

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

April 1, 2004

LB 1090

statutes, I...Senator Bromm and I are reading the same statutes. We're just reading them differently. I want to summarize again and I will not retreat, the statutes that we are quoting from are statutes under which the state of Nebraska allows itself to be sued. The state of Nebraska grants itself the privilege of not posting a supersedeas bond on appeal and that kind of thing which is usual and ordinary. All of you, if you were in court, would have to post bonds if judgments were entered against you. So would I, but the state does not. And this particular statute says, basically, if we cannot pay, then we will pay a 10 percent interest rate. We set that, we wrote that rule. The federal law says that the interest rate shall be as prescribed by law, and this is how Nebraska has prescribed it. There is only one case in the history of DAS that this particular situation would apply to, and it's the low-level judgment, only one case, and that's the case we're dealing with now. And our constitution specifically provides, in two places, in all other cases where a general law can be made applicable, no special law shall be enacted. That's an absolute constitutional prohibition against a special law. This would be a special law for our benefit in one case. And secondly, our constitution says no bill of attainder, ex post facto law or law impairing the obligation of contracts, or making irrevocable grants of special privileges or immunities, shall be passed. That's an absolute constitutional prohibition. Am I talking about some secret here that shouldn't be discussed? Guess what. They're already arguing about this very issue in the low-level nuclear waste litigation. This issue has already been...this isn't some secret. This is at issue, as lawyers call it right now. The difference is that when Senator Bromm quotes you the statute where, mind you, the federal law says the state law or the law shall apply, I'm applying the state law, and our state law as we wrote it says that it will be 10 percent if we can't pay, and then you go to the other statute that Senator Bromm read to you, and we just have a slight difference of interpretation because here's the...

SENATOR CUDABACK: One minute.

SENATOR BRASHEAR: ...plain English of it. In case of the affirmance of such judgment or failure on the part of the state to take proceedings in error or appeal, which is what...where we