

January 8, 1990

LB 678A, 720, 1037-1042

figures you're looking at?

SENATOR WESELY: Yeah, that's right evidently, yeah.

SENATOR HABERMAN: So what you have in the book then is the new fiscal note?

SENATOR WESELY: Yeah.

SENATOR HABERMAN: Okay, thank you, Senator Wesely.

SENATOR WESELY: Yeah, if it's incorrect, let's make that clear.

SPEAKER BARRETT: Any other discussion on the A bill? Senator Wesely, any closing statement?

SENATOR WESELY: No, just move the advancement of the A bill.

SPEAKER BARRETT: Thank you. Shall LB 678A be advanced? Those in favor of that motion vote aye, opposed nay. Shall LB 678A be advanced to E & R initial? Record, Mr. Clerk.

CLERK: 26 ayes, 2 nays, Mr. President, on the advancement of LB 678A.

SPEAKER BARRETT: The A bill advances to E & R. Anything for the record, Mr. Clerk?

CLERK: Mr. President, new bills, thank you. (Read LBs 1037-1042 by title for the first time. See pages 207-208 of the Legislative Journal.)

Mr. President, I have a hearing notice from the Transportation Committee, signed by Senator Lamb as Chair. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you, sir. Moving on to the next bill on General File, a committee priority bill from 1989, LB 720. Mr. Clerk.

CLERK: 720, Mr. President, introduced by Senator Wesely. (Read title.) The bill was introduced on January 19 of 1989, referred to the Health and Human Services Committee for public hearing. The bill was advanced to General File. I have committee amendments pending by the Health and Human Services Committee.

January 9, 1990

LB 259, 845, 972, 973, 993, 1014-1048, 1057-1059
LR 236

Haberman.

SENATOR HABERMAN: Mr. President, I move to recess until 1:30 p.m.

SPEAKER BARRETT: Mr. Clerk, would you care to read anything in before we vote on the motion to recess.

CLERK: Mr. President, new bills. (Read LB 1057-1059 by title for the first time as found on pages 232-33 of the Legislative Journal.)

A series of requests to add names, Senator Beck to LB 1026, Senator Kristensen to LB 1035, Senator Conway to LB 993, Senator Wahrbein to LB 973, Senator Wehrbein to LB 972, Senator Weihing to LB 845.

(Reference Committee Report referring LBs 1014-1048 and LR 236 appears on pages 233-34 of the Legislative Journal.)

Mr. President, explanation of vote offered by Senator Kristensen. (Re: LB 259.) That's all that I have.

SPEAKER BARRETT: Thank you, Mr. Clerk. A reminder especially to committee chairs. Committee chairmen, please take note. If you are planning hearings, public hearings next Tuesday, notices of that fact should be filed with the Clerk today. File the notice of public hearing today if you are planning to begin hearings next Tuesday. Those in favor of the Haberman motion to recess until one thirty say aye. Opposed no. Carried. We are recessed.

RECESS

SPEAKER BARRETT PRESIDING

CLERK: I have a quorum present, Mr. President.

SPEAKER BARRETT: Thank you. Any messages, reports, anything for the record, Mr. Clerk.

CLERK: One item, Mr. President, I have a hearing notice from the Banking Committee for hearings scheduled on Tuesday,

with the amendments. What the amendment does is strikes all references to testing for the presence of intoxicating drugs. There was concern from the law enforcement officers and the Department of Motor Vehicles regarding whether or not definite levels of drug intoxication were possible and there was a problem as how to perform the testing. So this was deleted from the bill. The amendment also amends Section 60-424 which provides that the Director of Motor Vehicles shall revoke a license for the period of time prescribed by the convicting court. The committee amendment provides an exception allowing for revocations made by the department pursuant to the administrative procedure enacted by LB 799 to exceed a period of revocation ordered by the court. Sections 3 and 4 of the bill dealt with procedures for drug testing and so are not needed since we have removed drugs from the bill. Section 60-424 had to be amended since the revocation periods in LB 799 do not agree with those authorized by the court. So with that, I would ask your adoption of the committee amendments.

SPEAKER BARRETT: Thank you, sir. An amendment on the desk.

CLERK: Mr. President, Senators Lindsay and Hartnett would move to amend the committee amendments. (See AM2682 on page 988 of the Legislative Journal.)

SPEAKER BARRETT: The Chair recognizes Senator Lindsay.

SENATOR LINDSAY: Thank you, Mr. President, and members. This amendment to the amendments would, basically, incorporate LB 1020 into the bill. LB 1020 was advanced out of Judiciary Committee and I believe on a...excuse me, LB 1046, I wasn't...it would incorporate LB 1046 into the bill. LB 1046 was advanced out of Judiciary Committee, or, excuse me, not even 1046, LB 1042. It was advanced out of Judiciary Committee, I know that because I was there. The bill, basically, would allow depositions in the case of Class W misdemeanor. A Class W misdemeanor is a DWI. This simply would allow that a deposition be taken with permission of the judge. It is not a mandatory deposition, anything like that, but in the case of a, for example, where there is an expert witness being used to determine whether the, for example, Intoxilyzer was working accurately or was accurately taking the blood alcohol level. What this would do is allow a deposition be taken of an expert so that the parties could adequately prepare for trial. It would work both ways. It is not...either the prosecuting

attorney or the defendant can request the court to allow the taking the deposition. You notice that it is LB 1042 and it is exactly as it is written, it is how the amendment is written. So I would urge the adoption of the amendment to the committee amendments.

SPEAKER BARRETT: Thank you. Senator Hartnett for further discussion on the amendment.

SENATOR HARTNETT: Mr. Speaker, and members of the body, what this bill does, I brought it to the Judiciary Committee, and most county attorneys allow this right now to be taken. Some do not, so it just provides some statewide uniformity. And I think we had a bill earlier to add another court of appeal. I think this would simply help speed up the process as far as getting through the judicial system. So it permits evidence to be tested before the trial and so it simply would help speed up things, so for that reason, I would support the amendment to the amendment.

SPEAKER BARRETT: Thank you. Further discussion? Senator Lindsay, any closing comments? Thank you. The question before the body is the adoption of the Lindsay-Hartnett amendment to the committee amendments to LB 799. Those in favor vote aye, opposed nay. Record.

CLERK: 16 ayes, 0 nays on adoption of the amendment to the committee amendments, Mr. President.

SPEAKER BARRETT: The amendment to the amendment is adopted. Back to the committee amendments, any discussion? Senator Beyer, would you care to make a closing statement.

SENATOR BEYER: I would just move that we adopt the committee amendments as amended.

SPEAKER BARRETT: Thank you. The question is the adoption of the committee amendments to 799. Those in favor vote aye, opposed nay. Record, please.

CLERK: 26 ayes, 0 nays on adoption of committee amendments, Mr. President.

SPEAKER BARRETT: The committee amendments are adopted. Senator Beyer, on the bill, please.

February 27, 1990

LB 445, 662, 854, 923, 945, 976, 1023
1042, 1057, 1062, 1146, 1147, 1151, 1212
LR 233

SPEAKER BARRETT: Thank you. Shall the house go under call? All in favor vote aye, opposed nay. Record.

CLERK: 18 ayes, 1 nay to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, record your presence, please. Those outside the Chamber, please return. Senator Lynch, please. Senator Nelson, please. Senator Haberman. All members return to your seats for a roll call vote. The question again is the indefinite postponement of the resolution. Mr. Clerk, please call the roll.

CLERK: (Roll call vote taken. See pages 998-99 of the Legislative Journal.) 17 ayes, 19 nays, Mr. President.

SPEAKER BARRETT: The motion fails. The call is raised. Anything for the record, Mr. Clerk?

CLERK: Mr. President, I do. Your Committee on Urban Affairs reports LB 945 indefinitely postponed, and LB 1057 indefinitely postponed, those signed by Senator Hartnett. Judiciary Committee reports LB 445 to General File; LB 854 to General File; LB 976 to General File; LB 1023, General File; LB 1042, General File; LB 1147, General File; LB 1212, General File; LB 1062, indefinitely postponed; LB 1151, indefinitely postponed, those all signed by Senator Chizek as Chair of the Committee. (See pages 999-1003 of the Legislative Journal.)

Mr. President, I have a series of amendments to be printed. Senators Lynch and Wesely have amendments to LB 923, Senator Conway to LB 1146, and Senator Scofield to LB 662. (See pages 1003-07 of the Legislative Journal.)

Mr. President, Senator Hall would like to announce that the Revenue Committee will meet at one o'clock this afternoon for their hearings as opposed to one-thirty. Revenue Committee, one o'clock, as opposed to one-thirty. That's all that I have, Mr. President.

SPEAKER BARRETT: We are back to the motion to advance the bill or the resolution. I have only one light. Senator Landis, would you care to....

SENATOR LANDIS: If we wish to run over it, I will be happy to

the individual who is accused an opportunity to ask some questions, take a deposition which would save possibly a trial, if it got that far, down the road.

SPEAKER BARRETT: Time.

SENATOR HALL: That's where the real money is.

SPEAKER BARRETT: Thank you. Senator Wehrbein announces the fact that he has 30 fourth graders in our south balcony from Weeping Water, Nebraska, with their teacher. Would you folks please wave and be recognized by the Legislature. Thank you. We're pleased to have you. Discussion on the Warner amendment, Senator Hartnett.

SENATOR HARTNETT: Mr. Speaker and members of the body, I rise to oppose this amendment. This bill was heard, was LB 1042 which was heard by the Judiciary Committee this year, was advanced to General File with seven favorable votes and no negative votes. And like Senator Hall has said, is simply permissive legislation. The courts may request, the courts may order the taking of deposition. It doesn't require, it does not require, simply permissive. It also allows both sides to take deposition, not one side, allows both the prosecution and the defense to take it. And I think different than Senator Warner, that it probably has very limited application. Probably the only time it will be called is if there is a question about the chemical test as the testimony was given on the bill in favor of the proponents of the bill. And like Senator Hall said, it would provide statewide uniformity. Some counties allow this right at the time, and so it really makes a difference where you're at in the particular state whether you get the same treatment, that's all it would do. And rather than increase the cost, as Senator Warner says, I think it would cut down the cost. Some of this can be done ahead of time. If a deposition is taken, the only thing it requires is attorneys and the witness, and I think that you will not call the policeman because you know where he stands on the particular thing, so I think rather than it may drop a court case, so I really think that it would save the cities' money and the counties' money, and this is a serious crime. DWI is a serious crime. Could be prison, conviction, could be imprisonment and loss of driver's license and so with this reason I simply rise to oppose this amendment.