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LB 270

that?

SPEAKER BROMM: One minute.

SENATOR BRASHEAR: I can't answer. Certainly I don't think it's been often and it's been in doubt since 2000, when Apprendi came down. So, as a practical matter, I think a careful prosecutor would not go there and have the problem with a possibly faulty or suspect conviction.

SENATOR FOLEY: Right. Thank you. This is my third time, I think, speaking, so I can't speak any more on this amendment, but I will file some other motions, see if we can explore this a bit further. Thank you, Mr. Speaker.

SPEAKER BROMM: Thank you, Senator Foley. Senator Brashear.

SENATOR BRASHEAR: Mr. Speaker, members of the body, I would...there is no reason at all, other than tactical, why we would not adopt this amendment. This amendment makes the same consistent change in the statutes so that we are referring to a prosecuting attorney as opposed to a county attorney, so that we don't have any question about the capacity of others with regard to the hate crime statute. I view this truly as a technical amendment. I believe if we get to it that it ought to be adopted, and then we'll continue this debate. Having said that about the amendment which is pending, I'm reminded that we adopted this, the hate crime statute, in 1997. Apprendi came down in 2000; made it suspect. We weren't certain where the United States Supreme Court was going but it was somewhat obvious, and we began trying to amend this statute in 2001. The bill has been before the Legislature before. It has had General File debate. I don't know that it had a Select File round. We simply ran out of time. So, as happens to all of us here on all kinds of subjects where we're trying to advance something, and that's what's happened with victims' rights, which I...which is filed and which I intend to utilize as an amendment to LB 270, it's always run out of time. So, from a process standpoint, that's what we're doing here. We're simply trying to do that which we've been trying to do ever since the Apprendi case came down. And then once the Ring v. Arizona case came down, it was