

CLERK: (Roll call vote taken. See pages 2551-52 of the Legislative Journal.) 19 ayes, 23 nays on the motion to bracket.

PRESIDENT ROBAK: Motion to bracket fails. I raise the call.

CLERK: Madam President, the next amendment I have to the bill is by Senator Landis.

PRESIDENT ROBAK: Chair recognizes Senator Landis to open on his amendment. (Senator Landis's AM1339 is found on page 1472 of the Legislative Journal.)

SENATOR LANDIS: Thank you, members of the Legislature. I know that Ernie's been ducking me all night long. Yes, Ernie's kind of like George Foreman, an old man. He's an old man and he just doesn't want to fight the top contenders. He just wants to reach way down in the division so that he won't have to push himself, but it's time to get on to the matter of this amendment, originally LB 471, reported out by the committee five to zip, a bill that was testified to without opposition. Among the people that testified for the bill was the Lancaster County Prosecutor's Office; Leigh Ann Retelsdorf, an attorney; the YWCA; and the Nebraska Domestic Violence Sexual Assault Coalition. There are over ten states that have removed the obligation for women or anyone who is being subject to rape to have to physically resist to the utmost of their abilities as an element of the definition of rape. They've moved from rape as not something in which a person is compelled by force but in which sexual penetration occurs because consent has not been given. It's a nonconsensual act and the party doesn't consent. So what 471 does is to adopt this newer rule that says that rape means intercourse without consent. Let me give you the elements of what we're talking about here. It defines rape as being sex without consent, sexual penetration without consent, and then it goes on to say what that means. Without consent means the victim was compelled to submit, due to the use of force or threat of force or coercion, it's more traditional aspect, or the victim expressed a lack of consent through words--no, no, no, stop that, no. Three, the victim expressed a lack of consent through conduct, in other words something that would be reasonably designed through conduct to indicate that there was an absence of consent; or, fourth, the consent, if any was actually given, was the result of the actor's deception as to the identity of the actor or the nature or purpose of the act