

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

February 11, 2000 LB 1004

forget all this stuff. I'm not the judge, I'm just the lawyer who gets a high retainer. And we'll look at this language about all this requirement that courts look at what the law was at some prior time, at the present. They don't have to look at how the court has construed those laws when you can go by the terms of the bill. And the courts have said that they will give language its ordinary day-to-day meaning. They're not going to rewrite a statute, as I think they would have to do this one. I can't make head or tail out of what is intended as I read this statute, this bill. But I'm going to listen to the discussion, and those who support the bill I'm sure will explain to us, as it has not been explained thus far. You look at all these people who cosigned, and maybe they figure that everybody is in agreement, so there is no need to explain it. But I think in view of the fact that questions have been raised, if only by me, they ought to put into the record what is meant to be done by this bill. And it's not enough to say to make sure that convictions in other states for drunk driving are usable in this state, that's not enough. That won't work for the courts. You have to have specific, precise language that tells exactly what the law is intended to do. Then the court looks at that language to see whether or not it is within the Legislature's power to enact such a law, and that will be determined by what the law says. And if what the law says goes beyond what the Legislature can do, whether it's because the law is too vague, whether it's unenforceable, then the court just strikes it down and will tell the Legislature why it was struck down. Then they can come back again, and I bet at that point some people will come to me and say, Ernie, you're not really against us using these other convictions? I'll say, no. They'll say, well, will you work with us on it? I will say, I was willing to work with you before, but after all the agony and grief I went through and you all had all these other high-powered county attorneys working with you, take what the Supreme Court told you, go to these county attorneys and botch it again. But my mind is not completely closed on it because the issue is a serious one. But I don't know what to tell you to do this morning. I'm not telling you to adopt this amendment. I'm simply offering it, giving my reasons why I think it ought to be...this material ought to be struck from the committee amendments. But, if you don't agree to it,...