

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

April 21, 1999 LB 76

were for LB 76 immediately shifted gears and said, fine, we'll go for this. So I'll vote for it, but I do want to see, by Select File, the same things that Senator Beutler is asking about. And hope that when the bill does eventually come out and is law that it will do what we're thinking that it might do, that we will find out whether this person should live, or that person should not live. And that, for me, you see, is the whole point, because I don't think we have the choice of saying that anyone, baby, old person, whomever should or should not live. We do not have that power. So, thank you. I don't know if I have any time left. Senator Brashear can...may have it, if there's any left.

PRESIDENT MAURSTAD: Senator Brashear, approximately two minutes.

SENATOR BRASHEAR: Thank you, Mr. President. Colleagues, thank you, Senator Crosby, for the time. I do not want Senator Beutler's questions to sink what I otherwise believe is an essential legislative act on the part of the body. And so I'm going to try and be general in the two minutes, and see if I get additional time. We are responding here today to a line of cases that begins with State v. Simants, then State v. Welsh, then State v. Williams, then State v. Moore, then State v. Reeves, then State v. Palmer, when the Supreme Court of this state has been telling us what difficulty it has in dealing with the proportionality statutes which we have adopted as the law of the state of Nebraska. And they have told us that they...we have the Lotter decision indicating that essentially the Palmer decision has rendered the proportionality review a nullity.

PRESIDENT MAURSTAD: One minute.

SENATOR BRASHEAR: You have had some evidence spread upon the record here of what happens when you don't have a proportionality review or concern, notwithstanding the law as adopted by the Legislature. And you have some sense of what it might say about the administration or the miscarriage of justice. The court has now indicated to us, the court noted that it would be possible to construe the statutes so the cases in the death penalty was not...was not imposed. Although, upon reflection, it could be said the death penalty might have been