

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

March 1, 2000

LB 1285

few miles from where I live, and if you were to assess a 10,000 dollar a day fine against that small company for noncompliance with some technical ruling on the Universal Service Fund Act, put them out of business in a week. Now it's been pointed out that this in the discretion of the commission and that they are to consider mitigating circumstances and gravity and good faith and that type of thing but, nevertheless, you are giving a tremendous power to a commission with an unlimited power to fine people.

PRESIDENT MAURSTAD: One minute.

SENATOR MATZKE: Having said that, I will also direct your issue to the matter that Senator Kristensen mentioned, and that is the language of the provision for the stay is conjunctive. In other words, to get a stay, you are going to have to prove three things: prove that you are likely to prevail, that the applicant will suffer irreparable injury, and that no one other will sustain substantial harm. I think that puts an undue burden on anyone who wishes to appeal. Again, when we have potential imbalances of economic power here and that those should be in the alternative. I've already suggested this to Senator Bromm and I'd like to pursue it with him later if this bill advances or does not advance, and discuss that at some later time. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Matzke. Senator Chambers, on FA302 to LB 1285.

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I would like to ask Senator Kristensen a question.

PRESIDENT MAURSTAD: Senator Kristensen, would you yield?

SPEAKER KRISTENSEN: Sure, yes.

SENATOR CHAMBERS: Senator Kristensen, are you and Senator Bromm in the process of working something out on those issues that you raised earlier about whether or not there is a meaningful and realistic chance to get a stay?

SPEAKER KRISTENSEN: I...I would tell you this, Senator