

November 14, 1989 LB 1

SENATOR KRISTENSEN: Can you do it? I think that is a different answer.

SENATOR WITHEM: Okay, can we do that?

SENATOR KRISTENSEN: Yes, I think that you can do that.

SENATOR WITHEM: Okay.

SENATOR KRISTENSEN: Now then back to the political question, is that a fair thing to do, politically and practically...

SENATOR WITHEM: Yeah.

SENATOR KRISTENSEN: ...but legally is it okay? In my opinion, yes.

SENATOR WITHEM: Okay. Thank you very much. I appreciate that.

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

SENATOR LANDIS: Mr. Speaker and members of the Legislature, the amendment that's just been adopted constitutes the bill. We have another level of debate to consider it. One of the things that I think we ought to analyze is the impact of the Conway amendment on the Enron decision. Does the Conway amendment give us a good handle on solving the kinds of problems that arose in the Enron case? I think there is a matter of opinion here. We ought to do a little home work, do a little study, keep our minds open. By the time we come back on Select File, we may want to...we may find that this formula approach is an excellent way to accomplish the same end. We, arguably, may find the contrary, that by allowing the analysis of attachment that we have given courts the right to review the subjective intent of somebody who attaches property, which was the very issue that dealt us the conclusion in the Enron case. It seems to me that we should analyze that language carefully and see whether or not we get to the same place. If we do, there's probably a value to the formula approach. If we wind up, however, with not creating a good, strong wall around the personal property or real property, if you will, that's on the borderline, then I think we need to reconsider. But we have plenty of time to do that. Let's advance the bill and let's send our legal beagles to work and come back with an answer on Select File.