

the ABC test by the department seemed to be too restrictive on their kind of enterprises. As a result they came to the Legislature and they asked for help. Now while we were debating this measure, the Nebraska Supreme Court for the first time in 50 years actually entertained a case on the issue. I have the case in my hand, it just came down on April 15th, it is called, Erspamer Adv. Company v. the Department of Labor and this is the first case in 50 years that deals with this question. The Nebraska Supreme Court has held that the ABC test which has laid like a noose around the necks of the Donnelley Corporation and the truckers is simply not the determinative standard. It says it is not the determinative standard. It says, the actual standard regarding the employment relationship rests on common law principles. Common law principles are principles that have been developed by the courts over the long period of time as to when a worker is an employee and as to when a worker is an independent contractor. So the truth of the matter is what the Nebraska Supreme Court did is undo, it undid administrative interpretation by the Nebraska Department of Labor in the area of the independent trucker and in the area of the Donnelley Corporation. In other words, that is now behind us. LB 319 is no longer a necessary bill. It is not a necessary bill. For my money it is better for us not to advance this bill. It is better for us not to advance the bill because the Department of Labor will be operating under a different interpretational standard than in the past. It is silly for us to take two very specific industries, two very specific practices and codify them in statute when in fact what we ought to do is simply allow the normal course of administrative regulation and judiciary review to continue to take its . . . continue to do its work. When that happens, under my reading of this case, I don't think the Donnelley workers are going to be covered. Under my reading of this case I doubt very much that the kind of truckers that Senator Beyer is concerned about are going to be covered. Because the Supreme Court has simply knocked the basic statutory prop out from under the Department of Labor. Now that might be wrong for the court to do that, and if so, we will have to go back next year or a couple of years from now and change the statutory standard. But so be it. But 319 at this point is no longer a necessary bill. For my money this bill ought to be killed.

SPEAKER NICHOL: Senator Wesely.

SENATOR WESELY: Mr. Speaker, members of the Legislature, obviously I would rise in opposition to the kill motion by Senator Vard Johnson. I think we are all familiar with the