

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

May 25, 2005

LB 478

maybe what you ought to say is "by nature of his or her duties." I don't think that's correct. If you were going to say "due to the nature of his or her duties," as I said, then you'd have something that makes grammatical sense and logical sense. But now, getting into the meat of the matter again, Mr. A and Ms. B come to get a job with this military contractor. Not everything that this contractor does, in terms of the work of its employees, involves the handling of classified information. The language that they took from the executive order does not say, handles classified information. It says, meets the eligibility requirement for access. You don't have to ever access it, just have the qualification. So if you have work being done for this contractor, Mr. A does not have the eligibility to access classified information, Ms. B does have that eligibility, neither is actually handling classified information, because under the language of this bill, they don't have to. I don't care what these contractors say about, well, we wouldn't hire anybody who wouldn't do this or that. We look at what the law authorizes, and that's how we determine if the classification is going to be valid. So you have Mr. B, no eligibility, Ms. B with eligibility, but both of them are doing work which does not require actual access. So they both work eight hours a day, they both go home, they get the same salary, \$65,000 a year. Both are military retirees. When time comes to pay taxes, Ms. B, who did not handle classified information, gets a tax break on the \$25,000 in excess of the \$40,000. Mr. A, doing the same work, does not get the tax break. That, I do not believe, would stand up to judicial scrutiny. The court did not say, in the case that Senator Cornett cited for us, that the court is not going to look at any of the factors involved in how you're going to make these distinctions. It did say that if you're dealing with an economic or social legislation, the scrutiny would not be as intense or as exacting. It didn't say there will be no scrutiny, and all the Legislature has to do is say this. The Legislature has to establish, according to standards that the court will accept, that there is a basis for treating these similarly situated people differently. I'd like to ask Senator Cornett a question.

SENATOR CUDABACK: Senator Cornett, would you respond to a question?