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FLOOR DEBATE

May 22, 2003

LB 270

SPEAKER BROMM: Thank you, Senator Raikes. Senator Bourne, followed by Senator Chambers.

SENATOR BOURNE: Thank you, Mr. Speaker. Members, I rise in support of the bill and Senator Brashear's amendment or the committee amendment and the underlying bill, LB 270, and I guess I was surprised that there's even discussion on this. And when Senator Foley got up and he said...he talked about looking at the state of mind of someone who commits a crime and he said we shouldn't be doing that and, going back to my criminal law classes, that's the very basis for a murder conviction. You have to look at the state of mind of an individual. You have to, otherwise, you can have no murder conviction. And I had mentioned this to Senator Brashear. Would he yield to a question?

SPEAKER BROMM: Senator Brashear, would you yield, please?

SENATOR BRASHEAR: Yes, Mr. Speaker.

SENATOR BOURNE: Senator Brashear, we heard earlier, Senator Foley spoke of that he didn't think it was appropriate that we look into the state of mind of an individual for purposes of a hate crime. But don't you, in order to obtain a murder conviction in any case, need to look at the individual's state of mind?

SENATOR BRASHEAR: Yes, Senator Bourne. That's called, in the law that's called the mens rea.

SENATOR BOURNE: Mens rea. I thought it was "rhea," but you're a much more experienced attorney than I, so mens rea. That's an actual doctrine that's from the common law, which means in my mind, from the time law began. Since the time law began, you look at the state of mind of an individual when determining whether or not he or she is guilty of murder.

SENATOR BRASHEAR: That's the difference between first-degree murder, second-degree murder, manslaughter, is all about the state of mind.