. But that is an area where we might could come together, but I definitely am opposed to 18.

SENATOR CUDABACK: Senator Aguilar.

SENATOR AGUILAR: How much time do I have left?

SENATOR CUDABACK: Not very much.

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

April 27, 2005 LB 117

SENATOR AGUILAR: Thank you.

SENATOR CUDABACK: Sorry about that. Next speaker...sorry about that, Senator Aguilar. Senator Preister, followed by Senator Bourne.

SENATOR PREISTER: Thank you, Honorable President, friends all. I'd like to ask Senator Bourne a couple of questions if I might, please.

SENATOR BOURNE: Certainly.

SENATOR PREISTER: Senator Bourne, you must be a mind reader. You were saying with your lips the words I was getting up to say.

SENATOR BOURNE: Friends all.

SENATOR PREISTER: I appreciate that in this time it isn't friends none. (Laugh) My...

SENATOR BOURNE: That question is early, Senator Preister.

SENATOR PREISTER: Ah, yes. In this case, I certainly support what you're attempting to do, and Senator Aguilar, and I do appreciate all the effort that has gone into this. There's a handout that went around, I believe it was one that Senator Kruse gave out. It lists five different components that apparently go into the making up of meth. I know you didn't hand that out, but it lists the pseudoephedrine as the first ingredient that goes into meth-making. It also lists lithium batteries. It lists drain cleaner and muriatic acid. It lists deicer and starter fluid, and it lists camping fuel. It's my understanding from this, which is a retail watch, that these are the things that go into making methamphetamine. Is that your understanding as well? Are these the components?

SENATOR BOURNE: They are, Senator Preister, and if you want, I can go through how this product or this drug is made.

SENATOR PREISTER: Well, I might ask you to do that. But as I

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

April 27, 2005 LB 117

look at this list, I see the top one, the pseudoephedrine, that has healthy benefits to people when they ingest it. When I look at the other four, although they're equally legal and although they have benefits in some capacity, any one of those things would certainly damage and harm a person's body or a pet or an animal if they ingested any one of those. Would you agree with that?

SENATOR BOURNE: Absolutely agree. Those are all unbelievably dangerous products.

SENATOR PREISTER: And I would not want anyone to ingest something that would clean out a drain or that would do...camping fuel or any of these other things. So as I look at those things that are dangerous, and I see one of them that's helpful, I guess my next question to you is, are we limiting these other components to being sold only by people that are over 18, or are we only requiring that one of these components be dealt with and be sold by someone over...

SENATOR BOURNE: Excellent, excellent question, Senator Preister, and I'll tell you. If you listened when I had given my opening, I said the one ingredient that is absolutely essential cannot be exchanged for anything else, in the manufacture of methamphetamine is pseudoephedrine. There's an exchange for the lithium battery component when you make meth. There's an exchange for the drain cleaner. There's an exchange for muriatic acid. There's an exchange for deicer and camping fuel. There's other products that the meth cooks can use in lieu of lithium batteries, drain cleaners, deicers and camping fuel, so if we were to limit...and, quite honestly, Senator Preister, we looked at putting a dye in anhydrous ammonia. And we were reluctant to do that because the impact it would have on the ag community, and we also then realized that, well, they can use something else instead of anhydrous. But the one ingredient that is an absolute, got-to-have when it comes to making methamphetamine is pseudoephedrine. So that's what it makes sense to focus our efforts on, on its restriction.

SENATOR PREISTER: Thank you, Senator Bourne. And that was something that I wasn't clear on, and I do appreciate the

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

April 27, 2005 LB 117

clarification. I just looked on my laptop and I got an e-mail from Health and Human Services and it says that...

SENATOR CUDABACK: One minute.

SENATOR PREISTER: ...May is Older Americans Month, and so in honor of May being Older Americans Month, I would yield the remainder of my time to Senator Chambers. (Laughter)

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Mr. President and members of the Legislature, Senator Preister made me do it. I picked up what was handed out at the same time the item he read from was handed out. And on the front of it, it says "Methamphetamine, What, Where, How" provided by the Midwest HIDTA--whatever that is---and the Omaha Police Department--I know what that is--funded by the COPS Office methamphetamine grant. When I opened this paper, there is something like a green ribbon across the top on which is written "Methamphetamine..."

SENATOR CUDABACK: Your time is up, Senator Chambers.

SENATOR CHAMBERS: Yes, what did you say?

SENATOR CUDABACK: Your time is up.

SENATOR CHAMBERS: Oh, has somebody given me their time? I thought it was on my own. Okay. Thank you.

SENATOR CUDABACK: I'm sorry. Senator Preister gave it to you. Senator Bourne, you're recognized.

SENATOR BOURNE: Thank you, Mr. President and members. Senator Chambers, Senator Preister gave that to you in honor of May being "Old Persons Month." And what he forgot to tell you is it's April and you only got 30 seconds. (Laughter) And I understand exactly what Senator Chambers is saying, that this might be an inconvenience on people. And there is some legitimacy to what he's saying and I absolutely can understand that. However, I think sometimes the means...or the ends

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

April 27, 2005 LB 117

justify the means and that. This is such an incredibly dangerous product that it seems to make sense to me to require this additional hurdle. I am really reluctant to removing the 18-years-of-age requirement from the bill. I heard Senator Chambers talk about how it is weak now. I don't agree. Senator Stuhr mentioned the same thing, and I don't agree. I think what we have if we stay the course here is the most comprehensive methamphetamine bill in the entire country. And I am reluctant to make any changes in terms of weaken it. One thing I will tell you is that there are controlled substances under federal law where a prescription is not required, and I'm getting a list of what those substances are. But they may be dispensed by a pharmacist without a prescription to a purchaser at retail, provided that...and it gives a whole bunch of criteria. And one of the criteria is that the purchaser is at least 18 years of age. And I'd also suggest that Senator Chambers, and sometimes he has great ideas on these bills but, quite honestly, Senator Chambers might not have thought through all the permutations of it. And that's not a criticism on him at all, but what I'm suggesting is is that...think about the elderly people you know. My parents are in their early 70s and are in pretty good health, but both of them are on prescription medications. They're on prescriptions that require them to go to the pharmacist on a regular basis with a prescription and get drugs. Now when I was 15 or 16 or 13 or 12 or any age under 18, I could not go to the store for them and get their prescription. So what I'm suggesting is is that, yeah, this is a bit of a hurdle. You have to be 18 years of age, and I absolutely respect what Senator Chambers is talking about because I represent north Omaha as well, and it seems to be a common occurrence in north Omaha that kids will tend to grow up with a grandparent or an uncle or an aunt, and it is a little bit of an inconvenience that they can't send a young person down there for a quart of milk. But when they are already on some sort of prescription medication, and federal law already says that they can't purchase that drug if you're under 18, it doesn't seem to me to be a huge inconvenience. And perhaps Senator Chambers didn't know about this, but I would urge him to consider it. I'm concerned that if we lower the age, then all of a sudden we won't have the ID requirement in the bill. I feel that if the ID requirement is not there and the age is reduced, I do feel

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

April 27, 2005 LB 117

that it significantly weakens the bill, and that's not what we need. I do want to add one other point that pharmacists in my neighborhood, and I represent an area right adjacent to Senator Chambers', are mostly...well, there's a lot of family-run pharmacies there, and I would suggest to you that a majority of those pharmacies have home delivery and generally it's free. And that's another thing, Senator Chambers, I'd like you to consider. Number one, that most of these old folks are on prescriptions anyway where they have to physically present themselves to the pharmacy or have somebody that's 18 years of age or older to go there; and two, again a lot of these pharmacies have free delivery up in our neighborhood. So I absolutely understand what you're saying, but I'm not too worried about that because I do think that, number one, they're already there; or, number two, the pharmacy can bring it. I do want to kind of go through our surrounding states and what they do as it relates to age or ID.

SENATOR CUDABACK: One minute.

SENATOR BOURNE: Thank you, Mr. President. Colorado requires that you show photo ID, so we're talking about somebody who is at least 16 and, again, Senator Chambers' amendment says a...it would eliminate any age requirement whatsoever. So if you could ride your bike or toddle down to the store, you could buy this product. And I just think that's too far. Illinois requires that you sign a logbook and show an ID. Indiana, you have to show an ID and a logbook. Iowa, yes, you have ID and logbook. Kansas, logbook and ID. Michigan, an ID, logbook and amount sold. Missouri, you have to show an ID and sign a logbook. Minnesota, ID, logbook. Nebraska, what we're proposing is yes to an ID, no to a logbook. North Dakota, you have to show your ID. Ohio, show your ID. Wisconsin, you have to show an ID and sign a logbook. So what I'm afraid of, it's on two fronts. One, meth is a huge problem, we have to do something.

SENATOR CUDABACK: Time, Senator Bourne.

SENATOR BOURNE: That problem is more pressing because all the states are around us are adopting laws that are more stringent than ours.

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

April 27, 2005 LB 117

SENATOR CUDABACK: Thank you, Senator Bourne. On with discussion of the Chambers amendment, FA205, to the third component by the committee amendment, Senator Kopplin, followed by Senator Beutler.

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. I support this bill and I hope no one misinterprets that, but there are some problems with it that I have, and one is this 18-years-of-age business. I'd simply like to point out that there's many 17-year-olds that no longer live at home. They've graduated from high school, they're out on jobs and so on, and under this proposal they can't even buy anything for their allergies. And I...so I think 18 years of age is too much. I'm not sure I could agree with Senator Chambers that we need to eliminate it completely, but I think some consideration should be given to that age. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Kopplin. On with discussion, Senator Beutler, on the Chambers amendment.

SENATOR BEUTLER: Senator Bourne, let me ask if you're open to some other ideas. Going to back to this point of sale restriction provisions, when you...when law enforcement...without a log, when law enforcement tries to enforce any of these restrictions, if they haven't stopped somebody out there and caught them with a large packet of pseudoephedrine or the other prohibited precursor, if they haven't stopped somebody out there, there's really no way for them to use any investigative techniques or to search other than kind of ineffectually walking around from store to store and seeing if any particular individual clerk remembers the same person coming in at different stores, or at the same store at different hours, or coming back day after day. And even if you...and if you caught somebody with some in their car, you still wouldn't be able to trace it back to a store and enforce this law in any effective way that I can see. And what would be the incentive for law enforcement to even try if the penalty on the seller side is just \$50 and the penalty on the buyer side is just an infraction? And I understand those are current law. But in many other parts of the bill where you already have

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

April 27, 2005 LB 117

felony offenses in effect, you increase the penalty, either through the mechanism of possession of a firearm or through the mechanism of making possession penalties in the area of meth the same as for heroin and cocaine. You've been willing to increase the penalties, presumably, with the idea of making the law more effectual, but ironically, to me, right here in this section where you could possibly catch more people and where you really need to give law enforcement some incentive to do anything...I mean, I can't see that there's any incentive there if the penalty is an infraction.

SENATOR CUDABACK: Senator Bourne.

SENATOR BEUTLER: Would you be open, in the bottom part of page 17, to increasing the civil penalty on the seller side and the penalty...and the infraction penalty on the buyer side...

SENATOR BOURNE: Absolutely.

SENATOR BEUTLER: ...to make it something where law enforcement would think it would be worthwhile to go out and try to catch somebody?

SENATOR BOURNE: Absolutely, Senator Beutler. As I mentioned to you, what I hope to do is move the bill over to Select, and if you want to make it...and I will tell you that I sense the body wants to make it more restrictive, even though I do believe it's the most comprehensive bill, should it pass, in the entire country. Senator Flood is talking about Class V. You're talking about a logbook, you're talking about enhanced penalties. I am more than willing to consider any of these. But you also have to recognize in the bill we're distinguishing those people who manufacture and traffic this drug and those enhanced penalties and the weapons provisions first is somebody trying to purchase a legal product. And so, it's a delicate balance in that if somebody is buying 48 tablets of Sudafed, that's far different than buying a case of it. And so that's what we're trying to do is control the input and yet still let...have people...let people have access to the drug.

SENATOR BEUTLER: Senator, I appreciate the delicacies of those

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

April 27, 2005 LB 117

balances, and it's enough for me that you were willing...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...to talk about it before Select File. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. On with discussion of the Chambers amendment, Senator Stuthman, followed by Senator Chambers.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I want to expand a little bit more on a concern that Senator Chambers had with the elderly being able to get their cold medicine and their allergy medicine. I really respect the elderly people. I feel they have the ability, they've got the knowledge, they have the discipline to organize themselves as to be able to get it in a timely fashion. I don't think that's going to be a real inconvenience for them. But the issue that I'm going to dwell on is part of that article what Senator Dwite Pedersen put out and it was in the legislative magazine. It's a study from Minnesota, and I'll just read you the quote, "Meth plays a role in up to 81 percent of child protection cases reported in Minnesota. The rate of abuse and neglect is particularly acute in rural areas." Now these individuals, the children that are in and around meth-addicted people and the manufacturing of the meth, those are the individuals that can't take care of themselves, you know. We are a little bit concerned about the elderly not being able to get the medication, but what are we doing to the youth with this addictive drug around in the atmosphere, in the environment where these youth are? To me, one of the worst things for a youth is taking them out of their home, even if it is a bad home, even if the environment isn't very good, putting them in another environment. Eighty-one percent realistically shouldn't have to leave their home and go and stay somewhere else. Those are the people that I'm really concerned about. Those are the ones that can't help themselves. Those are the individuals that are scared, petrified to death, when law enforcement or Health and Human Services or someone from the foster care or foster parents come in and remove them from their atmosphere and their

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

April 27, 2005 LB 117

environment. Those are the ones that it really affects. They can't help themselves. So I think this is what we really got to consider. I am concerned about the elderly. Don't take me wrong on that. But I am a lot more concerned about the youth that we are really and realistically affecting because removing a child, a one-, two-, or three- or four-year-old child, five-year-old child, from their environment and taking them into a completely new environment does have a drastic effect on that individual. And that's a real concern of mine, so that's what we really got to be concentrating on because those individuals can't help themselves. They don't want that to happen to them, so we've got to take into consideration why are these 81 percent of the kids being taken out of their homes and what can we do to stop that? That's what I'm really concerned about. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. Further discussion, Senator Chambers, and this will be your third time, Senator.

SENATOR CHAMBERS: Mr. President, members of the Legislature, my view may be a bit broader than Senator Stuthman's. I agree with what he is saying. But in talking about the elderly and the children, it's not an either/or situation. We can deal with both of them. And we have to, I think, stop describing or characterizing problems as either/or when both or several, if there would be more than two parts, all of the parts comprise a problem. We should look at all aspects. And I'm willing to work with Senator Stuthman on what he's talking about because he's right. Senator Bourne did not adequately cover the waterfront in what he said. He mentioned that a lot of elderly people are already taking prescription drugs and they have to present themselves or have somebody above 18 to go get the prescription. I know some old people who get...have prescriptions filled, but they're not the kind that have to be filled as often as they would have to take these doses of Sudafed, and they have relatives who will go get their prescriptions filled. This is entirely different. This is not a prescription drug. A person doesn't have to buy enough to last for a long period of time. You get it when you need it. An older person could buy a gallon of milk at one time but it might go bad, so they might buy it in a quart or even a

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

April 27, 2005 LB 117

half...or a pint if it's sold in that manner. I disagree with what Senator Beutler said about law enforcement people not enforcing the law if the penalty is not great enough. I don't mean I disagree with what he declares to be a fact. I disagree with the idea that we ought to enhance the penalty just to get the cops to do what they swore to do. When they take this job, Senator Beutler, they swear, they swear an oath to uphold the law. Not because the penalty is great or the penalty is small, they swear to uphold the law because when they become aware of a violation, they are to act. And in the same way that I don't want to enhance penalties to give leverage to drug courts, I don't want to enhance punishments just to get cops to do what they swore to do. If they don't think enough of their oath to enforce the law, all you wind up doing is making some people pay higher fines if a cop decides selectively to get this person rather than that one, so I will oppose that, even though Senator Bourne and Senator Beutler favor it. When I said this book should not be there, I mean it. Senator Beutler said, how can there be enforcement if they can't check to see what a person has purchased someplace else? Well, the only way a cop can do that is get all of the pages for a certain day or period of time, have copies made, then compare all the names and see whether or not that person has made more than one purchase. If they happen to catch a person who they think is suspicious and they should have to have probable cause, then they could just go in to every store that might sell Sudafed and get a page out of all their books and then check to see if this person's name is on the page. It's so impractical, even the cops when they came said as I questioned them, they would not do that. That's not what they're interested in doing. When I said they might just go look at these books out of curiosity, that's not what they're interested in doing. They're not really interested in looking at the books. That's not it. You miss what those who favor the book gave as the reason for having the book. That's to increase the paranoia...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...of somebody who might be a meth cooker coming to buy the product. That's the only purpose, not to used for anything else. When I criticize the bill, it's not, as

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

April 27, 2005 LB 117

Senator Bourne might feel that I've said, it's weak; I've repeated that in whatever form a bill such as this. I even added, Senator Bourne, that if they put the logbook in, because of the small percentage of meth that would be affected, if the bill is 100 percent successful, it's not going to have any significant impact on the amount of meth available or being used. So I would say no matter what form a bill of this kind takes, it's not going to accomplish the desired purpose. Such being the case, don't let it encroach on the rights of law-abiding citizens. That's what I've said, that's what I mean. I don't think this bill is worse than any other bill, and I don't think those other bills are any better. All of them are futile attempts, they're jousting at windmills, to give themselves the feeling that they're doing something when they know they're not. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. (Visitors introduced.) On with discussion of FA205, Senator Friend.

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I wanted to touch on a couple of things or just a...I guess move along a consistent theme. Senator Chambers has brought up a consistent theme out here. I think he has been consistent, but more or less that something like this isn't going to do any good. I mean, we were talking about it this morning that we're going down a road with legislation that is more or less going to turn out to be ineffectual. I would say that the proverbial jury is out on that. Well, how do we know that? I think that there's precedent out there from other communities, other states, that shows that legislation, even though this is not necessarily a model of any other state, that legislation like this has made a difference. We heard that in the Judiciary Committee hearing. Now let me move on a little bit and try to maybe give an indirect analogy that I thought applied nonetheless. I don't think we need to remove this piece, I think, FA205, to the committee amendment. I think adopting this would be a bad idea. I think that what we...I don't think it would be a good idea at all because I think what we're trying to do here, or at least what this piece tried to do, is to promote or provide some responsibility in regard to the purchase and the, I guess the potential use. Senator Bourne

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

April 27, 2005 LB 117

touched on that and others had touched on that, that there are some ID requirements that we would be subjected to, or at least subjected to losing those requirements. But here's where the, to me, what the indirect analogy. I think it's important to make sure that we've got some responsibility in these purchases because, frankly, I don't think there's probably enough responsibility right now. I don't leave a bottle of Flintstones vitamins setting on the table when I leave because I've got young enough kids that think that they're candy. They will...Senator Redfield and I were talking about this before. They'll shove this stuff in their mouths and, you know, you can overdose. That can happen. Now we're going to remove a responsibility piece. We're going to take this out of there. There...this is where the direct...indirect analogy comes in. We're going to remove something like that and allow a 12-year-old to go down to the drugstore and purchase a certain amount of Sudafed? I won't let them handle the vitamin bottle, and I'm going to have my 12-year-old go down and buy me some Sudafed or my mother some Sudafed? I don't think so. That's not the way it works. Now, I do understand the concern. In some neighborhoods, it does work like that, but I think that that's where the responsibility piece comes in. We start changing our attitudes and changing the way we do things, or these type of problems don't go away. They just keep sprouting up. Common sense would dictate that you don't leave an open bottle of Flintstones vitamins in the middle of the table when you've got a 4-year-old thinking that it's candy. Common sense would also dictate, therefore, that we do things like this and make what some of us might consider to be fairly precarious language, we make it part of this bill because it does promote that responsibility. I would yield my time to Senator Flood, if he has anything to say. It appears...

SENATOR CUDABACK: Senator Flood, did you...yes, sir. One minute.

SENATOR FLOOD: Actually, I'd like...you can start me on my time. I believe I'm next in line.

SENATOR CUDABACK: You are.

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

April 27, 2005 LB 117

SENATOR FLOOD: Okay. Thank you, Mr. President. It's been said by a number of folks in here, or by a few, that this bill has been watered down or this is more tame than it should be. I don't want to be misquoted or misunderstood. I'm proud of this bill as amended. I think it's substantive. I know I've talked about Schedule V drugs, and that would be the next step, obviously. But I'm proud of what this does. This is a significant step, thanks to the leadership of Senator Bourne who has really been on the front line working this bill. I appreciate the way it came out and what it does, and this is one of the reasons I appreciate it because we're setting a standard. Law enforcement, when they talk about who they charge and who gets arrested when it comes to meth, they'll mention the word "mules." What's a mule? A mule is a guy that, or a lady, that is out there selling meth for somebody else so that they can further their own habit, and they've got a pretty serious penalty, as you saw this morning, that they face. Mules are also teenage girls that sell their body for sex so that they can get high. Mules are also 16-year-olds that go to the store and buy Sudafed so that they can help their provider of methamphetamine, who happens to be a meth cook, stay in business. It isn't just the meth cook we have to worry about with these meth labs. It's all the people in that circle that rely on the meth cook to give him the materials that they need to make the meth so that they can supply and pay back the mule with the methamphetamine that they produce. That may seem complicated but this isn't a 45-year-old guy living in a Quonset out in the middle of some rural area. This is a guy that makes meth to sell it or provide it for his friends and draws people into that circle. One meth addict hangs out with another meth addict, because the thing they have in common is doing meth. And pretty soon they start to depend and to rely on each other. Why do we want to let...or why do we want to make a 16-year-old attractive to a meth cook so that they can go out and get Sudafed throughout the town or throughout the county or your portion of the state? We don't, so let's take a bold step and say, no, you got to be 18 years old. I don't want a 16-year-old out running around after school, picking up pseudoephedrine tablets so that he or she can take it back to the Quonset, put it in the mix, and make meth. Why even give them an opportunity to put somebody in that position? For that reason, I say no,

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

April 27, 2005 LB 117

you have to be 18 years old to participate if you're going to be out there buying Sudafed for meth labs. And I don't want you to participate in the first place, but let's put a limit on the age and let's get those IDs out and let's check the IDs. And maybe in some pharmacy across Nebraska, there's somebody there that says, oh, that's John's boy; he's been buying a lot of Sudafed lately. I didn't know him but I saw his ID and that matches the same address. On the off-chance that that pharmacist or that retailer will say that, John, hey, your son has been in buying Sudafed. And John says, no, he didn't have a cold. Hey, maybe we tipped somebody off. John's boy is doing meth. At least look into it. Give the parent a shot at maybe finding out what's going on, if they don't know already. For those reasons, I think it's appropriate. Eighteen is appropriate. Let's do something bold here and I think this bill is the step in a right direction, and it makes a significant step forward. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Flood. Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. I, too, support the bill and want to thank Senator Bourne and Senator Aguilar and all those that have worked on this issue. I do support FA190, which includes the age limit. I do not support FA205. I agree that there should be an age limit. I feel that that is important. I also...I still have some great concerns about not using some kind of signature when the Sudafed or whatever is purchased. We have to sign for prescriptions, as I said this morning. All they need is a card, sign your name, put it in a file. That doesn't seem like it's asking that much, but we'll have that discussion later. And I'd like to turn the rest of my time over to Senator Bourne.

SENATOR CUDABACK: Senator Bourne.

SENATOR BOURNE: Thank you, Senator Stuhr, I appreciate your comments very much. And I'll tell you again, what we tried to do was recognize the wide diversity or geography of the state, and it just seemed to make sense that the logbook in a paper form wasn't the most practical thing, but I appreciate your words regarding the bill. I am opposed to Senator Chambers'

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

April 27, 2005 LB 117

amendment. I do think we need the age requirement in there. If I felt for one second that our senior citizens would be inconvenienced greatly and have a hard time getting this, I would not support the age limit. But I'm comfortable; there's mechanisms. I think a majority of our senior citizens are on some sort of prescription drugs. They make frequent trips to the pharmacy or the store, as it is now, and again, quite honestly, I think a lot of pharmacies do deliver. Senator Janssen just mentioned that he delivered, he delivers for his store within the town of Hooper. Now I realize that's only a couple of blocks, (Laughter) but I do think that if this was a really great inconvenience--actually I know--if this was a huge inconvenience on our seniors, I wouldn't support it. But as it is, I think that it's justifiable. I intend to vote red on Senator Chambers' amendment, although I certainly appreciate him bringing his points of view to the forefront. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. Senator Stuhr. Senator Mines. Senator Mines, yours is the last light on, so that will be no need for that, so thank you anyway. I will recognize Senator Chambers to close on his amendment, if he cares to, FA205.

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. Good enough for you, Senator Mines. I'm going to go back to this publication that I'm looking at, that the Omaha Police Department had something to do with. I talked about what's on the green ribbon, on the top of the page, when you open it up. Then the second one, about midway through the page, says the "affects" of methamphetamine--they mean the "effects," e-f-f-e-c-t-s, not a-f-f-e-c-t-s. They can't even spell. Now get this first sentence. Let me take the second sentence, because that might...okay. Take the second sentence under that headline. Senator Schimek is on the phone, and she's the one that I'm reading it for, but I'm going to read it because I see Senator Hudkins is listening. "The drug's euphoric effects are longer lasting than cocaine, from 8 to 24 hours, a big part of the popularity." See, this is what I criticize. A sentence does not consist of a certain number of words, and then you put a period. There's a subject and a predicate. Senator Schimek missed it, so I'm going to read it again for her benefit,

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

April 27, 2005 LB 117

because she disagrees with my interpretation of things. Senator Schimek, do you...and you don't have to answer...I mean, it's not to be on the mike, but what I'm looking at is a handout that says, methamphetamine. There is a multicolored legend on the front of it, and if you open it, then they first misspelled the word--they use "affects" when they mean "effects," but I'm going to read this sentence, what they call a sentence. "The drug's euphoric effects are longer lasting than cocaine, from 8 to 24 hours, a big part of popularity." This is what our children are getting. Now some people say we're talking about methamphetamine, not grammar, but I think everybody would think more precisely, everybody would make better judgments, if they were careful with language, if they respected it, if they improved and increased their vocabulary. The more words a person has at his or her disposal, the better, not only can he or she express thoughts that currently exist, but can even better formulate thoughts. So if in every course that a person takes in school writing is required, this would be a much more literate society. Whether it's a science course, a math course, biology, zoology, it makes no different. Require writing. In law school and every other professional school--medical school, pharmacy, dentistry--require the people when they write examinations to use complete sentences and express themselves coherently. Require it. People would even have a higher level of day-to-day conversation, and that would benefit the society. And now this may seem like a stretch. If people have self-confidence and self-respect, a lot of things they do for attention they wouldn't have to do. If boys could get attention by expressing themselves well, they would express themselves well and they'd be living in the dictionary. But people do not respect language, so a loud car, low-slung britches, tattoos, cursing, disrespecting girls, insulting women...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...are the attention-getters, using alcohol, smoking cigarettes, waving around condoms, and talking trash. They're not given anything else, and they're not shown a basis for respecting those things that we older people are always saying are of significance. Well, why don't we show the way by our example? That's not going to solve the meth problem or any

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

April 27, 2005 LB 117

of these other things we're talking about, but I think it might give people an initial feeling of self-worth that might keep some of them from making that misstep, because they either have to get attention, or they're trying to overcome the awareness of how little they think people think about them, so they don't have to get drunk on alcohol or high on drugs. And if they know how to express themselves, they don't need the assistance of alcohol to try to do so. I will ask for a call of the house, and even though Senator Bourne is going to set the way in spreading my blood all over the floor, I'm going to take that licking now,...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...but when we get to Select File, it will be different. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You're heard the closing on FA205. There's been a request for a call of the house. All in favor of the house going under call, vote aye; those opposed, nay. Record please, Mr. Clerk.

CLERK: 21 ayes, 0 nays, to place the house under call, Mr. President.

SENATOR CUDABACK: The motion was successful. The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. The house is under call. All unexcused senators please report to the Chamber. Senator Flood, thank you. Senator Landis, Senator Schimek, would you check in, please. Thank you. Senator Brown. Senator Loudon, would you check in, please? Senator Thompson. Senator Kruse. Senator Landis. The house is under call. Senator...sorry. Senator Chambers, how did you wish to proceed?

SENATOR CHAMBERS: Machine vote.

SENATOR CUDABACK: Machine vote has been requested. The question before the house is the adoption of FA205 to FA190. All in favor, vote aye; opposed, nay. We're voting on the

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

April 27, 2005 LB 117
 LR 95

adoption of the Chambers amendment to the third component of the divided committee amendments. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 4 ayes, 28 nays, Mr. President, on the amendment to the committee amendments.

SENATOR CUDABACK: The motion was not successful. The amendment was not adopted. Mr. Clerk, items for the record, please. I do raise the call. I'm sorry.

CLERK: Mr. President, the Committee on Judiciary offers notice of hearing, and I have a new resolution, LR 95, by Senator Fischer that will be laid over. (Legislative Journal page 1325.) That's all I have, Mr. President, and I have nothing further pending to FA190 at this time.

SENATOR CUDABACK: Thank you, Mr. Clerk. Sorry I interrupted you. (Visitors introduced.) Discussion of FA190, Senator Chambers.

SENATOR CHAMBERS: Mr. President, before I start on this discussion...well, I'll wait till we get to the next one, because maybe this term, this phenylpropanolamine, is another way of saying pseudoephedrine, but I will wait till we get to that in the next one and discuss it. The amendment that I offered was rejected, but resilience is one of my traits. I'm not going to offer a lower age at this point. I will talk to Senator Aguilar and see if there's any feeling on the part of the body to do something about this 18 years or older, which a person must be to make even the limited purchases allowed by this bill. This is not one of those bills that I would try to do everything I could to stop, even though I think there are harmful parts of it. I'm going to continue, though, to point out so the public knows that I, at least, if nobody else does, am aware that this bill is not the cure-all. This bill is not even going to cure 20 percent of the problem. Why do I say that? If they claim that 20 percent of the methamphetamine used is locally or domestically produced within the state, because not every one of these labs is going to be shut down, they're not going to get rid of even that 20 percent, which may be high.

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

April 27, 2005 LB 117

A greater percent than 80 may be what's coming into this state. You are not going to achieve perfection in the sense of closing down every one of these labs. The police don't even go around searching. They don't know where to look. It could be in a house, it could be in a trailer, it could be in a cave. It could be anywhere. They're not going to go looking for them. Somebody will give them a tip, or somebody will see something, or as Senator Aguilar pointed out, one may blow up and people get burned up. So this is going to make people feel like they've done something, but if a monster was out there before it was enacted, a monster remains. If that monster was growling and prowling, it will continue to growl and prowl. Not one of its fangs will have been pulled, not one of its claws will have been taken. It's still going to be in full strength, in full fury, raging through this society, doing what it had always done, because what you're doing with this bill, and any similar bill, is dealing with the nail on the little toe of the dragon. The dragon remains untouched. The dragon is still there. So all that you will succeed in doing is crippling the honest people, the law-abiding people, the old people that I'm talking about. That's where your bill will be effective, 100 percent. These old people cannot send somebody to the store. You've taken care of that. Somebody to have a job which might entail selling Sudafed cannot keep that job if he or she is 18 years old and 360-some odd days. You'll take care of that. If somebody doesn't have a driver's license or a state identification card, they cannot make a purchase. You've taken care of that. So you're doing a good job...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...of cutting out the law-abiding people. You're going to achieve that, but the rest of it you're not going to touch. Methamphetamine is an excuse to put in the law all of these inconveniences and unfair burdens on innocent people who are ill. And you're done something, yeah, you've done something, but it is harmful. When eagles get involved in legislation, the judgment is blinded. Now if I were going to adopt the same attitude of those who support this legislation, I would make you go to cloture. That is not my interest. I'm trying to reason with you. And my reasoning will not achieve

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

April 27, 2005 LB 117

the result that I desire. You'll get your bill, you'll get the votes,...

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: ...the Governor will sign it. Thank you, Mr....was that my third time on this?

SENATOR CUDABACK: I think that was your first time, Senator.

SENATOR CHAMBERS: Oh, okay.

SENATOR CUDABACK: You're recognized again.

SENATOR CHAMBERS: So Mr. President, to pick up where I left off, the Governor will sign it, there will be a great hurrah throughout the state, except that some people are going to condemn the Legislature because the bill isn't strong enough and it doesn't go far enough. They'll write about needing the logbook, without understanding the only purpose that law enforcement wanted it to serve, which is to increase the alleged paranoia of these purported cookers of methamphetamine. That's what this is all about. It's a sham. Look, if you were not harming ordinary people, I would not have said as much on this bill as I've said, because I know it's not going to do anything. And it's not because of the way it's drafted. You cannot get a handle on this problem. All of these handouts we've gotten talking about the detrimental effects of methamphetamine will, I think, be universally acceded to. Everybody will say, yeah, what you're saying is true. Yeah, it's terrible. Something needs to be done. We don't know what to do, so we're going to do something, because something is better than nothing. And since we can't get the bad guys, we're going to get the good guys. We're going to punish these old people. We're going to put burdens on retailers, though that's not my primary concern. But there will be people who, unless they're 19, cannot hold a job which currently they can, and they're dealing not only with a legal product, but one that brings healthful results. All of this reaching to equate Sudafed with beer and tobacco is just that, reaching, because there is no valid argument to support what is being done. You know the only reason this bill is

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

April 27, 2005 LB 117

before us at all? Because Iowa, Oklahoma, Kansas, Missouri, Colorado, Wyoming, South Dakota, Minnesota, Michigan, and everybody else is doing it, so Nebraska should do it, too. Two years from now, one year from now, you are not going to have noticed any impact on the availability of methamphetamine. Two years from now, not only will you not be able to notice it, but they're not even going to be talking about it. It will have become absorbed into the consciousness, into the way of doing things in Nebraska, as every other thing called a crisis has been incorporated into the life of the state, and life rolls on. That's what's going to happen, but the senators will feel like, by God, we must have solved the problem, because ain't nobody talking about it no more. Who in here is talking about AIDS? Who in here is talking about HIV/AIDS? Nobody. So we don't have a problem of HIV/AIDS any more. They don't talk about chlamydia, so we don't have a problem with that, and gonorrhoea, that's passe now. Even syphilis, they're all gone, because nobody talks about them. So when they stop talking about methamphetamine, then the Legislature was right, and by God, they sized up the problem just right. And then you go to the jails and you find people in there, strung out on methamphetamine. You find people in the prisons. If you read the little tiny articles in the paper, you'll see where somebody committed what is considered a very violent crime, and the person was found to be strung out on methamphetamine, but it's a little bitty article, so it can't be too important. So you just read that; you see it and you don't see it. And that's what's going to happen.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: But going on and on and on will be the inconvenience and the barriers that are created for these honest, innocent, but ill people. That's how the Legislature operates. Sometimes I'm ashamed to be a member of it. But since I could quit any time I want to, I'm really not ashamed. What the Legislature does can be embarrassing. How much time do I have, Mr. President.

SENATOR CUDABACK: About 34 seconds, Senator.

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

April 27, 2005 LB 117

SENATOR CHAMBERS: Then I'll wait till I'm recognized for the last time.

SENATOR CUDABACK: Senator Howard comes before you, Senator, so Senator Howard, you're recognized.

SENATOR HOWARD: Thank you, Mr. President, and members of the body. I'm going to share some information, and I'll read it verbatim: The saddest aspect of the methamphetamine menace is the children of the users who live in unimaginable squalor, amidst the acid use in manufacturing the drug, frequently going without food, medical attention, or even baths for days and weeks on end. They are at risk for respiratory ailments, as well as brain and organ damage, because of their constant exposure to the chemicals used in making the drug. Babies born to the addicts are often addicted to the drug themselves and are frequently undeveloped and premature, according to the University of Minnesota's Center for Advanced Studies in Child Welfare. And then there are the risks that come from being near firearms, and the violent encounters that are a daily aspect of the life in the world of meth users, not to mention what can happen to children when their parents are in a meth-induced, psychotic state, or a deep sleep. When you hear this, you have to stop and think. Possibly the very lucky ones are the ones that do go into foster care. So this is the time to address this, and I hope we move on and get this settled. Thank you.

SENATOR CUDABACK: Thank you, Senator Howard. Senator Chambers, and this will be your third time, as you know.

SENATOR CHAMBERS: Thank you, Mr. President. Senator Byars just called to my attention, and it was in the paper, that there's an STD, sexually transmitted disease epidemic in Omaha, and I was aware of that. But I'm talking about what would be discussed on the floor of the Legislature. The Legislature won't discuss it, because the Legislature is concerned only when there's a lot of publicity about something. Let the publicity go away, and the interest goes away. But at any rate, back to what we're discussing here. My views are not considered in line with that is desired. I'd like to ask Senator...well, I won't ask him a question on this one. I'm going to wait till we get to the next

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

April 27, 2005 LB 117

division. I was going to ask Senator Bourne a question. We're still on the issue of the person making the purchase having to be 18 years old or older. Maybe Senator Aguilar will help me engineer a coup. I'd like to ask Senator Bourne a question now, because I think I should.

SENATOR CUDABACK: Senator Bourne, would you yield?

SENATOR BOURNE: Certainly.

SENATOR CHAMBERS: And Senator Bourne, I didn't ask it earlier, because I didn't want to interfere with your discussion, because I could ask this at any point. Senator Aguilar was willing to consider, at least, a lower age. Would you?

SENATOR BOURNE: Well, Senator Chambers, I got to tell you that I'm really reluctant to do that, and you know, I think an essential component of the...of attacking the problem is identification, showing that ID. I'll tell you, I received an e-mail from...from somebody who is a police officer in a small town, and they were talking about how this family--this individual makes meth--and he sends his kids in...the way it is now, he sends his kids in to buy a product and he gave us the number of grams that this family is buying a week, and it's legal to do that, and yet we have meth cooks who have families, and I think there's a statistic--I'll dig through my file to find it--the majority of these meth cooks have children in the home. And they're using these kids to go out and buy this pseudoephedrine, and I got to tell you, I don't think that's appropriate. I absolutely understand what you're saying regarding the old folk, the old person. But I tell you, I'm really reluctant to change this at this point.

SENATOR CHAMBERS: Okay, thank you, Senator Bourne. Members of the Legislature, with the other provisions in this bill, that family in the small town would be restricted in the amount that could be purchased. They would be restricted. I was told by a member of our body, meaning the Legislature, about a small town situation that has cops, and they couldn't do all the work themselves, so this drug enforcement task force or whatever that involves, the FBI and all the others, had located a place where

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

April 27, 2005 LB 117

they were going to make a bust on a meth lab. Well, when they got there, guess what they found? Nothing. And you know who knew that they were going to make the bust? The local police. Now that stuns Senator Bourne, because he believes in these police. And when this officer told him about this family, he believed it, and maybe it's true. And I don't have any reason to doubt it, other than my general skepticism toward cops. But the problems that are created by this bill overbalance any concern I have of the kind that Senator Bourne mentioned, especially when you put these limitations on how much can be obtained. And if it's a child who is a member of a family, and this cop knows...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...because he's surveilling, then if more than that amount is going to be purchased in a period which would make it not allowed, the cop can move, unless he's being paid off in donuts, or whatever they pay him off in, in small towns. Then he can make his move. It takes more than a box of Sudafed to make meth. It takes a lot. With those limitations that will be put in place with this bill, what I'm asking for, in terms of reducing this age from 18 to some lower number, would not hurt the bill at all. But I think some of my colleagues are gun shy and sensitive because of the criticisms made of the bill. I've presented bills...

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Bourne, there are no further lights on. I will recognize you to close on FA190, the third component of the divided committee amendments.

SENATOR BOURNE: Thank you, Mr. President, members. Actually, what I'll do is, since people have drifted out, I'll ask for a call of the house, and then if you'd let my time run, I'll continue to close as people come in.

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

April 27, 2005 LB 117

SENATOR CUDABACK: Your time is running, and there has been a request for a call of the house. All in favor vote aye; those opposed, vote nay. Record please, Mr. Clerk.

CLERK: 24 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The motion was successful. The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. All unexcused senators please report to the Chamber. The house is under call. Senator Janssen, Senator Cunningham, Senator Combs, Senator Cornett, Senator Heidemann, Senator Don Pederson, Senator Engel, Senator Brashear, Senator Schrock, Senator Brown, Senators Landis, Synowiecki, Baker, and Smith. Senator Smith (sic), your time is running, as you know. If you care to continue, you may.

SENATOR BOURNE: Thank you, Mr. President, I will. And this is the...I believe it's the third component of the divided amendment, and it basically says that in order to sell the pseudoephedrine-base product, the clerk or the attendant must be 19 years of age or older, in the ordinary...or in the course of his or her employment, and then the customer has to be 18 years of age or older. So 19 years of age or older to sell it; 18 years of age or older to buy it. I think it makes sense. I'd appreciate your support of this component, and Mr. President, if we...we can go ahead with just a machine vote. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. You're heard the closing on FA190. The question before the body is shall that third component be adopted. All in favor vote aye; opposed, vote nay. The question before the body is the third portion of the divided committee amendments, FA190. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 43 ayes, 0 nays, Mr. President, on the adoption of this component of the committee amendments.

SENATOR CUDABACK: Motion is successful. The third component has been adopted. Mr. Clerk, do you have any items for the

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

April 27, 2005 LB 117

record? I do raise the call.

CLERK: Not at this time, Mr. President. Thank you.

SENATOR CUDABACK: Thank you. Next motion.

CLERK: Mr. President, the next component, FA191, consisting of lines 14 through 18 on page 17 of the original committee amendments. (Legislative Journal page 1326.)

SENATOR CUDABACK: Senator Bourne, you're recognized to open on FA191.

SENATOR BOURNE: FA191. Thank you, Mr. President, members. This amendment says that no customer shall be allowed to purchase, receive, or otherwise acquire more than 1,440 milligrams of pseudoephedrine base or 1,440 milligrams of phenylpropanolamine base during a 24-hour period. So basically, this puts a burden on the retailer or the seller that they cannot allow a customer to purchase more than 1,440 milligrams of pseudoephedrine base. And just to give you an idea, members, of what exactly that means, I'll just kind of read through some of the common names of drugs that are sold that have pseudoephedrine base in them. And again, 1,440 milligrams, that's about 48 tablets of a 30 milligram dose. So it would be two packages of 24 tablets of Sudafed, so you'd be able to buy 48 tablets of Sudafed at a time. You'd be able to buy a 5-tablet pack of Claritin-D. You could buy three packs of Advil Cold and Sinus. You could buy two bottles of Vicks DayQuil Liquid, four bottles of Children's Tylenol Liquid, two boxes of Children's Benadryl. So you can see that, even though 1,440 milligrams is a limit, you can still buy enough quantity of the product to use in your house. And again, it's designed to limit the massive quantities that meth cooks and manufacturers are buying in order to manufacture meth. So with that, I'd appreciate your support of this division, and if you had any questions, I'd be happy to answer them.

SENATOR CUDABACK: Thank you, Senator Bourne. We're heard the opening on the fourth component, FA191. Open for discussion. Senator Janssen, followed by Senator Chambers.

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

April 27, 2005 LB 117

SENATOR JANSSEN: Thank you, Senator Cudaback, members of the Legislature. Senator Bourne, as I was listening to you, that was two packages of one particular product, three of another, I believe, and two of another, all depending on the strength of those products. Is that correct?

SENATOR BOURNE: Right. Let me if...I'll just tell you, for clarity's sake, a 24-tablet pack of Sudafed contains 720 milligrams of pseudoephedrine base, so you could buy two packs of that. That would be 1,440 milligrams of pseudoephedrine base, so it would be 48 tablets of Sudafed, that's a 30 milligram tablet. Did you want me to go through these again?

SENATOR JANSSEN: No. No, no. No.

SENATOR BOURNE: Okay.

SENATOR JANSSEN: So it is...there are multiples in those packages. Some are two, some are three, four, whatever it may be.

SENATOR BOURNE: You bet. Yeah, and as a matter of fact, Children's Tylenol Liquid, you could buy four bottles of that at one time, or in a day.

SENATOR JANSSEN: Um-hum. Um-hum.

SENATOR BOURNE: Advil Cold & Sinus, the liquid gels, you could buy three packs of that at one time.

SENATOR JANSSEN: All right now...

SENATOR BOURNE: So it's not...it's enough that you would use for your own personal consumption, yet it would place a limit, if you were trying to cook it down to make meth.

SENATOR JANSSEN: Now do you have any idea--I have none--about what it would take to make a batch of meth, or whatever they call the stuff. You know,...

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

April 27, 2005 LB 117

SENATOR BOURNE: Great question.

SENATOR JANSSEN: How many would it take of, say, what's the least you could buy, two packages? There must be a fuller strength, or a greater strength tablet. How many would that take for someone to stir up a pot of this meth?

SENATOR BOURNE: Okay, you bet. Nine grams of pseudoephedrine base would convert to about 8.2 grams of methamphetamine, which is about the size of a nickel. And to give you a little bit of perspective, the amount that an individual needs to get high is variable, depending on how addicted they are. As you become more addicted, your tolerance level increases, so of course you need more of the product. And then also it depends on the purity of the product. But essentially, a quarter gram is considered a single usage. So 9 grams of pseudoephedrine base makes about 8.2 grams of meth, and you need about a quarter gram to get high, but the limit...if you notice, I said 9 grams. The limit is 1,440 milligrams, so 1,440 milligrams would...I would assume would, you know, if you were talking about converting what you could buy for your personal use, you could see that it's not very practical as it relates to cooking it down to make meth.

SENATOR JANSSEN: I see. That's kind of what I thought, Senator Bourne. And I'm concerned about someone, oh, say in Senator Loudon's district, who is, I don't know, 50 miles away from the nearest general store, you know, is he going to have to make more trips to the store to get this? You know, and it's going to put a hardship on some people, and I realize that. And it's too bad that we have to do this. Also, I do understand what the problem is, and I can't understand why anyone in their right mind would even make this stuff, let alone use it. So...and that's the reason for the bill. You know, it's tough to regulate something like this, and we're putting a burden on some people by doing it. And so I listen to Senator Chambers talk about the problems he would have in his district, and you would have in yours, too, Senator Bourne. Some of the older people, they don't have access to a store at their fingertips, so it is a problem. But I think I'm going to support this, although I

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

April 27, 2005 LB 117

will do it reluctantly, because I do believe...

SENATOR SCHIMEK PRESIDING

SENATOR SCHIMEK: One minute.

SENATOR JANSSEN: ...that you should be able to get a little more of this, though. Too bad, too bad it has to be that way. With that, thank you very much for your time.

SENATOR SCHIMEK: Thank you, Senator Janssen. Senator Chambers, your light is next.

SENATOR CHAMBERS: Thank you. Madam President, I would like to ask Senator Bourne a question.

SENATOR SCHIMEK: Senator Bourne, would you yield to a question?

SENATOR BOURNE: Of course.

SENATOR CHAMBERS: Senator Bourne, we have two substances mentioned here, pseudoephedrine and phenylpropanolamine. Are those two substances the same?

SENATOR BOURNE: They are very similar, Senator Chambers. Phenylpropanolamine is a substance similar to pseudoephedrine. It's used to make amphetamine. However, it was pulled by the FDA a couple of years ago. It's still available in other countries, however.

SENATOR CHAMBERS: So this substance was used in which legal product, if you know? Was it used in cold compounds and medicines, also?

SENATOR BOURNE: Yes, I assume that's the case, but for some reason, the FDA, two years ago, pulled the use of this drug. Now I will tell you that you know as well as I do that oftentimes when you make one change in our statutes that, you know, the word "phenylpropanolamine" is used throughout the statute, and it was just easier, less confusing, to change it the way we did, rather than to eliminate all references to that

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

April 27, 2005 LB 117

word.

SENATOR CHAMBERS: Okay. Is it available in this state in sufficient quantities to use to make...let me ask it like this. Could that substance be used to make meth?

SENATOR BOURNE: I believe it can, Senator Chambers, but as I understand it, for some reason the FDA said that manufacturers can no longer use that component in medications.

SENATOR CHAMBERS: But it might be usable for some other purpose, or don't you know, because I really don't?

SENATOR BOURNE: Well, I know that it's used to make amphetamine, but I don't believe that it's in any drug that's available in our country today.

SENATOR CHAMBERS: Okay. So what we're really dealing with still, to be practical, is meth...I meant the pseudoephedrine.

SENATOR BOURNE: Right, and the reason I've been talking about pseudoephedrine all day is not because it's easier to pronounce.

SENATOR CHAMBERS: Oh, I know that. Okay, but it is the one that is going to be utilized primarily for the manufacture of meth,...

SENATOR BOURNE: Yes, sir.

SENATOR CHAMBERS: ...so we can just disregard phenylpropanolamine.

SENATOR BOURNE: Yes, sir, that's correct.

SENATOR CHAMBERS: Okay. I hope nobody names their child that--good Lord! (Laughter) But anyway, in this particular part, when milligrams are used...I never learned how to make the conversions that are necessary to get this into the language that I, at my advanced age, am accustomed to speaking, ounces, pounds, yards, feet, inches, quarts, pints, gallons, half-gallons. I didn't even know that "lighter" was pronounced

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

April 27, 2005 LB 117

liter. But I'm going along with the program now. Anyway, since these amounts that are specified here do not really register with me, it was helpful for Senator Bourne to talk about the number of boxes and suggest the number of tablets which may be available. But I have to ask him another question.

SENATOR SCHIMEK: Senator Bourne?

SENATOR BOURNE: Certainly.

SENATOR CHAMBERS: Senator Bourne, this provision would apply also to the liquid or gel form that has pseudoephedrine in it?

SENATOR BOURNE: Yes, Senator Chambers, it would.

SENATOR CHAMBERS: Do you remember when we were told that it's easier to make meth from the liquid or gel form, because there's a step that can be eliminated?

SENATOR BOURNE: I remember that in committee we had testimony that you could make it from liquid. I don't remember if the testimony was that it was easier.

SENATOR CHAMBERS: Okay, I remember some person who was with one of these companies or outfits saying that, but the point I want to get to is this. How will...

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: How will the clerks know? Are they going to be told, probably by their store, how many boxes or containers this amount would be?

SENATOR BOURNE: Right. They would have to. And again, yes, they would have to, Senator Chambers, because earlier, during a discussion I had with Senator Beutler, he asked if "person" meant the individual selling the drug. And I mistakenly told him that it did. But there would be some liability for the retailer, civilly, who does not train their employee, and the employee sells more than 1,440 milligrams.

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

April 27, 2005 LB 117

SENATOR CHAMBERS: I'll wait until I'm recognized again, and then I have another question or two, if you don't mind.

SENATOR BOURNE: Certainly.

SENATOR SCHIMEK: Thank you, Senators Chambers and Bourne. Senator Beutler, your light is next.

SENATOR BEUTLER: Senator Bourne, I would like to follow up on some of Senator Chambers' questions and some of the information you gave us earlier, just so mechanically I understand better, and we understand better what we're talking about.

SENATOR BOURNE: Certainly.

SENATOR BEUTLER: Did I...would it be correct to say that those 48 tablets that you're talking to translate to 1.4 grams, roughly?

SENATOR SCHIMEK: Senator Bourne, would you like...

SENATOR BOURNE: I believe so, Senator Chambers...or...that's twice today I've called you Senator Chambers. I apologize. Yes, I believe that's the case, 1.4 grams.

SENATOR BEUTLER: Okay, and so basically, to get up to what you described to Senator Janssen as the amount that you would need to stir the meth pot, it would take about six days' worth of legitimate purchases to get to that nine grams; wouldn't that be correct?

SENATOR BOURNE: That sounds about right, Senator Beutler.

SENATOR BEUTLER: Okay, so you could go every day for six days, and you'd have enough to make meth, or...with no log. If you were in a large town like Lincoln, you could go to six different stores in one day and get enough to make it.

SENATOR BOURNE: That's...that's true, Senator Beutler.

SENATOR BEUTLER: Okay. Now on the liquid side, help me

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

April 27, 2005 LB 117

translate to what you need to buy to have the nine grams. How...you know, it's 48 tablets on the dry side. What...how many bottles of something or another...how do you measure...

SENATOR BOURNE: Okay, just...

SENATOR BEUTLER: ...what you can buy? What units do you buy 1,440 milligrams in?

SENATOR BOURNE: Okay, the one that I had broken down was Vicks DayQuil Liquid.

SENATOR BEUTLER: So every product would be somewhat different?

SENATOR BOURNE: Somewhat different, yes, sir. Yes.

SENATOR BEUTLER: Okay.

SENATOR BOURNE: But with this particular example, and I just...I asked my legislative aide to break down some of these particular drugs that at least I was familiar with, these cold medicines, and I'm sure there's others, but I'm...and if you were to give me names, I'm sure we could break those down as well. But the Vicks DayQuil Liquid, a 295 milliliter bottle, which is, let's see. It's a...let's see. Sixty milligrams of pseudoephedrine base. And you can buy two bottles of that per day. No, that's not right, Senator Beutler.

SENATOR BEUTLER: Would 60 base...

SENATOR BOURNE: It would be 590 milligrams of pseudoephedrine base, and you can buy two of those. So it would be, what would that be? Twelve hundred milligrams.

SENATOR BEUTLER: Okay, but you...does whether the base comes from liquid or dry...do you need the same amount of base to translate into the same number of grams of...

SENATOR BOURNE: I'm not quite sure the answer to that, Senator Beutler, but I can tell you that we had testimony in the Judiciary Committee that it's been discovered that states that

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

April 27, 2005 LB 117

have put the dry, or the tablet form, behind the counter and...or excuse me...yes, they have put the tablets behind the counter, the meth cooks have turned to the liquid-base products. And it's conclusive that, according to the DEA, that you can make methamphetamine from the liquid-based pseudoephedrine, the liquid pseudoephedrine-based cold product.

SENATOR BEUTLER: Okay, and let me explore that just a little bit further. The information that I was given, and I don't know if it's correct or not, so I'm interested in what the testimony before the committee was, but that Missouri, Kansas, Colorado...

SENATOR SCHIMEK: One minute.

SENATOR BEUTLER: ...South Dakota, Oklahoma, only Iowa has put the liquid products behind the counter. Is that, first of all, accurate?

SENATOR BOURNE: Let me see. Senator Beutler, I can go through this. I don't think that's accurate. Iowa, liquid and gelcaps are behind the counter. Illinois, liquid and gelcaps. Let's see. I can go through this, if you like. I punched my button on, so we can just have...further this discussion.

SENATOR BEUTLER: But there's some discrepancy among the states that are experimenting with this, as to whether liquids should be treated the same as the dry.

SENATOR BOURNE: I think it's like anything else that you're trying to attack as a state, in that you go with what people are using, and then all of a sudden, somebody finds a loophole. And it is conclusive, as I understand it, from the federal DEA, that you can make methamphetamine out of the liquid. And those states are...those states who have put...

SENATOR SCHIMEK: Time. Thank you, Senators Beutler and Bourne. Senator Redfield, you're next in line to speak. Senator Redfield.

SENATOR REDFIELD: Thank you, Senator Schimek, members of the body. Could I address a question to Senator Bourne?

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

April 27, 2005 LB 117

SENATOR SCHIMEK: Senator Bourne, would you respond?

SENATOR BOURNE: Certainly.

SENATOR REDFIELD: Thank you. Senator Bourne, I support the bill.

SENATOR BOURNE: Thank you.

SENATOR REDFIELD: As a mother, I have some questions about the amounts, because I believe you brought up in the discussion with Senator Beutler a difference between different products and their contents. And I'm wondering, as I have found sometimes with children, different products are more acceptable to their systems, some products work better, and if, in fact, the committee looked at the amounts when you were creating this requirement, to make sure that you would be able to buy comparable packaging of different products.

SENATOR BOURNE: You bet. Do you have a particular product that you're interested in, Senator Redfield? I can tell you how much of that you could buy.

SENATOR REDFIELD: Well, I'm just thinking, my children have hay fever. They're certainly grown, so it's not an issue for me, but I know for a single mom who's struggling with children at home with a cold or hay fever, she has...

SENATOR BOURNE: You bet. You know, I have a child who has had hay fever in the past, or actually had had some allergies, and I used Children's Benadryl for him. And just to give you an example, in a children's...excuse me...Children's Benadryl, a 20-tablet pack, you can buy two boxes of that in a 24-hour period. Now I'll tell you that if I gave my son that much in two days, or excuse me, in one day...what I'm saying is that is more than enough. If a child uses one tablet a day, that's a lot of Benadryl. So I'm not concerned at all that you're not going to have enough for your child.

SENATOR REDFIELD: What if you had multiple children? That was

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

April 27, 2005 LB 117

my question.

SENATOR BOURNE: Sure, in this particular example, Children's Benadryl, you can buy two 20-tablet packs. Now that's 40 tablets that you can buy every day, so you'd have to have a large family, you know, to run out of this children's product.

SENATOR REDFIELD: So a tablet every four hours...

SENATOR BOURNE: I don't think it's a tablet...I think these...

SENATOR REDFIELD: Eight hours?

SENATOR BOURNE: ...are one tablet a day, but I'm not 100 percent sure.

SENATOR REDFIELD: All right. I just wanted to make sure that we were not putting a burden on certain brands or certainly putting a burden on people who might have multiple family members, during certain seasons of the year--allergy seasons--or a cold. Certainly, when it struck my house, it went through and all eight of us would generally have a cold. So I just wanted to make sure that we were making allowances for that. But I certainly support the bill and would hope that we would examine that before we get to Select, to make sure we have the right amounts in here. Thank you.

SENATOR SCHIMEK: Thank you, Senators Redfield and Bourne. Senator Louden, you are recognized to speak.

SENATOR LOUDEN: Thank you, Madam President and members of the body. I wasn't going to get into this debate, but I do have some concerns that I'm beginning to wonder about. I supported the bill for the most part, and when it was first talked about and when I first read it. But as some of this, as we're going on, I'm beginning to wonder if we're maybe creating another class of criminals here. I noticed in there that if they, somebody sells this material to someone, why, there's a fine and something...they have to pay a fine or whatever. So I'm wondering if we go beyond where some of the...requiring some of these retailers to probably put it behind a counter or behind a

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

April 27, 2005 LB 117

glass door, such as most of them are doing nowadays, if that wasn't perhaps probably enough to take care of the problem. I think no matter how much legislation you do, they're going to find something to probably make that stuff out of it. When you have read legislation to work with these type of drugs that they're using, the Sudafed, and some of Pfizer's ingredients, then will the next thing be then we have to do away with these ether starter fluid, these ether bombs. Will you not be able to buy them in bunches, where on your construction sites and that they usually buy them by the boxfuls, in order to get some of that equipment started in the wintertime. And then when we get down to buying these different drugs, if someone lives out in the country or has a hay crew that has quite a few people working for them in the summertime, and they send someone to town to buy it, are they able to buy enough to take care of any problems that might arise? And if someone decides to sell them a little bit of it, are they going to be classified as a criminal? So I'm beginning to wonder if we have too many amendments to this thing, and if we're losing sight of what we were trying to do to start with, which is to stop the manufacture of this. And right now, instead of stopping the manufacture, we're just creating a place for people to be really, I guess, criminalized for what they're trying to do to make a living, the average person that's running small stores and retail outfits, and if they're being penalized as much as some of the people that would perhaps be wanting to buy this stuff. So I guess with that, my concern is, I haven't voted for some of the amendments. I thought this 18-year-old, or 19 and selling to 18-year-olds I thought was getting somewhat restrictive. I didn't see where that had that much to do with making the stuff. If someone is making it, why, they'll find some way or another to buy it, anyway. They'll just go to a larger town where they can find more stores. So I thought the age limit was probably excessive. I'm in agreement with Senator Chambers that 18 is way too high, and whether there should be that much of an age limit on it, anyway. The stuff is rather expensive, so I think it isn't something that kids are going to buy in place of candy, anyway. So with that, what time I have left I'll turn it over to Senator Beutler, if he so desires it. Thank you.

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

April 27, 2005 LB 117

SENATOR SCHIMEK: Thank you, Senator Louden. Senator Beutler, there is about one minute and twenty seconds left.

SENATOR BEUTLER: Senator Bourne, let me throw out quickly something I noticed they do in Oklahoma, with regard to this liquid-versus-dry problem. You have described a situation. I have described some states.

SENATOR SCHIMEK: One minute.

SENATOR BEUTLER: Some of them think liquid can be converted without too much additional trouble. Apparently, it's either more...to some degree more trouble, or to some degree takes more material. Some states don't think it's a problem; others think that it is. The report I get is that Iowa has turned up two places that used liquid. Nebraska hasn't turned up any that used liquid. What they do in Oklahoma is that they authorize a member of the executive branch to add products to the behind-the-counter section, as they, in a pragmatic fashion, determine them to be a problem in their state. So they started out in Oklahoma, and liquids didn't have to go behind the counter.

SENATOR SCHIMEK: Time, Senator Beutler. Thank you, Senators Beutler and Louden. Senator Burling, you are recognized to speak.

SENATOR BURLING: Thank you, Madam President, members of the body. I want to support the bill. I like the concept, but I also have some concerns like some of the other members of the body, that this may not produce the results we want, but we need to give it a try. I have a question for Senator Bourne, if he'd yield.

SENATOR SCHIMEK: Senator Bourne, would you yield to a question?

SENATOR BOURNE: Of course.

SENATOR BURLING: Senator Bourne, did I hear you in your opening mention Claritin-D on your list?

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

April 27, 2005 LB 117

SENATOR BOURNE: You did, Senator Burling, and if you can give me one second, I'll get...

SENATOR BURLING: Okay, what I'm getting at there, if you have the figures there, a few years ago my doctor prescribed Claritin-D, (inaudible) in prescription form...

SENATOR BOURNE: Okay, if I could just...if I could just stop you right there. If you had a prescription, you would not be limited in this regard. This is for only over-the-counter.

SENATOR BURLING: Where does it say that?

SENATOR BOURNE: Well, in the bill. I mean, if you have a prescription, if your doctor says that you can buy 500 tablets of Claritin-D, that's what it is. This is over-the-counter and it's different than the prescription your doctor would give you.

SENATOR BURLING: Okay, well, as I was reading the amendment, I thought it looked like it said, shall not receive or otherwise accept...

SENATOR BOURNE: Over-the-counter.

SENATOR BURLING: Over-the-counter.

SENATOR BOURNE: I'll get you the exact language, Senator Burling.

SENATOR BURLING: Okay.

SENATOR BOURNE: But that's kind of the point that I was going to make. I had my light punched on here. A lot of the pharmaceutical companies are trying to get a competitive advantage, and quite honestly, it's starting to irritate me. And they are trying to get some liquids out, pediatric stuff out, and all they're trying to do is get a competitive advantage, and I hope that nobody in here is duped by that. This is about money, it's about greed on behalf of the pharmaceutical companies, and we can go into that. But if you have a prescription, your doctor could write you a prescription

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

April 27, 2005 LB 117

for 1,000 tablets of Claritin-D and, hopefully, Senator Johnson will stand up and say that that's true. This law would not apply when a doctor writes a prescription.

SENATOR BURLING: Okay, thank you very much. I'll return my time to the Chair.

SENATOR SCHIMEK: Thank you, Senators Burling and Bourne. Senator Chambers, your light is next.

SENATOR CHAMBERS: Thank you. Madam President, I'm so glad that Senator Louden mentioned this age of 18 years. It's unreasonable. Somebody even mentioned some products that young mothers get; it has some of these substances in it, and they might not be old enough to make the purchase themselves for their child, who may need it, because they're not 18 years old. None of that is given consideration, because there's one narrow focus of this bill, and anything outside that focus cannot be given consideration. But again, on General File, I'm not going to be that difficult to get along with, because until all of these provisions, or whichever ones the body will agree to, have been adopted, we haven't got the bill in the form that will be available for us to discuss it. Once the bill is in that form, attempts can be made to amend any part of it, to add or to take away. And I'm going to again go after that 18-year minimum age at which a person can purchase any of these substances, any of them. I'm not going to use the example of people going overseas and fighting and dying, because that argument has never swayed anybody on any other issue. But they allow children to get a driver's license at 16, I believe. Now they can handle that multi-thousand pound vehicle, but they cannot purchase Sudafed. Even though the Governor and others have agreed on the form of this bill, that doesn't mean they have to get what they're asking for. Eighteen is too old. You are not, by passing this bill, going to impact the availability and use of methamphetamine. I'm going to repeat that over and over, as long as we're on this bill. I want it clear that I know that is what will be the case. Others are in denial. They think when this bill is passed, the meth problem in Nebraska is going to be handled. Senator Beutler keeps mentioning the logbook. Of what value is the logbook, if somebody goes from store to store? Who

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

April 27, 2005 LB 117

is going to determine that this person making the purchase has probably gone to other stores, so this merchant is going to dial up every store where Sudafed might be sold and say, I want you to go to your logbook and see if Mr. A made a purchase today. The merchant is not interested. The cop hasn't got the time. This is why at least the cops didn't come in and misrepresent the purpose of the logbook. When I said to one of them who was testifying, cops may be at the donut shop and get tired of eating donuts and drinking coffee and have nothing to do, so they'll say, well, let's go look at the logbook. Because the way the bill was written, there did not have to be probable cause or even reasonable suspicion that anybody was on there, doing anything appropriately, so it would just be busybody curiosity on the part of law enforcement. It was repeatedly stated that the purpose of the logbook is to create paranoia when the person comes, who may be a cooker, and wants to buy this product. The logbook cannot be used for any other purpose. Let's say every store that sells one of these products has a logbook.

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: Who is going to make the comparison to see if somebody has gone to more than one store? The cops even admitted that is not going to be done, and practically speaking, it cannot be done. This is a bill before us because other states have done something, and Nebraska doesn't want to get left out. But nobody can mention any one of these items and show where, in the real world, it's going to have any significant impact on any aspect of amphetamine-making, meth-making. If these people who cook it are as desperate as we're told, you mean to tell me they won't go to six stores to get what they need? That's easy, and you cannot draft a bill to stop that. But you can certainly put these impediments in the way of honest people, and that is what you're doing. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Bourne, you're recognized to speak.

SENATOR BOURNE: Thank you, Madam President, members. I just

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

April 27, 2005 LB 117

wanted to respond a little bit. Senator Louden mentioned the number of amendments on this bill, and I just...I want you to recognize that this is the committee amendment that the committee, with the exception of Senator Chambers, who I don't know if he voted no or if he wasn't there, but it came out unanimously with the exception of Senator Chambers. This is the committee amendment that Senator Chambers has divided, so this is one amendment that is in seven parts. And I just want you to recognize, Senator Louden and some of my other rural colleagues, that the original iteration of this bill--the green copy that was put forth--said that you had to be a pharmacist to sell this, and a number of other states are doing that. And I recognized, the committee recognized, the hardship that would put on our rural colleagues and we took that provision out. So I don't think that this is any hardship. You know, it might be an inconvenience on some folks, but I don't think it's a hardship...particular hardship on our rural colleagues. I think, if anywhere, the rural part of Nebraska is having the biggest meth problem. I don't...it's hard for me to understand how anybody could be opposed to the bill, on the whole, and I assure you that if you have any suggestions, ways to make it better, I'd be happy to discuss that with you, and particularly between now and Select File. I think this makes sense; I think it's going to go a long ways towards stopping, or at least curtailing, some of the meth in this state. I do think, if passed, it will be the most comprehensive meth bill passed in our entire country. I think it works. I think it makes sense. I think it makes sense, particularly for rural Nebraska. And Senator Burling, if I sound a little defensive, I apologize for that, but don't be misled by these pharmaceutical companies. This is about competition; it's about greed, quite honestly. If your doctor writes you a prescription, you can have as much of this drug as that doctor will write the prescription for. This limit doesn't matter. That's why their arguments in the lobby, the pharmaceutical arguments, are bogus. It is all about competitive advantage, against one another. It's about money, it's about greed. That's all it is, and I just hope nobody gets misled by that. This is a sound proposal that makes sense, that will help eradicate or at least curtail this scourge on our society. I am really struggling as to why this is a hardship in rural Nebraska. It's not. The hardship will be on the meth

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

April 27, 2005 LB 117

manufacturers.

SENATOR SCHIMEK: Thank you, Senator Bourne. Senator Beutler, or...yes, Senator Beutler, you are recognized to speak.

SENATOR BEUTLER: Senator Schimek, members of the Legislature, I didn't want to get drawn into the log argument at this point particularly, but that subject has now come up a couple of times. And with respect to the point-of-sale provisions--and we should all be cognizant that Senator Bourne has other provisions in the bill that toughen other laws--but the big subject of discussion has been the expansion of this point-of-sale restriction portion of the law. And my analysis of it is that we either need to go all the way to the logical end of this point-of-sale restriction deal, or we shouldn't do anything at all, because this talk about being intimidated by having to show your ID or by...to sign onto a line, even if you do have a log, and just a log, will have a very transitory effect, as the word gets around that law enforcement is not going to take the time to do anything about what is in the law, an infraction, a \$100 fine; or if you're a seller, it's just a \$50 fine. When I say you need to go all the way, I think if you think this is going to be an effective weapon or tool against meth, then you need to do what Oklahoma is doing. You need to first of all establish the log at all of the points of sale, and I think that Senator Chambers is partially correct, in that as a general matter, law enforcement isn't going to go around and look at all these logs all the time. But I think on one occasion when they will look at a log is if they've caught somebody with a bunch of material in their car. They can then go check back at the local pharmacies, where he most likely got it, and verify that the law may have been violated; that is, if there's a log. So that's a limited use of the log, if you just have the log at the point of sale. But what Oklahoma is doing as their next step now, is a centralized database, where one state patrol guy can sit in his office, and all of the pharmacies have their information feeding into that database; and I'm not a very modern guy, but I know computers can do these things real easily now. And once you set them up, there's no expense to it. They feed this information into the database, and one patrolman can sit there and push a computer button or two and have all the sales on one day come

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

April 27, 2005 LB 117

up, with all of them in alphabetical order, so that you can see immediately if somebody is buying an excessive amount, going from store to store. And you can't really tell that without any...if you don't have any sort of log at all, to begin with. So I think we need to make a decision to go in one direction or another, not to fool around with this stuff and inconvenience consumers and business people, disadvantage some of the business people, or we need to have a log at the point of sale, and we need to have a central database. And we need to do it and see what happens, and see if it has a positive effect. But we are neither fish or fowl now, and this Legislature needs to make a decision about where to go, and if we're going towards that central database, which is the only place that it makes sense for me to go, then we ought to take another step towards it and do as Oklahoma has done, and basically say, you need to set the logs up in the pharmacies and at the points of sale, and as soon as the state level, state patrol, wherever we put it...

SENATOR SCHIMEK: One minute.

SENATOR BEUTLER: ...has their database in order, then the pharmacies will be compelled to forward information to that database, and the whole system will be in effect, and we might then have something that really works. And I think that might be worth the effort. But you're going to hear from Senator Chambers about the balances and the costs of going in that direction, and there are some.

SENATOR SCHIMEK: Thank you, Senator Beutler. Senator Chambers, your light is next.

SENATOR CHAMBERS: Madam President, what Senator Beutler said made me think of a series of panels I saw in Blondie. Most people think the comic strip is Dagwood, but it's actually Blondie. He was lying in bed and Blondie was beside him with a book, and then she sat up. She said, Dagwood, those delicious fried egg sandwiches with sausage and cheddar are delicious. I really would like one right now. He said, you know, I was just thinking about that, jumped out of bed. And the next one shows him flipping an egg. He said, boy, the way she can read my mind is scary. Well, she knew the only thing he's ever thinking

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

April 27, 2005 LB 117

about. The way Senator Beutler read my mind just now is scary. But he does know the only thing that I'm going to say on this bill, with reference to the logbook, I just don't think the bill is worth all of the inconvenience it's putting on honest people. I'm going to say it again--second verse, same as the first. I'm Henry the VIII, I am! I knew that would get some attention. This bill, if it's 100 percent effective, accepting the statistic given by Senator Aguilar, 20 percent of the meth available in this state will have been eradicated. And you think it will not be replaced? Let's say it won't be replaced; 80 percent of the meth is still going to be here, and the cops cannot deal with it. So let's have this guy sitting at the screen or whatever you sit at when you're doing what Senator Beutler's going to have him doing. He hits the button, and how's he going to know what names to compare? So he says, okay. All of the sales of people who gave their name, starting with A, will come up. And I'll go through all of the As and see if I see the same name more than once. So I see the name--Adams, Adams, Adams, but I don't have an address. So I look at the first name, first name A. Adams. The second one, Abbie Adams. The third one, Abigail Adams. Now this cop has to think about this. Are all three of those the same person? Could the name be Abigail? She calls herself Abbie, and sometimes she uses just the first initial. So he pulls out a cup of coffee, Senator Bourne, and one of the Dunkin' Donuts or Krispy Kreme, and take a few bites of the donut to clear his brain. Then he'll say, you know--because that puts him in a mellow mood--I don't even care. If she is going to be that imaginative, go on, girlfriend! Then he'll go to the next one. I don't think any of that is practical, because none of it is going to have any impact on the meth problem. None of this is going to have any impact. I wouldn't say that if I thought all my enemies were just waiting for me to blunder like that, would have something to hit me with. They'd say, By God, he was right again. I hate him! He's always right. Senator Bourne knows that what I'm saying is true. Senator Beutler knows that it's true. Everybody knows that it's true. Even Senator Flood knows that it's true. You're not going to touch 80 percent of it, but you feel better, because now you have the names of honest people who were sick and needed this product. And that's what you've done. An 18-year-old who could have had a job in a store cannot have

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

April 27, 2005 LB 117

it, or that merchant is going to have to...

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: ...stop selling these products or will have to stop whatever he or she is doing and always be there, or have somebody at least 19 there. Instead of going through all that trouble, you fire the 18-year-old and bring in somebody else. And that's what's being done in the name of fighting meth, and you're not going to fight it. You're taking a broom and going down on the beach and you're sweeping the ocean back, and you feel good because you're expending a lot of energy. You're tired, your muscles are sore the next day, and you come back out the next morning and at high tide, the water is farther up the beach than it was when you left yesterday. This is pointless, but I'm not going to try to stop you from doing it. After you're done it, I want you to be able to show me the results that you're saying you'll get, and I will definitely show you the results I'm telling you will be there. Nothing of substance will happen, and...

SENATOR SCHIMEK: Time.

SENATOR CHAMBERS: ...there will be no substantial change. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Brown, you're recognized to speak.

SENATOR BROWN: Madam President, members of the Legislature, I am going to speak mostly to what Senator Beutler said, but I have to respond to Senator Chambers. He baited me into it. Twenty percent is twenty percent. Twenty percent...if we have 20 percent more time for enforcement, if we have 20 percent fewer lives ruined, if we have 20 percent of the potential for meth houses to explode, if we have that reduction, that's a substantial reduction. It's not addressing the entirety of the problem, but I think that it's doing something. And I will admit that this is just a piece of it, but I think that it is the piece that we have to do right now. The question that we're going to have to address is what we're willing to do, and

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

April 27, 2005 LB 117

Senator Beutler raised some important issues. The problem with what Senator Beutler said is that really, even his proposal is neither fish nor fowl, because if you have, as Senator Chambers very clearly pointed out, a logbook that...where the information is that which is provided by the purchaser, that information may not be usable, even if you do have a database. So you're going to have to have some technology that is going to allow you to capture that information and have that be reliable. And then, you have...I believe that in the same way we have had discussions about DNA and capturing that information without probable cause, I think we're going to have to have discussion, if we had the ability and the process in place to create a databank, how that databank is used. And Senator Beutler would propose that that databank be used to find individuals that are purchasing more than the appropriate amount, across the board in many different stores. It may be that we would restrict the use of the database that we could potentially create, only for prosecutorial purposes. And in that case, you would have to have some sort of a reliable mechanism for capturing the information. I have a bill that I will speak of--Senator Chambers may start gasping for breath--that would allow the capturing of information that we have on the digital drivers' licenses, for the purposes of age verification, and we could use the same, same thing for this bill, in creating a databank. But I would not feel comfortable in having that be for purposes of, without probable cause, just being able to look through the databank. I do think that there is a great deal of merit, and there would be some element of...that it would be preventative, if it were restricted to prosecutorial purposes. And I would suggest that we might want to continue this discussion at some point in the future, but I think that at least we...I mean, I do believe, if we're going to talk about the logbook, we have to talk about exactly what we want to come from the logbook. And I do think that the logbook, in the way that it was proposed, presented some problems. I think the technology is there if we choose to utilize it, and if we had...

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: One minute.

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

April 27, 2005 LB 117

SENATOR BROWN: ...within our statutes the opportunity to be able to capture the information from the driver's license. Then you really could create a reliable database of the purchasers. But then I would want to put some protections in about the way that database could be used. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. Senator Bourne, there are no further lights on, so I will recognize you to close on FA191.

SENATOR BOURNE: Thank you, Mr. President. I'll ask for a call of the house, if you'd let my time run.

SENATOR CUDABACK: We have a request for a call of the house. All in favor of the house going under call vote aye; those opposed, nay. Record please, Mr. Clerk.

CLERK: 18 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unexcused senators please report to the Chamber. Unauthorized personnel, please leave the floor. The house is under call. Unexcused senators please report to the Chamber. Did you want to continue, Senator Bourne, or did you want to wait?

SENATOR BOURNE: I'll just wait a minute or two.

SENATOR CUDABACK: The house is under call. Senator Janssen, Senator Byars, Senator Pahls. Senators Hudkins, Johnson. Senator Don Pederson, Senator Stuhr, Senator Brown, Senator Schrock, Senator Raikes, Senator Redfield, Senator Erdman, Senator Connealy.

SENATOR BOURNE: Mr. President, I'll ahead and close, if that's okay with you.

SENATOR CUDABACK: You may start, Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. This, again, is the, you know, the third or fourth component of the

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

April 27, 2005 LB 117

divided committee amendment, and it simply limits the amount of pseudoephedrine-base product a consumer, or excuse me, a seller can sell to a consumer. It says no customer shall be allowed to purchase, receive, or otherwise acquire more than 1,440 milligrams of pseudoephedrine-base product in a 24-hour period. We talked about what that was in relation to the various common drugs on the market. I think it makes sense. I don't think that it limits extraordinarily the amount of product that a person would want to purchase for their individual consumption, but I do think it goes a long ways towards limiting the amount of this essential input. And again, this is the essential input in the manufacture of methamphetamine. I'd urge your adoption of this component. Thank you, and a board vote is fine, Mr. President.

SENATOR CUDABACK: Thank you, Senator Bourne. You've heard the closing on FA191, the fourth component of the divided committee amendments. The question before the body is, will that amendment be adopted. All in favor vote aye; opposed nay. We're voting on adoption of the fourth component of the divided committee amendment, FA191, to LB 117. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 42 ayes, 0 nays, Mr. President, on the adoption of the committee amendment.

SENATOR CUDABACK: The motion is successful. FA191 have been adopted. Mr. Clerk, the fifth component. I do raise the call. Thank you.

CLERK: Mr. President, the fifth component is FA192, lines 19 and 20, found on page 17 of the original committee amendment. (Legislative Journal page 1326.)

SENATOR CUDABACK: Senator Bourne, you're recognized to open on the fifth component of the divided committee amendments, FA192.

SENATOR BOURNE: Thank you, Mr. President, members. This amendment simply requires that the customer displays an operating license or a state identification card as proof of identification when they purchase a pseudoephedrine-base

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

April 27, 2005 LB 117

product.

SENATOR CUDABACK: Mr. Clerk, amendment to that portion.

CLERK: Senator Beutler would move to amend the committee amendment. (Re. AM1181, Legislative Journal page 1189.)

SENATOR CUDABACK: Senator Beutler, to open on your amendment to FA192.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, this is again the amendment that would require the log, but before I begin this conversation, I want to let you know that I...as with the other amendment, I had agreed with Senator Bourne early on that the purpose of today, for myself, in large part because of my ignorance on the issue, was to get an education and to let my feelings and probably your feelings to evolve on this issue a little bit, and the variety of issues that we're dealing with that are new to most of us, but not to force an issue on a vote on anything today. And that feeling is enhanced on my part because I have a bit of uncertainty about which direction to go on this on a couple of key elements. But I do believe the longer we talk about this, that it is as I expressed earlier, we need to be one thing or the other. We need to have a log, and that log needs to be connected to a centralized computer base that can be viewed by one person, and meaningful checks can be made as to whether people are, in fact, violating the law. Otherwise, if you don't want to do that, then the only deterrent in this bill is a transitory kind of inhibition that buyers might feel for a short period of time before they discover that the law is unenforceable. And that's what I think Senator Chambers means by a "do-nothing" piece of legislation. It won't have much effort for very long at all. But we've talked about the log to some extent now. I wanted to read to you just a little bit. Oklahoma has been...if you believe that this point-of-sale restriction set of regulations can be beneficial, then Oklahoma certainly is the model for what is out there. And here's what a man named Mark Woodward from the Oklahoma Bureau of Narcotics had to say about logs, and you can take it for what it's worth. You may have even seen it in the Lincoln Journal Star this morning. But this fellow who's

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

April 27, 2005 LB 117

been working with Oklahoma's new law says Woodward attributed the effect of the law there largely to the requirement that pseudoephedrine buyers sign logbooks. There's no sense passing an antimeth law aimed at reducing in-state production of the drug, he said, without a logbook requirement that mandates retailers track purchases and give law enforcement a record of buys. As an example, he explained, Oklahoma law enforcement's recent bust of a meth ring near Enid that resulted in 22 arrests, meth cookers, he said, bought pseudoephedrine on 150 different occasions at a Walgreens store that didn't adequately check its logbooks to ensure buyers didn't purchase more than what was allowed. The reason they targeted that Walgreens, they said, go to the Walgreens; they don't check your logbooks. Woodward said, not checking logbooks is the same as not having them at all. Law enforcement officials only questioned retailers about their maintenance of the logbooks, he said, if there's a suspicion they are not being checked, and so forth. But then, looking further into Oklahoma law, they are in the process now of establishing a central database, and they have it in their law already that when the central database is up and operating, then all of the pharmacies and all of the transaction points that make these sales will be feeding information into the central database, and from there they can make what is arguably a reasonable attempt to cut down on the purchase of these precursors. The information that is in a bill before the governor now of Oklahoma, tightening up their logbooks and their central data system, the things that they'll be required to log in is the date of the transaction, the name of the purchaser, the driver license number or state identification number, and then they would obviously have the number of the pharmacy or the person conducting the transaction, the product being sold, and the total quantity of pseudoephedrine purchased. So that's basically the process that I think you have to go through and get to, if, in effect, what you really want here is something that's meaningful. If you don't want to do this, it seems to me you ought to go back to step one and stop interfering with the consumers and with the business people, and let business go on as usual with this...with these legal products that are involved in this discussion. But I do think it makes sense to increase the penalties also, if you're going to make this effective because,

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

April 27, 2005 LB 117

again, we have an infraction on one side, and a \$50 fine on the seller's side. And Senator Chambers says that they should be enforcing the law anyway. Well, maybe that's true. But Senator Chambers must be particularly distressed by the helmet law now, since those cops that are sworn to uphold that law are actually going to be seeing violations that they're bound to enforce and not be able to enforce it. (Laugh) So I appreciate your stress level on all this, Senator Chambers. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the opening on the Beutler amendment, AM1181, to FA192. Open for discussion. Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. Senator Beutler may have been one of those who voted cloture when I was attacking what they've done with the helmet law. I said they made a mockery and a travesty of the law, that it was neither fish nor fowl. I even quoted the "Bibble." I would that you were hot or cold, but since you're neither one, you're lukewarm, I'll spew you out of my mouth. So he can't beat me with that stick. There is nothing in Senator Beutler's amendment that says there needs to be probable cause. This is a fishing expedition. Most of the people, if not all, at a certain establishment, made purchases for legitimate reasons. You talk about theft of identity, and you're going to trust these merchants to have one of these books secure? Somebody could walk in, and maybe they don't care about purchasing this methamphetamine precursor; they want the information in the logbook. So they take that, and they got all they need on these people. But aside from that, back to the elderly. There are old people who don't drive a car. They don't have an identification card. So they hobble down to the store, as Senator Bourne wants them to do, and they want to make a purchase, and the clerk is required to say, show me some identification. Show me your driver's license or your state identification card. The old person says, well, I don't have it. Senator Bourne would say, well, they need to go out and get it. I'm telling you what happens in the real life of elderly people. And the people on this floor don't care, obviously. You want to get a "nothing" bill. Even with what Senator Beutler is offering, you're not going to touch the trade.

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

April 27, 2005 LB 117

You're not going to touch the use of it. You won't shut down a single methamphetamine lab with anything or everything in this bill. They can still get the precursors that they need. And the cops don't know how to find these labs now. And they're not out there looking for them. You all talk about the cops in all of these statistics, and you're not even looking at the way the so-called enforcement of the law is occurring, even now. You think they got helicopters with heat sensors flying over areas to see if they detect heat in various structures, and determine that there might be some meth cooking, so we'll send somebody on the ground to go investigate? No. This is all hogwash. You are deceiving the people. You're running a scam. That's all that it is. And if there wasn't so much publicity in the paper, they wouldn't be talking about this. The only thing Oklahoma does better than Nebraska, most of the time, is play football, and then you all get mad at them for that. Best thing Nebraska should have done, by the way, when they were having trouble, was to hire Barry Switzer as their coach. They missed that opportunity, so they're going to make up for it now. They're going to put all kinds of crazy stuff in the bill that will harm innocent people without stopping the bad ones. But they feel good, because they did what Oklahoma did. You know that the one who pushes for a program, if he or she is allowed to construct a statistical model, is going to show that everything that they're doing is perfect. They have no more methamphetamine problem in Oklahoma. Everybody on methamphetamine has now run into Nebraska. They don't have any meth labs in Oklahoma anymore. They have no meth labs in Iowa anymore. And that is poppycock. But the Legislature is on this tear. If you had Senator Beutler's amendment, without probable cause, the book is always open to the cops. They can go in there any time they want to and just leaf through the book.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: They might see a foxy lady come out of the store, and she's got a little bag that looks like it might have methamphetamine...I meant, Sudafed, so they run in there and they get her name, her address, her date of birth. Um-hum, she's not a juvenile, um-hum. They even get the number to her driver's license, and they can go to the Department of Motor

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

April 27, 2005 LB 117

Vehicles and get other information. And since they're cops, they get everything. Oh, you didn't know that cops commit crimes? You didn't know cops have been convicted of rape, assaulting little boys and little girls, committing acts of violence against women, stalking women? You didn't know that? Oh, you trust the cops that much? I don't. If this amendment--I know Senator Beutler is going to pull it at this stage--if this amendment gets on the bill, then I am going to do everything I can to kill the bill. And you'll get cloture. I know you will. But in the process, people will pay attention, because they know another cloture vote is coming, and maybe the media will report some of the criticisms I'm making of the bill, and they will...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...ask some of the supporters to show that what I'm saying is untrue. Did you say time, Mr. President?

SENATOR CUDABACK: I did, Senator.

SENATOR CHAMBERS: Thank you.

SENATOR CUDABACK: Thank you. Senator Brown, on AM1181, offered by Senator Beutler to FA192.

SENATOR BROWN: Thank you, Mr. President. To sort of continue the conversation about the issue of the logbook, there are the two different pieces of what the logbook does. There's the piece that the signing of the logbook serves as prevention because individuals who come in who are going to do something with it are deterred somewhat by the prospect of having to sign the logbook. But can you then get that converted...is it reasonable to expect that the retailer is going to input that information immediately by hand into some sort of a computer that would then provide the database? As I said before, I have a bill that...about point of sale, capturing information off of a driver's license. It's something that we restricted when we did the digital driver's license a few years ago, restricted the capturing of information. But with that, then the question becomes, do you use it for investigatory purposes without

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

April 27, 2005 LB 117

probable cause? Or do you use it for prosecutorial purposes, so that if you have somebody that you find that you...that there's probable cause that they were making meth, you could substantiate the purchase of pseudoephedrine over a past period of time through the database? But I mean, there are still some issues that are presented. There's the technical issue of having the equipment available statewide, requiring that it be done at the point of sale, and how much we are comfortable with the capturing of personal information and the maintenance of a database in that regard. Senator Chambers, obviously, would not be comfortable with any sort of capturing of information. I think that there are ways that we can restrict it, in a way that it actually will accomplish much of what Senator Beutler wishes to do. But I...and I think that the...using some sort of a point-of-sale equipment and making sure that we are capturing the information statewide and that we're not relying on an individual to input data that may not be current. I think that if we're going to do something, we have to do it in a technical way rather than manually. But it will...it requires us to make some decisions about what...whether we're willing to do this, and at what level, and whether we are doing it mostly for the prevention of deterring somebody who comes in wishing to purchase, or whether we're doing it mostly for having the data that is actually substantiated data and current data and things like that. And so I think that it...we will require some further discussion of it. But it's not a great leap if we are using...asking the purchaser to provide the information...provide their ID card or their driver's license to a system where you could actually...

SENATOR CUDABACK: One minute.

SENATOR BROWN: ...swipe the card and capture that information. Then we have to decide, what are the limitations on the capturing and maintenance of that information that we feel comfortable with. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. Senator Kopplin, followed by Senator Wehrbein.

SENATOR KOPPLIN: Thank you, Mr. President, members of the body.

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

April 27, 2005 LB 117

I have a lot of concern about Senator Beutler's amendment, and maybe even this whole section. I'm not sure what an operator's license is. Now, I know what you mean. But it doesn't really say what that is. I'm not sure what a state identification card is. And I'm not sure how difficult it will be for me to either steal operator's licenses or have fake ones printed that are...be good enough for me to buy wherever I want. So that only leaves us poor guys that haven't done anything to begin with. But when I have to go to the store and sign the log, that bothers me. We looked the other way when the United States held people for no offenses at all other than that we said, we need to see if they're safe. We looked the other way right here in Omaha when police went door to door and took DNA samples. And you could say, well, it was voluntary. No, it wasn't. It wasn't voluntary, because if you didn't do it, you were guilty, or you were suspected. And we're looking the other way when federal agents can come and see what I've read. Well, I read Brave New World a long time ago. And some of you may not know what that is, but you should read the book. And now you're asking me, who has done nothing, to walk down to the drug store and sign my name, which is okay. I'll show my driver's license, operator's license, whatever it is, and I'll give them the information. But it doesn't end there. Then the policeman on the corner can come down and say, I want to see the logbook. I want to see what old man Kopplin has been doing, because he can't send his grandkids down to buy his Sudafed any longer. No. I'm not willing to accept that any longer. We have a right to some privacy. And this amendment is just one more little step in destroying that privacy. I'm against this. If it's part of the bill, I'm...have to reconsider my support for the bill. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Kopplin. Senator Wehrbein, on AM1181.

SENATOR WEHRBEIN: Thank you, Mr. President, members. I'd like to ask Senator Bourne a question, if I may, please.

SENATOR CUDABACK: Senator Bourne, would you reply?

SENATOR BOURNE: Certainly.

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

April 27, 2005 LB 117

SENATOR WEHRBEIN: Yes. Senator Bourne, I was concerned about line 19, the operator's license and the definition of it. I assume you've discussed that some. And I wondered if that is an adequate definition of what you're concerned, if that should be motor vehicles, or if you're looking at something else. In theory...I mean, and obviously, I'm not a lawyer, and you're the Judiciary Committee. But it seems like I could make up an operator's license from some...running a...what do I want to say, a Bobcat, or something like that, and use it as an operator...I just wondered if that was more...should be more definitive.

SENATOR BOURNE: Senator Wehrbein, I appreciate your comments. I mean, I'm comfortable, or I was comfortable, with the operator's license. But as you bring it up, I'm certainly not averse to, you know, saying a motor vehicle's license from another state. I think that "operator's license" is a fairly uniform term. But your point is well taken.

SENATOR WEHRBEIN: I do know there's operator's license for these vehicles around the warehouses and stuff. I think you have to have an operator's license for that. Maybe...I don't think it's a driver's license. So I'm just...call that to attention because it was a question when I looked at it. As to Senator Beutler's amendment, I'm ambivalent at this point on the logbook. It looks like we aren't going to be able to enforce much if there's no logbook. I don't know if you know about prescriptions. I mean, I sign a logbook now for prescriptions for high blood pressure, and I...

SENATOR BOURNE: You bet. Now, can I just...

SENATOR WEHRBEIN: You can...yes.

SENATOR BOURNE: Can I just say something? You know, I've heard Senator Beutler say this a couple of times. This is not about putting people in jail. And he's...and Senator Beutler, with all due respect to you, somehow you're confused that this is a tough-on-crime measure. This...what this will do is control the absolute one essential input into the making of methamphetamine.

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

April 27, 2005 LB 117

It's not designed to put people in jail; it's to try to stop the input. And that's why I feel comfortable that it's going to work. You can't get pseudoephedrine, you can't make meth. And so I disagree with somebody when they say that it's not...you know, there's no way to check this, there's no way to log this, there's no way to...it has no teeth. That's not accurate. It stops access to the absolute input...or, the absolute one input they have to have. So I just wanted to state that. Thank you.

SENATOR WEHRBEIN: But may I pursue that? You're...since it's my time now. But the logbook is designed to make a record. Am I not...isn't that probably needed in the prosecution? I don't...I mean, what's the purpose of the logbook? Maybe that's a good time to ask that question.

SENATOR BOURNE: You bet. Now, I know some other states have used the logbook, and I can tell you which states have. Matter of fact, I think the majority of states around us are using a logbook. And Senator Beutler has a good point with the logbook, although I concede Senator Kopplin does as well. Would it be an additional tool that police could use to see who's purchasing this in a large quantity? Yes, absolutely. But I personally feel, and I think the Judiciary Committee feels, that just restricting this input makes a long stride in controlling the manufacture of meth in our state. So in an ideal world, if we could have the logbook, that would be great. But I think the bill has a lot of teeth without it.

SENATOR WEHRBEIN: Okay. I'm going to sit down. Thank you. Unless you want more of my time, Senator Bourne, you're welcome to have the rest of it.

SENATOR BOURNE: Thank you.

SENATOR CUDABACK: Senator Bourne.

SENATOR BOURNE: Thank you, Senator Wehrbein, Mr. President, members. Listen, I just want to follow up on that a little bit. Is the logbook...would that help law enforcement? It sure would. We in the Judiciary Committee tried to balance the ability of people buying a legal product and their privacy and

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

April 27, 2005 LB 117

their rights to do so, versus trying to control this essential input. And this is what we came up with. I feel that the showing of an operator's license or a state identification card...

SENATOR CUDABACK: One minute.

SENATOR BOURNE: ...is a sufficient means of tempering people who want to go in and buy this in large quantities. So I think it's the least intrusive means to accomplish the goal we're trying to get at. We're not trying to put people in jail. We're trying to stop or limit the accessibility of pseudoephedrine. And again, I can't make that clear enough. And you know, Senator Beutler, you have a good point. But that...you know, it's...I don't think you can stop people from using methamphetamine if they truly want to do it, or if they're addicted. They'll find it. They'll go somewhere, you know, wherever state has weaker laws than us. They'll find it. What I'm saying is that if you can control this input, you can control the amount of meth labs that are in the state of Nebraska. The state patrol says that they spend 80 percent of their man-hours trying to stop 20 percent of the meth. And if we can stop this input, that will free up a lot of their time to focus on other areas of law enforcement, and make our communities safer. That, to me, is what the bill is all about.

SENATOR CUDABACK: Thank you, Senator Bourne and Senator Wehrbein. Senator Louden, on AM1181.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I look at this amendment, I have...not necessarily Senator Beutler's amendment, but the FA192, Judiciary amendment, I have some concerns on it. When we have to start keeping a logbook on average sales that come through there, sure, I suppose it is some type of something that would help the law people considerably, to know who bought that, but there's so many ways that this can be used against people. It's...you know, it's unconscionable to think of the things that can happen with it. I have two or three...another question. When you ask for identification and you say in there a state card or a driver's license, should there be other means of

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

April 27, 2005 LB 117

identifications? There's passports. There's all kinds of means of identification. If people from another country happen to come over and are traveling through and need some of these drugs for whatever reason, they wouldn't necessarily happen to have a state card or some driver's license, a local driver's license, so there's got to be other means. I think it's lacking if you're going to have an identification process to find it. Really, I don't see why you have to have an identification to buy something that's just a counter drug. My concern is, is as we work through this, if this is such a problem, then why not put these drugs back on...be sold on a prescription basis? That would probably take care of most of it. They were sold with prescription at one time or another. So if this is something that can't be handled by just putting them behind the counter or behind an enclosed cupboard so that when they are sold they have to be asked for, if that isn't enough, then perhaps they should just be considered a prescription drug and sold accordingly. With that, I have questions about this amendment. And I agree with Senator Kopplin that I'm having concern about this part of it, that we may be going too far with some of our ideas on what we need to do to control this. I think we're...we could be very easily making criminals out of innocent people. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Louden. Further discussion. Senator Chambers.

SENATOR CHAMBERS: Mr. President, I would like to ask Senator Bourne a question.

SENATOR CUDABACK: Senator Bourne, would you reply?

SENATOR BOURNE: Absolutely.

SENATOR CHAMBERS: Senator Bourne, you may or may not take my word for this, but let's make it hypothetical. There are elderly people who have neither a driver's license nor a state identification card. They cannot send a young person to the store. If they go to the store to make the purchase and they have no identification, they cannot purchase it, can they?

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

April 27, 2005 LB 117

SENATOR BOURNE: Yes, that's correct, Senator Chambers.

SENATOR CHAMBERS: And that doesn't...I'm not going to...I'm not trying to load the question. Does that pose a troubling circumstance to you?

SENATOR BOURNE: Yes.

SENATOR CHAMBERS: Okay. And I won't ask you how to resolve it, because if you want to respond, you can. But I don't want to take my time on that. I just wanted that exchange on the record. Members of the Legislature, I know, despite how strongly I've been critical of some things, that Senator Bourne has nothing against the elderly. Being totally frank, I don't think anybody on this floor has anything against the elderly, other than perhaps against me. (Laugh) And I don't consider myself elderly. I consider myself old. I don't need to be called a senior citizen, or elderly. I'm an old man. Nothing is wrong with old. But at any rate, what will we do for these older or elderly or senior citizens? They cannot send some youngster to the store they used to could send. They have older, elderly, or senior citizens in the rural areas. Some of them don't have driver's licenses or state identification cards. So we're just going to make them expendable. They don't need these substances, because they'll probably croak pretty soon from something or other. Maybe if the state is lucky, they'll fall down and break their hip. When an elderly person breaks a hip, it's a matter of weeks before that person is dead. The complications that set in, for some reason, make that fall fatal. So if you have a relative or you read about some elderly person falling and breaking a hip, get ready, not to send for the priest, but for the undertaker, because it's curtains. It should not be curtains, simply because, in the zeal and the rush and the headlong plunging forward to pass a political bill, we make it impossible under the law for elderly persons to purchase these medications. I'm sure that's not Senator Aguilar's intent, but he would go for this as it stands. Without a state driver's license, a state identification card, you can't get it. By the way, I was present when this bill was presented for consideration on advancement, and I voted no. I voted against it. I was against it then; I'm against it now. I can imagine

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

April 27, 2005 LB 117

the outrage of these Americans who are tourists and go to other countries, and they go to France, and they want to purchase Sudafed. They see it right out there: I'd like to purchase Sudafed. They say, do you have a French driver's license? Do you have a French identification card? No, but I'm an American and I want to purchase that. You can't buy it. They'd be outraged. They'd run to the embassy. Go to Spain, go to Germany, go to any country in the world, and the only way you can purchase an over-the-counter medication that you're familiar with because they have it in your country, your country manufactures it, is to have a driver license for that country and...or an identification card presented or produced or issued by that country. Otherwise, you cannot buy this over-the-counter drug. You know how outraged Americans would be.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: If somebody came from another country, as was pointed out by one of the other speakers, and had a passport, that's not good enough, because you might be a meth cooker. And although you want to buy one box of this stuff, you can't buy any of it. And there you go. And this bill is not overreaching? It is not a blunderbuss approach? This is not good. I've been critical of other aspects of the bill. I'll continue to be so. It should go to Select File. But I will fight a lot harder there. And I won't mind taking the bill to cloture. Maybe we'll find out on this bill how long the Speaker is going to require discussion before the bill is allowed to be clotured. But if this bill has discussion cut off, there's nothing I can do about that. If they cloture it, it's done. But I will certainly have a jaundiced view...

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: ...by everything...about every other bill. Was that my second or third time?

SENATOR CUDABACK: That was your second time, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President.

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

April 27, 2005 LB 40, 40A, 114, 117, 193, 274, 276, 351
361, 389, 389A, 503, 503A, 605A, 709, 739

SENATOR CUDABACK: You're welcome. Mr. Clerk, items for the record, please.

CLERK: Mr. President, a new A bill, LB 605A, offered by Senator Thompson. (Read LB 605A by title for the first time.) Senator Chambers has an amendment to LB 709, to be printed. Enrollment and Review reports LB 40, LB 40A, LB 114 to Select File, some of which have Enrollment and Review amendments. And a communication from the Governor to the Clerk. (Read re LB 193, LB 274, LB 276, LB 351, LB 361, LB 389, LB 389A, LB 503, LB 503A, and LB 739.) (Legislative Journal pages 1326-1328.)

Mr. President, I do have a priority motion. Senator Langemeier would move to adjourn until Thursday morning, April 28, at 9:00 a.m.

SENATOR CUDABACK: You've heard the motion by Senator Langemeier to adjourn, Thursday morning, April 28, 9:00 a.m. All in favor say aye. Opposed, nay. We are adjourned.

Proofed by: Bernie Ward