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that aggravating factors, mitigating factors have to be analyzed...

SENATOR CUDABACK: One minute.

SENATOR BRUNING: ...in any murder. That's a subjective determination, what's aggravating, what's mitigating. That means a human being has to decide. There's always going to be a subjective factor in the death penalty. Now Senator Matzke pointed out an argument, and I don't recall us making it last year, but I think it's a spectacular argument. Nebraska only has nine people on death row, 160 first degree murders. To me, that doesn't show that it's being applied unfairly. It shows that we're being careful and Nebraskans don't want to apply the death penalty. Only if your crime is so heinous and so horrible do you get that ultimate penalty. I think that's the right way to mete out this penalty. It is not a penalty any of us revel in or are happy with. It's a penalty we think is necessary for the ultimate crime. Thank you.

SENATOR CUDABACK: Thank you, Senator Bruning. Senator Chambers, you're recognized to speak and this will be your third time.

SENATOR CHAMBERS: On this amendment?

SENATOR CUDABACK: Yes, Senator.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I would like to ask Senator Matzke a question.

SENATOR CUDABACK: Senator Matzke, would you yield to a question?

SENATOR MATZKE: Yes.

SENATOR CHAMBERS: Senator Matzke, are you aware that sexual assault of a child and sexual...and felony child abuse are not subject to the felony murder rule? Are you aware of that?

SENATOR MATZKE: I think that's only half the question. I am aware of that. I'm also aware of the fact that that very often