

May 8, 1981

LB 394

Unemployment Compensation Act in that the act as interpreted by the Supreme Court precludes the allowance of an attorney's fee on appeals...on appeals from the administrative level into the District Court and into the Supreme Court unless that allowance has, in fact, been approved at the outset by the Commissioner of Labor. So what I have done in this amendment, and it's a very simple amendment and you can read it, it says, whoever takes an appeal, whether it be the employer or whether it be the claimant, from the administrative decision in an unemployment compensation matter, whoever takes an appeal into the District Court and is successful, shall be allowed...shall be allowed that person's attorney's fees and other costs to be paid by the Department of Labor, to be paid by the Commissioner. And if, in fact, there is a further appeal from the District Court to the Supreme Court, then the successful party in that court shall have his or her attorney's fees, whether it be the employer or the claimant, paid for by the Commissioner of Labor. Now this amendment is in line, as I indicated a little bit earlier, with what this body, in my opinion, is certainly considering doing in LB 192 which is another bill that would require attorneys' fees to be paid by the State of Nebraska in conjunction with suits brought by the state, or in conjunction with appeals from the administrative process to litigants. In my opinion, because most unemployment compensation cases involved modest amounts of money, such as \$100 a week, denied benefits, or \$100 a week, allowed benefits, the cost incurred either to an employer or to a claimant in vigorously pursuing his or her statutory rights in the District Court and the Appeals Court oftentimes outweigh the amount at issue, and as a result of their outweighing the amount at issue, those kinds of appeals are not taken. So it seems to me only a question of simple justice and simple justice says, look, whoever is successful in the appellate area, whether it be in the District Court or the Supreme Court, should have his or her attorney's fees paid not by the loser but by that organization that is responsible for the administration of the program, i. e. the Department of Labor. I ask the approval of this amendment.

SENATOR CLARK: Senator Maresh.

SENATOR MARESH: Mr. President and members of the Legislature, I support the amendment but I think something we should call attention to is that this is paid from the Security Administration Fund. So this will be paid by the employers, correct? Are you sure? Okay. At first, Vard was going to just....Senator Johnson was going to just have it for the employee but I felt that we should have it for both employer and employee and I think we should give this