

March 10, 1982

LB 568, 378A

SENATOR CLARK: The motion failed. That will complete... the Call is raised. That will complete the bill for today. It will still come up at a later time. We will now go to 568.

CLERK: Mr. President, if I may right before that, new A bill, LB 378A offered by Senator Cullan. (Read title.) Senator Fowler would like to have an Executive Session of the Retirement Systems Committee for next Tuesday at 9:00 a.m. underneath the north balcony. That is Senator Fowler and the Retirement Committee.

Mr. President, LB 568 is a bill that was introduced by Senator Haberman and Senator Hougland. (Read title.) The bill was first read on January 6th of this year, Mr. President. It was referred to Judiciary. The bill was advanced to General File. There are committee amendments pending by the Judiciary Committee. Mr. President, I also have a series of amendments to the committee amendments.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman and members of the Legislature, just in case you have been out of the country for a while and don't know what has been happening on the drunk driving, I will bring you up to date. There is currently a nationwide push to get drunk drivers off the road. There is, however, no consensus on what is the best way to do it. The Judiciary Committee held hearings this session on five bills, each with a somewhat different approach to the drunk driver. Some people want to put them in jail and throw away the keys. Some people want to send them to school. Some want to rehabilitate them. The Judiciary Committee wants to try a different approach. It is called walking. Besides lack of agreement over the approach to take, there is also disagreement over the cause of the problem. Is it the judges, the prosecutors, the defense attorneys, the police? Why is it that almost half of the people convicted for felony DWI and sent to the Nebraska Penitentiary come from Lancaster County? Why are drunk drivers treated differently in Scottsbluff than they are in Omaha? Why are the drivers' abstracts available from the Department of Motor Vehicles totally inadequate to support enhanced prosecution in many cases? After researching this area, I think the Legislature deserves its share of the blame also. We have allowed our laws in this area to become a mishmash of conflicting criminal, civil and administrative

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LR 249, 250
LB 378A, 890A, 202

CLERK: Mr. President, some items to read in very quickly. New resolutions, LR 249 (read); LR 250 (read). (See pages 1171 and 1172, Legislative Journal.)

Mr. President, I have an Attorney General's opinion addressed to Senator Goodrich regarding LB 202. That will be put in the Journal.

And, Mr. President, Senator Lamb announces Special Order item for Thursday, March 18th.

SENATOR LAMB: Next will be #7, General File, LB 378A, Senator Cullan.

CLERK: Mr. President, LB 378A offered by Senator Cullan. (Read title).

SENATOR CLARK PRESIDING

SENATOR CLARK: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, I move the advancement of LB 378A. This is the A bill to carry out the appropriation of cash funds from the \$500 application fee, application fee which we adopted in the original bill. It involves absolutely no general funds, only those fees collected. I ask for advancement of LB 378A.

SENATOR CLARK: Any discussion on the advancement of the bill? If not, all those in favor vote aye, opposed vote nay. Have you all voted?

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted on the advancement of the bill? Record the vote.

CLERK: 25 ayes, 0 nays on the motion to advance the bill, Mr. President.

SENATOR CLARK: The bill is advanced. LB 890A.

CLERK: Mr. President, 378A, I have a unanimous consent request from Senator Cullan to expedite that bill.

SENATOR CLARK: No objection. So ordered. 890A.

CLERK: Mr. President, LB 890A (read title).

SENATOR CLARK: Senator Koch...Senator Vickers.

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LB 378A, 835

And your committee on Enrollment and Review reports LB 378A advanced to Select File.

Mr. President, LB 835 was a bill that was introduced by Senators Wiitala and Wesely. (Read title). The bill was read on January 14 of this year. It was referred to the Public Health Committee for hearing. The bill was advanced to General File. Mr. President, there are committee amendments pending.

SENATOR CLARK: Senator Cullan on the committee amendments.

SENATOR CULLAN: Mr. President, members of the Legislature, the committee amendments on LB 835 substantially rewrite the bill. In fact, the amendments totally rewrite the bill. They do totally rewrite the bill. The original bill required that hospitals having 100 or more beds would provide a patient with an itemized list of expenses upon discharge. The committee saw no reason to distinguish between hospitals as far as size is concerned and, therefore, the committee amendments did several things. Initially they provide that all hospitals are included in the bill. This would include the University of Nebraska Medical Center as well as the State Department of Public Institutions. The introducers had requested that those two hospitals be exempt from the provisions of the bill but the thinking of the Health and Welfare Committee was that if this statute is good for private institutions, then it ought to apply to institutions which the State of Nebraska owns and operates itself. The committee amendments also revise the list of items which are to be included in the itemized statement. It provided that the itemized statement is mandated only when there is a written request by the patient and that such written request must be made within 28 days of discharge and then the hospital would have 14 days to comply with such written request. This was to ensure that hospitals would have time to prepare the itemized statements. Many hospitals would have to substantially alter their accounting systems and their billing systems if they were to provide these statements on discharge. So the committee changed the time frame substantially and rather than have the expense of requiring an itemized statement in each case, the itemized statements were only required when requested. Those are the committee amendments to LB 835. I would move for their adoption.

SENATOR CLARK: The question is the committee amendments. Senator Wesely, do you want to talk on the amendments? Senator Wiitala, did you want to talk on the amendment? The committee amendments.

would like to print amendments to LB 547 in the Legislative Journal. (See page 1630 of the Legislative Journal.)

SENATOR CLARK: The next bill is LB 378A.

CLERK: Mr. President, LB 378A is a bill on Select File, Mr. President. I do have an amendment from Senators Wesely and Warner to the bill.

SENATOR LAMB: Senator Wesely.

SENATOR WESELY: Mr. President, members of the Legislature, Senator Warner and I are moving to amend this A bill because of the fact that in working with the fiscal office we felt that the present A bill did not adequately fund the added expenditures that LB 378 would result in. In working with the fiscal office, if you do look at the fiscal note on the bill you will see that the present A bill which allows for \$20,000 falls about \$22 some thousand short of what is estimated to be the cost of this legislation. Furthermore, the Health Department itself has said that an additional \$20,000 above that is even what is required but the fiscal office says \$40,000 is about what is needed, \$42,275. This A bill is now at \$20,000 and in trying to make up for that difference Senator Warner and I are proposing this amendment which would bring it up to where the fiscal note says the impact would be. That is the amendment.

SENATOR LAMB: Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, I would rise to oppose the Wesely amendment. I would point out that Nebraska is already, in my opinion, ridiculously overstaffed in the area of health planning and I see no reason to provide additional funds for additional health planners here in the State of Nebraska. I think the cash fund which is proposed in LB 378 is more than adequate. I would point out that currently the State of Nebraska has twenty health planners or one health planner for every 78,000 people. The State of Missouri which is about three times the population of the State of Nebraska has nine health planners or one health planner for every 546,383 people. So it is clear that even if our staff was cut in half we would be about twice as overstaffed as the State of Missouri. So I see absolutely no need for additional funds to be spent for additional personnel in the Department of Health. I know that the amendments which I proposed will more than adequately cover the expenses of travel and other expenses associated with carrying out the certificate of need program so I strenuously object to any additional funds being spent on certificate of need. Senator Wesely failed to

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LB 378A

mention also a significant point which is the tremendous decrease in the workload in the Department of Health which will result from LB 378 and I think we could reduce our staff from twenty to about seven and probably be over-staffed at that point or adequately staffed at that point. So I urge you to reject the Wesely amendment. I see no reason for additional monies for the Department of Health now.

SENATOR LAMB: Senator Higgins, on the Wesely amendment.

SENATOR HIGGINS: Mr. President, the last time I talked to the Department of Health I understand that federal government has already cut their licensure department by 60% of what the federal government had been paying so that while the federal government is telling the State of Nebraska, if you want to qualify for Medicare and Medicaid you have to go out and do these inspections and where we have been paying for them. Now we are not going to pay you but 40% instead of 100%. So the Health Department has't necessarily got too much money to spend and while we are all trying to find ways to cut government expenses and I certainly agree with it, if you want to take money from the Health Department so they can do a poor job of inspecting hospitals, nursing homes and seeing that the general health of the State of Nebraska deteriorates, then I can't go along with that argument. So I would ask that in the interest of protecting all of the federal funds that we get, that we support the Wesely amendment. Thank you.

SENATOR LAMB: Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, I guess we are down to a judgment situation. I would support Senator Wesely's motion for the simple reason I think it is more realistic. Talk about the number of people on our staff. There are...I assume it has been pointed out the substantial federal funds that are going to go away that are not replaced. We are not asked by the Department to be replaced and a number of those positions in the natural course of things will be gone. But the Department has consistently indicated that 378 would have about this impact. As a matter of fact look at the appropriation bill. We had a \$37,000 figure anticipated cash income which was from the certificate of need application. I think the A bill is what, twenty some thousand, that is proposed in it which is ten or fifteen thousand under at least what will probably be required. As a matter of fact, the whole Health Department's budget is substantially down from what it has been in the past because of the loss of federal funds. So I guess you

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can use your own judgment. I am convinced that the level of funding that is indicated on the A bill is, in fact, what would be required if you are going to have any kind of effective program at all. If you want no program I guess you don't need to give any funds but I would hope that is not the choice of the Legislature. So I would support Senator Wesely's motion on the A bill because I think in all candor that the level of funding that is proposed then more nearly reflects what the cost is, in fact, going to be.

SENATOR LAMB: Senator Newell.

SENATOR NEWELL: Mr. President, members of the body, I will quickly say that I will endorse the Wesely amendment but I think that this is an opportunity that I can't afford to pass up to talk about why we need the A bill in the first place. We need the A bill primarily and solely because we are making a major change in the way we deal with certificate of need. We are setting up an adversary board, an adversary relationship between the Department and the hospitals which will go before a board very similar to the Appeals Board that we presently have and this process will mean that in this adversarial relationship there will be needed additional monies. Now frankly Senator Cullan has been uncompromising in this regard and this shows his sincerity for trying to gut and make totally ineffective the whole issue of certificate of need. One time Senator Cullan argued about the Mickey Mouse. The Mickey Mouse he has taken out and in its replacement he has created some new Mickey Mouse and that is this adversarial new relationship between the Department and the various agencies to be thought out in a legal sort of format when it comes to certificate of need. So I would encourage this Legislature to adopt the Wesely amendment. If you are serious about this major mistake in LB 378 then, in fact, we need the additional money and if the bill does not advance or the money is not advanced, not added to and the bill does not advance, that will give us all the more reason to (a) either encourage the Governor to veto the bill if it should pass or, (b) change that and keep the Department, the relationship on how the Department processes certificate of need in its present format.

SENATOR LAMB: Senator Koch.

SENATOR KOCH: Mr. Chairman, I move the previous question.

SENATOR LAMB: That will not be necessary. Senator Wesely is now ready to close.

SENATOR WESELY: Thank you. Mr. President, members of the

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Legislature, A bills are supposed to cover the cost of a piece of legislation and what Senator Warner and I are proposing is that this A bill do exactly that, cover the cost. The fiscal note as prepared by the fiscal office indicates that forty some thousand dollar cost to this legislation. The A bill as presently constituted only covers about \$20,000 of that cost. We are simply saying that let's be honest and as Senator Warner says, the new word for the session, let's be up front and if it is going to cost \$40,000 then let's put \$40,000 in the A bill. That would be an increase of about \$22,000. As Senator Cullan started to talk about the whole thing that he has mentioned before and others have mentioned before about how overstaffed the Health Department is in this area, well the information they provide is inaccurate and we have done some checking on that which they have brought up on the floor before and the figures of twenty staff people over Nebraska versus nine in Missouri is not accurate because they are comparing apples and oranges. In the Nebraska situation they are taking clerical staff and adding it to it. They are not including that with the Missouri figures and the information we have is that Nebraska is not overstaffed and that if you include the fact that part of the division that we now have includes a section of hospital and medical facilities and a section on health planning and just deal with the section dealing with certificate of need, there are only 4.5 professional FTE and two clerical staff that are dealing with the question of certificate of need. The other staff that Senator Cullan talks about are dealing with health planning. The other states he mentions, it is not clear whether or not those are included or whether they aren't and it seems quite clear in my mind that we are not overstaffed and that Senator Cullan has been provided inaccurate information, is trying to use that against the Health Department. Senator Newell I think was very accurate in pointing out what this bill is really talking about. The process that Senator Cullan has incorporated into the bill which is now on Final Reading is a more cumbersome process and a more costly process. It requires several hearings that are not now required which means extra cost and it means extra staffing to take care of those hearings and that is why you are seeing about a \$40,000 fiscal impact on this legislation. To deny that fiscal impact I think is wrong because it is there and it has been documented. There is not any doubt in my mind that the fact that the HSAs and their staffing which has been eliminated under the Governor's proposal supported by Senator Cullan has meant a shift to the Health Department in terms of the functions that they have had to pick up that the HSAs used to carry. So there is that function that has been shifted as well as the increased costs

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LB 378A, 404A

that are talked about under LB 378 and combined they are even more expensive than what is being proposed now by Senator Warner and I. We don't attempt to pick up that total cost. We are just saying that you have a fiscal note. It shows a fiscal impact. Let's have an A bill that covers that fiscal impact. I would ask your support for the amendment.

SENATOR LAMB: The motion is the Wesely-Warner amendment. Those in support vote yes, those opposed no.

CLERK: Senator Lamb voting no.

SENATOR LAMB: Have you all voted? Have you all voted? A record vote has been requested. Record.

CLERK: (Read record vote.) 12 ayes, 22 nays, Mr. President.

SENATOR LAMB: The motion fails.

CLERK: I have nothing further on the bill, Mr. President.

SENATOR LAMB: The motion is to advance LB 378A. Those in support signify by saying aye. A machine vote has been requested. Those in support vote yes, those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Record.

CLERK: 26 ayes, 9 nays, Mr. President, on the motion to advance the bill.

SENATOR LAMB: The next bill is LB 404A.

CLERK: Mr. President, I have E & R amendments to LB 404A.

SENATOR LAMB: Senator Kilgarin.

SENATOR KILGARIN: I move we adopt the E & R amendments to LB 404. (sic.)

SENATOR LAMB: Those in support of the E & R amendments say aye, those opposed no. The E & R amendments are adopted. Senator Kilgarin, to advance the bill.

SENATOR KILGARIN: I move we advance LB 404A.

SENATOR LAMB: Those in support of advancing the bill say aye, those opposed no. The bill is advanced. LB 488A.

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LR 318-324

LB 933, 378A, 404A, 693, 966

SENATOR KOCH: It doesn't have a date in it.

SENATOR DeCAMP: The last one that passes is the one you believe takes priority?

SENATOR KOCH: We are passing this one and in case we get the money we are going to put it out this way to the schools.

SENATOR DeCAMP: Well, I won't pursue it further.

PRESIDENT: Senator Carsten, did you have a....?

SENATOR CARSTEN: If I may, Mr. President, to answer Senator DeCamp's question, there is no date on distribution of school aid money in it. That is in the school aid statute.

PRESIDENT: Okay, the motion then is to advance LB 933 to E & R for Engrossment. All those in favor signify by saying aye. Opposed nay. LB 933 is advanced to E & R for Engrossment. Now for the next Koch amendment...or return, excuse me. Yes, the Clerk has some matters to read in at this time.

CLERK: Mr. President, very quickly, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 378A and find the same correctly engrossed; 404A correctly engrossed; 693 correctly engrossed, and 966 all correctly engrossed.

Mr. President, a reminder that today is the last day for submission of interim study resolutions. I have a series of interim study resolutions. LR 318 offered by I believe it is the Banking Committee, Mr. President. It calls for a study of the national inflation and high cost of money and how it has affected the state's financial markets. LR 319 offered by the Banking Committee. It calls for study of economic policy decisions made to state and federal levels of government and whether those are inadequate or misdirected and need revision. LR 320 by the Banking, Commerce and Insurance calls for a study of the state's insurance investment code. LR 321 by Senator Haberman calls for a study of the feasibility of establishing a separate Repeat Offender's Court. 322 by Senator Haberman calls for a study of the possibility of allowing the Governor or the appropriate state agency director to declare an emergency and allow higher load limits for trucks. 323 by Senator Haberman. 323 calls for a study on how nursing homes are owned by corporations. 324 calls for a study of the feasibility of requiring criminal

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LB 378, 378A, 693, 760

pass. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on page 1850 of the Legislative Journal.) 30 ayes, 18 nays, 1 excused and not voting, Mr. President.

PRESIDENT: LB 378 passes on Final Reading. The next bill on Final Reading, Mr. Clerk, is LB 378A.

CLERK: (Read LB 378A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 378A pass. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on pages 1850-1851 of the Legislative Journal.) 31 ayes, 17 nays, 1 excused and not voting, Mr. President.

PRESIDENT: LB 378A passes. The next bill on Final Reading, Mr. Clerk, is LB 693.

CLERK: (Read LB 693 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 693 pass with the emergency clause attached. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on pages 1851-1852 of the Legislative Journal.) 44 ayes, 3 nays, 1 excused and not voting, Mr. President.

PRESIDENT: LB 693 passes with the emergency clause attached. The next bill on Final Reading, Mr. Clerk, is LB 760.

CLERK: (Read LB 760 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 760 pass with the emergency clause attached. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on page 1852 of the Legislative Journal.) 38 ayes, 10 nays, 1 excused and not voting, Mr. President.

PRESIDENT: LB 760 passes with the emergency clause attached. The next bill is LB 966, Mr. Clerk.

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LB 378, 378A, 693,
750, 966, 967

ASSISTANT CLERK: (Read LB 966 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 966 pass with the emergency clause attached. All those in favor vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: (Read record vote as found on page 1853 of the Legislative Journal.) 30 ayes, 18 nays, Mr. President.

PRESIDENT: The motion fails. The bill fails to receive the sufficient constitutional majority to pass with the emergency clause attached. The question now is, shall LB 966 pass without the emergency clause attached. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on page 1854 of the Legislative Journal.) 29 ayes, 17 nays, 2 present and not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 966 passes without the emergency clause attached. The next bill on Final Reading, Mr. Clerk, is LB 967.

CLERK: (Read LB 967 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 967 with the emergency clause attached. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on pages 1854-1855 of the Legislative Journal.) 44 ayes, 0 nays, 1 excused and not voting, 4 present and not voting, Mr. President.

PRESIDENT: LB 967 passes with the emergency clause attached. Do you have some things to read in at this time, Mr. Clerk?

CLERK: Mr. President, the bills passed on Final Reading are now ready for your signature.

PRESIDENT: While the Legislature is in session and capable of transacting business I propose to sign and I do sign LB 967, LB 378, LB 378A, LB 693, LB 760.

SENATOR CLARK PRESIDING

SENATOR CLARK: We are now ready for item #5, Select File, special order # 816.

LR 212, 266, 268, 269, 272, 274, 277,
278, 287, 292, 293, 295, 298, 304,
313, 316, 331, 359, 380, 388, 389
LB 278, 378, 378A, 480, 568, 602A,
604, 629, 629A, 669A, 688, 693, 708, 760,
835, 909, 967, 522, 212, 212A, 255, 255A

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RECESS

PRESIDENT LUEDTKI PRESIDING

PRESIDENT: Has everybody recorded your presence?
Record the presence, Mr. Clerk.

CLERK: Quorum present, Mr. President. Mr. President, I have a reference report from the Executive Board referring a gubernatorial appointment. (Page 1971 of the Legislative Journal.)

Mr. President, new resolutions. LR 388 offered by Senators Cullan and Newell. (Read LR 388 as found on pages 1973 and 1974 of the Legislative Journal.) Mr. President, 389 offered by Senator Wesely. (Read LR 389 as found on page 1974 of the Legislative Journal.)

Mr. President, I have an Attorney General's Opinion addressed to Senator Koch. That will be inserted in the Journal. (See pages 1974 through 1976 of the Legislative Journal regarding LB 602A.) That is on LB....Bingo, that is right, senator.

Mr. President, I have a message from the Governor addressed to the Legislature. (Read message. Pages 1976-77 of the Journal regarding LB 669A.)

Mr. President, two other communications from the Governor addressed to the Clerk. (Read communications regarding LBs 278, 378, 378A, 480, 568, 604, 629, 629A, 688, 693, 708, 760, 835, 909, 967. Page 1977 of the Journal.) A second letter to the Clerk, Mr. President. (Read letter regarding LBs 609, 609A, 669, 714, 714A, 854, 854A. Page 177 of the Journal.)

Mr. President, I have a gubernatorial appointment of Mr. Robert Borgmann to the Motor Vehicle Industry Licensing Board. (See page 1978 of the Journal.)

Mr. President, the bills that we have read on Final Reading this morning are now ready for your signature as well as the resolutions that were passed Wednesday of this week by the Legislature.

PRESIDENT: While the Legislature is in session and capable of transacting business I propose to sign and I do sign LR 212, LR 266 and LR 268, 269, 272, 274, 277, 278, 287, 292, 293, 295, 298, 304, 313, 316, 331, 359, and 380. And the LBs are engrossed legislative bills 522, 212, 212A, 255, and 255A. Okay, as I understand it we