

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
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of LB 1285. Since we don't have a fining authority, the standard of clear and convincing is not a reduction. It's not an increase. It's the first time that we've put it in the statute. However, as a measuring tool against other APA issues, the general rule is preponderance of the evidence. So, in that sense, it's higher, but it's not that we raise the standard; there has been no standard. The most commonly used yardstick that we could have picked up which is preponderance of the evidence has not only the theoretical qualms that Senator Bromm identified, but the political qualms of dealing with this area and the affected parties. With respect to my support for LB 1285, I think in part whatever problems there are as to whether or not this goes far enough or not is premised on the fact that we deregulated telephones in 1985 and basically said, we give up, we give up. We can't do it. It's not for us to regulate. We're going to establish a free market mechanism, and LB 1285 has as its base a recognition that hasn't worked across the board. There may be places where it's appropriate, maybe in the setting of rates and the setting of prices, okay, but not across the board. It hasn't guaranteed us, for example, the highest quality across the board for which we won't...we shouldn't have to have any kind of remedy mechanisms for irate customers along the lines of what Senator Pederson identified. Now you couldn't tell it at this point because I think they're being incredibly silent; but, in fact, the industry has with these provisions come generally to the support of the bill. They've moved from opposition on General File, or neutrality, to a general position of support, except for US West who continues to oppose LB 1285 in any form under any circumstances on any day in any year in any millennium. However, the rest of the industry generally is supportive although you couldn't tell that because they seem immensely silent out beyond the glass. In addition to the question...or the answers that Senator Bromm is making, I would make this answer to Senator Beutler. In the face of two things, number one, a deregulated atmosphere in which this Legislature has thrown away the power of the PSC to regulate the industry and, secondly, in recognition of how effective that industry is in representing its own interests, LB 1285 is a reasonable step towards the implementation of consumer friendly mechanisms of remedy. Could we do better? The answer is, yes. The journey of a thousand steps begins with LB 1285, in my estimation, and it's a satisfactory result at the