

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

May 22, 2003

LB 270

as the element that enhances the penalty. LB 270 brings Nebraska's hate crimes statute into constitutional conformity by allowing a jury to hear the underlying criminal offense and the discrimination-based allegation during the state's case in chief, such of that must be done and proven beyond a reasonable doubt. Because Nebraska's hate crimes statute, passed by this body in 1997, is constitutionally suspect and presumptively invalid, it is my view, and it was the view of the majority of the Judiciary Committee, that the Legislature had a duty to work to bring the existing law into compliance with the more recent Supreme Court decisions. LB 270 represents the legislative response to Apprendi and Ring, as they relate to Nebraska's hate crime statute, and I would urge its adoption. Thank you.

SENATOR CUDABACK: Thank you, Senator. Senator Brashear, you're recognized, as Chairman of the committee, to open on the committee amendments.

SENATOR BRASHEAR: Mr. President, members of the body, the committee amendment furthers the intent and the purpose of LB 270, as I have just set it forth, by clarifying that it is the prosecuting attorney instead of the county attorney that shall prove the discriminatory allegations beyond a reasonable doubt. A prosecuting attorney could be a city prosecutor, a county prosecutor, or a prosecutor from the Attorney General's Office. We've dealt with this subject elsewhere in our statutes this session. The intent is that any prosecutor could file a criminal charge under the hate crime law. The language change assures that no unintended consequence of giving only county attorneys the power to prosecute under the hate crime laws, and it provides uniformity within the Nebraska statutes as we have furthered it this session by our actions. I would urge the adoption of the committee amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Brashear. You've heard the opening on the Judiciary Committee amendments, AM0317. (Visitors introduced.) Discussion of the committee amendments offered by the Judiciary Committee to LB 270? Senator Chambers, followed by Senator Brashear.

SENATOR CHAMBERS: Mr. President, members of the Legislature,