

of other agencies when they adopt rules and regs for purposes of public input would also apply to the Workers' Compensation Court, which is presently exempted from this. I would ask for adoption of this amendment.

**SPEAKER BAACK:** Thank you, Senator Hall. Senator Landis.

**SENATOR LANDIS:** Mr. Speaker, members of the Legislature, I can understand Senator Hall's desire for adequate notice, fair hearing. Difficulty here is that this amendment runs the chance of being a poison pill of sorts because, although I don't want to make dire predictions, there's a very good chance the amendment is unconstitutional. The Workers' Compensation Court, although it is a mix, administrative agency and judicial body, is in the judicial branch and, because it's in the judicial branch, pretty arguably you can't have a violation of the separation of powers as contemplated in this form. Understand that under the normal APA there is a specific exemption for the Workers' Compensation Court. It appears on the face of the APA as it exists now. The APA system requires that rules and regs be filed with the Secretary of State, that they're reviewed by the Attorney General and that rules and regs must be approved by the Governor. In other words, the business of the court, the rules of the court, would be reviewed by a series of executive branch agencies and, since these are judicial rules, the norm for every other court in the state is review by the Supreme Court. In fact, the power of the Supreme Court to review the rules of courts is specifically identified in the Nebraska Constitution as a Supreme Court function. Now the APA specifies the procedures to be used for contested cases and appeals within the agency under the district court. It would be difficult, if not impossible, to tell which contested cases should go to the Workers' Comp Court and which should follow the APA procedures if you just identify the APA as binding on the court. Understand Comp Court rules are filed with the Supreme Court and the Supreme Court has the authority to review those rules and regs. That is the standard for judicial branch governance. There is no reason to violate that rule in this case. Now it's true we have laid out for the court a system of rule making authority in the Abboud amendment. We can lay this down. We can put them in the APA, but if...but if what we do is give executive branch veto over the legislative branch that's where the separation of powers comes in. More importantly, let's assume it is constitutional. Let's say there isn't a constitutional question. We have done well enough with the