

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

April 29, 1999 LB 530

promise that there would be no such waste site. Senator Matzke and others, who are lawyers, know what is involved with a preliminary injunction. But, for those who don't, I want to read this to show why the judge issued it. "The commission is likely to prevail on the merits." That means the commission, which filed this lawsuit, is likely to win when the trial is completed, otherwise the injunction wouldn't have issued. Nebraska made several arguments as nonmeritorious as those of my good friend, Senator Matzke. One of the things they had said was that the federal government...the federal court should abstain or not get involved in this, because there are other issues to be resolved first. After telling your lawyer, the Attorney General, with his blundering self, that abstention is not appropriate, here's what was written by the judge: "Where as in this case there has been a substantial showing that the state proceeding is infected by bad faith and there is a similar showing of irreparable injury, abstention is improper." Irreparable injury may be suffered by those who filed this lawsuit, the other states, the generators who have to pay this money, and U.S. Ecology. Ninety million dollars is a beginning amount that you all are going to have to pay. And there are other matters I intend to discuss on this, but as Senator Matzke said, we can't get through all of them. But I want to kind of give an overview in the same way that he did. Nebraska virtually extorted money from those who were required to pay it, through deliberate delays, changing the rules, dragging their feet, slowing down activities, they jacked the cost from \$13 million up to over \$74 million that was paid by those in this lawsuit, plus \$14.7 million paid by Nebraska Public Power District, which is not a party to this suit. But the court is going to determine who's going to pay, not Senator Matzke, not this body. You all are treading some dangerous ground, and you're giving more ammunition to the other side of bad faith. As a lawyer, Senator Matzke knows that what he's offering cannot be valid law. You all could vote for it, but that's not going to make it binding anywhere. The federal law is going to prevail. This is a matter in federal court. And if there were not federal issues involved, the court would not take it. And here is what Judge Kopf wrote about some of the issues, "The matter presents serious questions regarding the supremacy of federal law and the national problem of low-level radioactive waste." Let's say you all vote to take Nebraska out of the