

February 24, 1995 LB 830

PRESIDENT ROBAK: Is anyone authorized to handle this motion for Senator Hall? If not, the motion goes to the bottom of the list. The next motion.

CLERK: The second motion from Senator Hall.

PRESIDENT ROBAK: I will assume that no one...is anyone authorized to handle this motion? It also goes to the bottom of the list.

CLERK: Senator Wickersham would move to return the bill. (Wickersham amendment, AM0635 appears on page 874 of the Legislative Journal.)

PRESIDENT ROBAK: Senator Wickersham.

SENATOR WICKERSHAM: Thank you, Madam President. This motion is to return the bill for a specific amendment that has been passed out to you. It is AM635. The subject matter of the amendment is one of my favorite topics, eminent domain. And I understand that this body has decided to keep eminent domain in this bill and, in fact, I've come around to the point where I almost agree with you, because I think leaving eminent domain in this bill makes it unconstitutional. I don't believe that eminent domain, as it's intended to be used within the context of this bill, is appropriate or constitutional. As I've said before, I believe it represents the taking of private property for private use and that the provisions for eminent domain are integral to the rest of the bill and that if that falls, it all falls under what I understand to be the current standards for construction and interpretation by the Supreme Court. So I'm not at all necessarily unhappy from that respect that eminent domain remains in the bill. I am still concerned about how eminent domain would be made to work as it might be applied on an individual case and that's what the amendment is about. I don't know if you're all familiar with the way eminent domain works but, basically, the process is initiated, you're given an opportunity to negotiate a price, if a price isn't negotiated, an offer is made, rejected and then you go to court. As you go to court, people might think that they're entitled to retain possession of their property until it's all said and done, but they're not because the political subdivision that is attempting to use eminent domain powers is entitled to file a bond and go into possession of the property, even though you've not been paid. That's the normal rule. The amendment that I'm offering