

May 22, 1981

LB 506

SENATOR CULLAN: Well, in that case, Mr. President, I would not object to Senator Lamb's withdrawing his amendment or his motion to strike and, in fact, I will not request to speak on that. However, at this time I would like to file a motion to return LB 506 for, and I will sign the motion, Pat, if the Page will bring one back, to indefinitely postpone the bill and I will speak on it now. Mr. President, that way Senator Lamb won't have to bother us with speaking again. Thank you.

SPEAKER MARVEL: Senator Lamb has withdrawn his motion. The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, there are several points which I think should be made in response to the points raised by Senator Lamb. The first and most important point of which is if LB 506 is defeated the University will definitely close Eppley Cancer Institute in Omaha, and so for that point if you vote to indefinitely postpone LB 506, you are voting to close the Eppley Cancer Research Institute in Omaha and I think the great majority of us, I hope, will continue to support that facility. The second most important point that I would like to make with respect to the constitutional issue that Senator Lamb has raised is that the Attorney General's opinion which Senator Lamb circulated to you this morning deals not with the current version of LB 506 which you are going to vote on this morning but deals with LB 506 as it was introduced and there are some very important legal distinctions between those bills. And so if you are considering the constitutional opinion or the opinion on LB 506 as written by Marilyn Hutchinson for the Attorney General, I would say that that opinion is not accurate at this point in time because the bill has been amended to correct possible constitutional defects and it is unfortunate that that opinion does not reflect the actual facts in this issue. I have asked Gina Dunning, the committee counsel for the Public Health and Welfare Committee, to take a look at LB 506 and the Attorney General's opinion and I would like to read some information into the record so that that is there if there is a possible challenge to LB 506. "The Attorney General's opinion relied upon language found in Gaffney versus State Department of Education. The issue in that case is the constitutionality of Nebraska Textbook Loan Act. Under this program secular textbooks were loaned to elementary and secondary schools by public district boards of education. The cases discussed by the court in arriving at the Gaffney decision consider the issue of textbooks and tuition credits of religious schools. The facts of that case and Section 2 of LB 506 are not even remotely related. Consequently, for

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