

March 11, 1982

LB 870

you have on your desks an amendment to LB 870 in its original form, it is Request #2788, which does not impact at all the intent of the proposal but merely attempts to address some of the problems that were written into the original proposal. I have also circulated a sheet, it is a two page sheet, entitled LB 870 Relating To Drinking And Driving which will give you the various provisions in the two classifications, those not involving bodily injury and those that do, which would show penalties in each of the offenses beginning with the (interruption)...

SENATOR CLARK: Senator Stoney, are you taking up your amendment now?

SENATOR STONEY: Yes, I will.

SENATOR CLARK: All right, you have the first amendment up.

SENATOR STONEY: Thank you. Ladies and gentlemen, if you will refer to the material that I circulated, it is entitled LB 870 Relating To Drinking And Driving. It is also in the complete form, Request #2788. I will explain what these amendments accomplish which were not in the original draft of 870. LB 870 makes several changes in the language of the bill but it does not detract from the major purpose of the bill, and that as I mentioned earlier is mandatory jail sentences, license, restitutions, limiting of plea bargaining, and judicial discretion, limiting the use of probation and pretrial diversion, and the imposition of stiffer fines, jail provisions and license revocation. As introduced, LB 870 proposed stiffer penalties for accidents arising from DWI which involve bodily injury or death but I have amended that so that it removes references to death while retaining references to bodily injury, that reason being that the present law in the State of Nebraska was more punitive than what was being asked of in LB 870. Thus, if deaths which occur as a result of DWI, they would continue to be prosecuted as motor vehicle homicide as the present statutes provide. The amendment also opposes or imposes the same penalties as established by the bill for convictions of the offenses identified in the bill to convictions arising from Nebraska's implied consent law. Thus, an individual cannot escape penalties established by this bill if it were enacted simply by refusing to take the blood alcohol test. The bill as introduced would have allowed for impoundment. That has been removed. Under current statutes, the municipal courts would not have the authority to include a jail sentence as a condition of probation. As amended, it would impose a minimum...or rather the bill if enacted would impose a minimum imprisonment of 48 hours and with the amendment

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