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LB 1240, 1285

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Senator Bromm. Senator Bromm, recognize you to open on FA302 to LB 1285. (FA302, Legislative Journal page 866.)

SENATOR BROMM: Thank you, Mr. President, members of the Legislature. This is a second part of the amendment to LB 1285. This...the crux of this, the genesis of this amendment...portion of the committee amendment is LB 1240. It's not the same, it's not worded the same as LB 1240. The committee made significant changes, but the idea came from LB 1240. Let me explain what that is. Let's say that a company seeking to compete for telephone service, Company A, objects to what it believes is anticompetitive activity or action by the existing company, Company B. Company A files a complaint with the Public Service Commission. There is a hearing and the Public Service Commission receives and considers the evidence presented by both parties and decides at that point in time, yes, Company B is engaging in anticompetitive activity or behavior in violation of the 1996 Telecommunications Act or the rules and regulations of the state of Nebraska, laws of the state of Nebraska. The PSC then orders Company B, the one that is engaging in the anticompetitive activity, to discontinue that activity. Company B appeals and that appeal goes to the Court of Appeals here in Nebraska, not to district court but the Court of Appeals. The decision then, the order of the Public Service Commission is then held in abeyance or it is stayed while that one, two, or three year appeal process is going on. In the meantime, Company B, the one that is engaging in the anticompetitive activity, can continue that activity pending the final result of that appeal. Under this portion of the amendment, taking the same fact situation, Company B appeals. The Public Service Commission order, ten days after it's entered and given to the parties, goes into effect and Company B must stop the activity unless the...unless a stay order is entered, and either the commission or the appellate court could find that the order should be stayed and not put into effect, and the conditions under which that would happen are set out in Section 1 of AM2358: if the commission or the Court of Appeals or the Supreme Court found that the applicant that was asking for the stay is likely to prevail, in other words if they felt Company B eventually might...might win; if they found that without this relief from the order, the applicant, again