

April 2, 1992

LB 78, 125

and the assistance of the Legislature in coming up with solutions for those circumstances which now force women into getting abortions. I also think that you can't do that work without some kind of money and resources and that's why, in this subsequent amendment, there's a \$5,000 price tag. The Lindsay-Landis amendment is an earlier version of the same idea. It also does not contain the language that is divisive and, in this coming amendment, it's the one that strikes 78. Let me move to a topic that we haven't talked about for awhile and I want to get back to it. I promised that I'd discuss with you why we should separate the issue of LB 78's current provisions with the notion of a commission, the reason being that not only because we, I think, agree to the idea of the commission, but because 78 poses some significant problems for us. They are two in nature. The first problem is this. The Judiciary Committee hearing tells us, in an analysis by Attorney Rod Cathcart, that our projected passage of 78 would run afoul of Eighth Circuit Court precedent. Judge Urbom, in 1979, in responding to a Nebraska statute that passed a waiting period, enjoined the operation of that act; passed in '78, enjoined in '79. That decision by Judge Urbom was affirmed by the Eighth Circuit Court of Appeals and is the precedent for this jurisdiction with respect to waiting periods. The waiting period, according to Judge Urbom, was an economic burden...

SPEAKER BAACK: One minute.

SENATOR LANDIS: ..was an economic burden...

SPEAKER BAACK: One minute.

SENATOR LANDIS: ..and increased the risk to the woman's health. Additionally, in Thornburgh v. American College of Obstetricians and Gynecologists in 18...1986, the U.S. Supreme Court, citing the Akron case, struck down Pennsylvania's attempt to require information on fetal development. The court said, and this is a quote, "The printed materials seem to be nothing less than an outright attempt to wedge the commonwealth's message discouraging abortion into the privacy of the informed consent dialogue between the woman and her physician." We have on Select File LB 125, a measure that allows the recovery of attorney's fees in the event an unconstitutional act is passed by...

SPEAKER BAACK: Time.