

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

March 31, 2004 LB 1090

evidence of Nebraska's continuing efforts to thwart and delay the facility strongly supports the district court's finding that US Ecology was denied a license without regard to the technical merits of the application, end quote. Another quote: Indeed, the evidence shows that Nebraska was prepared to do whatever was necessary to avoid housing a low-level disposal facility, even if that meant ignoring its own consultants and denying the license on "pretextual" grounds, end quote. Moreover, the 8th Circuit concluded that even if they extended a presumption of honesty and impartiality on the part of state officials, quote, the record here contains more than enough evidence of bias to rebut, end quote, such a presumption. The final things that one needs to understand with regard...

SENATOR CUDABACK: Time.

SENATOR BRASHEAR: Did you say time, Mr. President?

SENATOR CUDABACK: I did, Senator Brashear. I'm sorry.

SENATOR BRASHEAR: Thank you. Excuse me.

SENATOR CUDABACK: You've heard the opening on the bracket motion till 4-13-04 of LB 1090. (Visitors introduced.) Now with discussion, the bracket motion, Senator Beutler, followed by Senator Brashear and Wehrbein. Senator Beutler.

SENATOR BEUTLER: I'd yield my time to Senator Brashear.

SENATOR CUDABACK: Senator Brashear, you have five minutes.

SENATOR BRASHEAR: Thank you, Mr. President, members of the body. Thank you, Senator Beutler. The final thing that I respectfully suggest we ought to consider as we go forward today is to understand that we have exhausted our appeals of right. The remaining appellate options of the state are entirely discretionary, meaning they are within the discretion of the court, and frankly, we can do nothing about it. We have asked for a rehearing en banc by the 8th Circuit, which has no obligation to grant that request. Failing there, we can appeal to the U.S. Supreme Court, but that court is not obligated to