

May 7, 1981

LB 506

CLERK: Mr. President, I have an amendment from Senator Warner. That is found on page 1629, Senator.

SPEAKER MARVEL: Senator Warner.

SENATOR WARNER: Mr. President, I move adoption of the amendment. It does a couple, three things. First this is the bill that, as you recall, increases the cigarette tax by one cent with the funds to be utilized for either Eppley or for research on related cancer or smoking diseases related to smoking or cancer. And the first amendment as the bill now stands says that up to 500 thousand of the one cent would go to the Eppley Center in the amount, again, to be determined by the Legislature through the appropriation and then the bill would state the balance collected from that one cent would go to the Department of Health to be used for research, grants, contracts. The first amendment, instead of saying the balance of the one cent, merely states that not more than the balance which would provide the discretion to future sessions of the Legislature to utilize those funds for something other than the limit that currently exists. There was some concern expressed about earmarking the funds. I agree with that. This still gives a priority to the use of those funds but does not restrict the use of that one cent, of the tax collected from that one cent to only those purposes. Another part of the amendment is merely corrective. There is language that said "the Legislature shall appropriate." We obviously cannot have continuing appropriation. The words are in it, "there shall be appropriated" which is enough difference to satisfy that need. It specifies that the funds to go to Eppley specifically are appropriated out of the general fund. The reason for that is that is where the money is deposited as it is collected and the final amendment is perhaps a little more significant. The question has been raised whether or not any of these funds can go to a private institution. And what the amendment does there, there is also the severability clause on it, but what the amendment states that the grants that would be made through the Department of Health, the Director of Health would only go to the public institution, in this case the University of Nebraska, but it does make it permissive that for private institutions having a medical school which obviously is Creighton, that contracts for research would be possible there. I don't know that that would correct the constitutional problem should one exist but I am quite certain that the way the bill is now that there is a constitutional issue and this may correct that. So I move adoption of that amendment.