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Further debate on AM3082 to LB 1285, Senator Bromm, followed by Senators Landis, Beutler, Kristensen, and Janssen.

SENATOR BROMM: Thank you, Mr. Lieutenant Governor. And I think, if Senator Beutler would like, I would offer this time to continue the question that we got kind of cut off on. I think, Senator Beutler, the question you had was the standard of proof if the district court were to levy a fine on a DEQ matter pursuant to a recommendation from DEQ which is kind of the way I think it works. And based on what I've been able to check in a very short period of time, I think that is...I think that would be considered to be a preponderance of the evidence rather than clear and convincing. And we're doing some further checking, but I do think that's the case. And the only...I think the distinction seems reasonable to me because we're having a court review the entire matter before a fine is imposed. And that makes me more comfortable with that standard of proof. I feel like I want, if a fine is going to be imposed by a commission or an agency of the government, I want that to be very clear that that's justified. And I would offer you maybe a chance to follow up on that or ask additional questions at this point if you would like.

PRESIDENT MAURSTAD: Senator Beutler.

SENATOR BEUTLER: Senator, thank you. Let me digest that a little bit. I can't say that I'm sure that I accept that rationale in the sense that even in an administrative proceeding eventually the court system has the opportunity to look at it. And I assume that if the court system gets a hold of it on appeal that they have to abide by the clear and convincing evidence standard in that case. They can't revert back to the preponderance of evidence standard. Would that be accurate?

SENATOR BROMM: That would be accurate, Senator Beutler.

SENATOR BEUTLER: Okay. On a related matter on the penalty provision just so I get the full perspective on it, the other part that I wasn't sure about, I notice in your repealer section that you're repealing the only provision that I know of that is a criminal provision in this area. And first of all, let me ask you if that's accurate. Is that statute that's being repealed