

March 10, 1982

LB 568

SENATOR CLARK: The House is under Call. All unauthorized personnel will leave the floor. Everyone will check in, please. Will the Sergeant at Arms kindly get everyone in their seats, please, and we will get them checked in. Under the north balcony we have Mike Gustafson and Brad Gustafson. They are guests of Senator Kremer. Will you stand and be recognized? Welcome to the Legislature. Would you all check in, please. Senator Warner. Senator VonMinden and Senator Rumery we are looking for. Is Senator Pirsch up? Senator Haberman, why don't you go ahead and start on your closing here? We have only got one or two out and they will be in by that time.

SENATOR HABERMAN: Mr. President and members of the legislature, Senator Nichol argued that it was the intent to prevent court challenges to the 10 percent law, .10, but if it is going to be a problem, I will take it out and keep the language current. And I have an amendment up there which keeps the current language on .10 which does away with Senator Nichol's argument against that. Senator Nichol argued the city ordinances cannot be adopted in conformance with this bill. City ordinances have a maximum of six months in jail and \$500, so a city ordinance can be drawn in conformance with first offense DWI. For second, third and subsequent offenses, the state law can be used as it is now used in third and subsequent DWI cases. Number three, Nichol argues that our bill does not result in mandatory license suspension. I have offered an amendment to page 13, lines 7 through 16 which will ensure that the driver's license is suspended. Senator Nichol argues that by increasing the penalties for DWI this will cause the person's prior convictions to be thrown out when he is arrested for a subsequent DWI offense. I have an amendment in to ensure that this does not happen. I do not believe that we can never increase the penalties for a crime like DWI and other types of crime. We can always increase them. Number five, Senator Nichol argues that my bill does not require the prosecutor to search the record and charge a second and third DWI if the records show prior DWI. I believe page 7 does require the prosecuting attorney to do this. Judge Schuman from the 15th Judicial District informed me that it is better to have a county attorney search the official offender's record than get the judge involved. Under the Judiciary Committee proposal, the judge is the one who searches the offender's prior record. Number six, Nichol argues that this bill prevents municipal courts from handling these cases. Municipal Courts have jurisdiction over amounts up to \$500 and six months jail, thus first offense DWI cases can be handled in municipal courts and second offenses also if we reduce

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