

He is an upstream muscle mammal and I will pray that he will always be a muscle man. Son, you know, we all mammals have feet and because we have feet we play mammalball which is the most important sport in Mammalary Land and I want you to be sure to develop your feet so you will be an excellent mammalball player." "But why am I different as a mammal," Babble asked? "Son, because you nurse." "Gee, Dad, does that mean I get to go to the nursery?" "Yes, something like that. Son, one other thing you should know. Mammalar or Shirley Marsh is going to put in a bill that will put us mammals on the map." "What do you mean, Pappy?" "Well, she is going to name a mammal of Mammalary Land and when this is accomplished we will truly have arrived at the Shangri-Mammal and we will be living happily ever after in Mammalary Land." Thank you, Mr. President, I just wanted to improve the....

SENATOR CLARK: Cut that man's microphone off.

SPEAKER MARVEL: Okay, the Clerk will read.

CLERK: Mr. President, new bills: (Read title to LB 434-451. See pages 281-286 of the Legislative Journal.)

SPEAKER MARVEL: I wish to make an announcement. From Tehran, Iran, a plane carrying the fifty-two American hostages took off today from Tehran's Mehrabad Airport a policeman at the airport told reporters. (applause.)

In the North balcony from Senator Landis' district it is my pleasure to introduce 11 sixth grade students from Sacred Heart School in Lincoln, Miss Glushenko, teacher. Will you raise your hands so we can see where you are located? Welcome.

March 13, 1981

LB 115, 134, 235, 240, 296,
324, 369, 436, 494

Mr. President, your committee on Business and Labor reports LB 436 to General File; 115 to General File with amendments; 494 to General File with amendments and 235 as indefinitely postponed. (See pages 920-921 of the Legislative Journal.)

Your committee on Retirement whose chairman is Senator Fowler reports LB 369 to General File with amendments. (See page 921 of the Journal.)

Mr. President, Senator Landis would like to print amendments to LB 240 and 324 in the Legislative Journal. (See pages 921-924.)

Business and Labor has scheduled an executive session for Monday, March 16 at 9:00 a.m. in Room 1019.

Mr. President, Senator Haberman would like to add his name to LB 249 as cointroducer.

SENATOR CLARK: No objections, so ordered.

CLERK: Mr. President, Senator Hoagland to 134 as cointroducer.

SENATOR CLARK: No objections, so ordered.

CLERK: Mr. President, your committee on Public Health reports LB 296 to General File with amendments, (Signed) Senator Cullan as Chair.

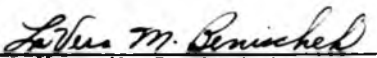
And finally, Mr. President, I have from the Speaker a notice regarding priority bill designation. That will be inserted in the Legislative Journal. (See pages 924-926 of the Journal.)

SENATOR CLARK: I think the Legislature would like to extend its sympathy to Senator Nichol. He just found out his mother passed away. Senator Beutler, would you like to adjourn us until 9:30 a.m. on Monday.

SENATOR BEUTLER: Mr. Speaker, I would move the Legislature be adjourned until 9:30 a.m. Monday, March 16.

SENATOR CLARK: All those in favor say aye, opposed. We are adjourned until 9:30 a.m. Monday.

Edited by


LaVera M. Benischek

April 6, 1981

LB 486, 436

SENATOR CLARK: Motion passed. The bill is advanced. We have two bills left, #436 is next.

CLERK: Mr. President, LB 436 (Read title). The bill was first read on January 20, referred to the Business and Labor Committee. The bill was advanced to General File.

SENATOR CLARK: Senator Rumery, do you want to explain the bill? There is no committee amendments.

SENATOR RUMERY: Mr. President, members of the Legislature, LB 436 was introduced to add to that portion of the law which eliminates a discrimination on the basis of race, creed, color, sex, disability and national origin and so forth. We simply would like to add "state origin" to that, to that list. There have been instances in the state where people have not been able to be hired because they were from a certain state, in fact, some of them said in Nebraska and we think that this is definitely discrimination and we would like to add that to the list. Mr. President, I move the advancement of the bill.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Koch, do you wish to be recognized?

SENATOR KOCH: A question of Senator Rumery please.

SENATOR RUMERY: Yes.

SENATOR KOCH: Senator Rumery, as I look at the report furnished by the committee, I notice the University had some concerns. Can you explain that to me why Dr. Sample appeared in a position opposite of the bill?

SENATOR RUMERY: Well, Dr. Sample was there but he didn't testify while I was there and they had some concerns about it and, frankly, the University of Nebraska has been one of them that has used this "state origin" in what we think is a discriminatory manner.

SENATOR KOCH: Does that have to do with educational background, where it was obtained, such as a country other than the United States, high degrees?

SENATOR RUMERY: Not that I know of. Our concern is that people of Nebraska, graduates of Nebraska have been discriminated against and we don't think there ought to be discrimination against any employee regardless of his background and it is spelled out now in the laws that exist and

April 6, 1981

LB 436

we just simply want to add "state origin" to it.

SENATOR KOCH: And we would at the University discriminated against those who are natives of Nebraska for positions?

SENATOR RUMERY: It has been done.

SENATOR KOCH: Was it because of lack of academic standard or was it because of other inferior qualifications opposed to those they received as qualified?

SENATOR RUMERY: The statement was made, "We can't hire you because you are from Nebraska". Nothing was ever documented about the qualifications, training and so forth, and another thing that bothers me a little bit is that if we can't hire our own graduates, does that mean we are not giving them the proper training that they ought to have? They haven't said so. The only thing that has been used was the state origin.

SENATOR KOCH: Senator Nichol, would you yield to a question?

SENATOR NICHOL: Yes, Senator Koch.

SENATOR KOCH: Are you familiar with this issue, why it would be that we are trying to close this obvious gap?

SENATOR NICHOL: Yes, and what Senator Rumery has said is correct inasmuch as some university people have been denied simply because they were graduates of the University of Nebraska and it has been the feeling of some during the hiring that they did not want further inbreeding, that they wanted people from outside the state simply because they were not from Nebraska so I think this is what Senator Rumery is attempting to do and I certainly think it is discrimination when they do that.

SENATOR KOCH: Thank you, Senator Nichol. Would Senator Vickers yield to a question?

SENATOR VICKERS: Yes, Senator Koch.

SENATOR KOCH: Do you have evidence to believe that this bill is important in terms of hiring practices or is some friend been denied a position by the University and someone is trying to close it?

SENATOR VICKERS: Well, Senator Koch, I am on the committee that heard this bill and it seemed evident to me that this is directed at one specific incident. The incident arose,

April 6, 1981

LB 436

I believe, from the evidence that we had presented to us because of the fact that the University through their accreditation standards that they have to meet have to have professors from a wide area and they can't have over a certain percentage of their own graduates. Otherwise, there is the impression left or the fear of the Accreditation Committee that there will be a certain amount of inbreeding, if you will, in the system.

SENATOR KOCH: In other words you feel that possibly this is a special interest law?

SENATOR VICKERS: You might notice I voted against the advancement from the committee.

SENATOR KOCH: I noticed that, Senator Vickers. Thank you.

SPEAKER MARVEL: You have one minute.

SENATOR KOCH: I think some of you had better be a little more alert because, obviously, when you get into higher education, I have been approached by people on this subject, same thing, they feel they have been discriminated against by the University of Nebraska in hiring practices. Yet they bring in degrees, in some cases, that possibly do not carry the influence and the weight that they should so they are finally denied simply because the search committee has denied them the opportunity.

SPEAKER MARVEL: You have twenty seconds.

SENATOR KOCH? I happen to believe the Board of Regents has certain standards that they wish to meet in terms of accreditation and so far as now by law to say that we are going to try to set your credentials and standards at the University is not possibly in the best interest of that university system. I would hope we would look at this bill a little more seriously than we would have thus far. It looks almost like it is consent calendar and it really has more merit than that.

SPEAKER MARVEL: Before we proceed with the discussion, Senator Lamb wants an Exec Board meeting underneath the North balcony immediately, and in the North balcony it is my privilege to introduce 62 Falstaff associates, wives, retirees, employees, in the North balcony. May we welcome them. It says here that they are all in Senator Labeledz' District. And also from Senator Remmers' District, 15 students from Elk Creek, Nebraska and the teacher, Dave Chatelain,

April 6, 1981

LB 436

in the North balcony. Where are you folks? Raise your hand so we can...we welcome you, too. Senator Barrett.

SENATOR BARRETT: Mr. Speaker, members, I rise in support of Senator Rumery's 436. It would simply amend the Nebraska Fair Employment Practices Act to provide the "state of origin", in addition to the race, color, sex, creed, so on and so forth, practices. Because there is no present law which does exist to include the "state origin" discrimination clause, I think it is probably most appropriate and it appears to me that, speaking to Senator Koch's concern, I believe the University of Nebraska is on record as not being opposed to the bill, at least that is my understanding. So hopefully any time a position is open, be it at the University or elsewhere, the best person for the job can be selected. I do support 436. Thank you.

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKERS: Mr. President, members, I rise to oppose LB 436. As I indicated when I was answering Senator Koch's question, I am a member of the committee that heard this bill and I think that Senator Koch indicated there is some serious implications of LB 436 that this body needs to be aware of. First of all it is a bill brought in for one specific instance. This specific instance being the individual that was denied employment as a professor at the University of Nebraska because he was a graduate of the University of Nebraska but the accreditation standards imposed on the University as we were told by the University people that testified at the hearing is such that there has to be a certain percentage of their professors from other colleges. Otherwise there is a certain amount of inbred teaching, if you will, that results. I don't think it is a reflection on the University of Nebraska at all that they are not able to turn out qualified people because I am sure that if you would check with other colleges you would find out that many of their professors are from the University of Nebraska. There is a...obviously other colleges have the same concern if that is part of the accreditation standards. But I think that is beside the point, actually. As I say this bill was brought to us for that specific instance but, remember, what we are addressing here is all employers in the State of Nebraska, not just the University of Nebraska, not just the public sector but the private sector as well. If you will read on page 2, Section 1, "It is the policy of this state to foster the employment of all employable persons in the state on the basis of merit regardless", and this is existing language, "of the race, color, religion, sex, disability, or national origin...". Now all

of those things I think we would all agree are things that could be discriminated against, if you were of another race, if your color was different. There has been discrimination in the past, obviously, on sex and religion reasons, for disability and, of course, from the country that you are from, the national origin. Now we are putting state origin in there. We are saying if you are from Iowa you are different than you are if you are from Nebraska or Kansas or Minnesota, Wisconsin, Alabama, or wherever. After all, this is the United States and I thought we all were equal in the United States. I think that is wrong for us to tell the employers of this state that they have to take that into consideration. On page 5, subsection (10), where it describes what the state origin shall mean. It "shall mean the state or states in the United States in which a person (a) was born, (b) is residing or has resided, or (c) has received a postsecondary educational degree." Now for goodness sake, if I am an employer in the State of Nebraska and I am living next to the Kansas border perhaps in McCook or Alma or somewhere, I have to take into consideration, two people come to me, I have got to be very careful with it, one of them is from Kansas and one of them is from Nebraska or if one of them graduated from the Kansas University where the other one graduated from the University of Nebraska, that I don't discriminate against those two people based on that. For crying out loud. What are we doing in here? I think we are...this is a simple case of using a sledgehammer to kill a fly and I suggest to this body that we don't overreact in this manner. I think it is dangerous. It is a dangerous precedent and I, personally, don't think that LB 436 should advance.

SPEAKER MARVEL: Senator Maresh.

SENATOR MARESH: Mr. Speaker, members of the Legislature, I supported the bill in committee and I think the principle here is should the best person get the position or not? The man, Mr. Dunn, that appeared before the committee, he was denied the position because he was a Nebraskan and received his education here. I know there are people that frown on inbreeding at the University and I suppose at the colleges as well but have you received any letter in the mail, people from the University being concerned about this? I haven't. So I think the situation isn't that desperate that we shouldn't pass this bill. I would say vote for the bill.

SPEAKER MARVEL: Senator Rumery.

SENATOR RUMERY: Mr. President, members of the Legislature,

April 6, 1981

LB 436

we use this one case simply as an example that has taken place and the individual involved has told me, said, "This law would never do me any good anyway now but," he said, "I think it ought to be so that we can protect future people who are from Nebraska that they would not be discriminated against". People don't worry anything more about this discrim...these rules and regulations against discriminating against sex, national origin, race, creed, color and so forth, and there is nothing really radical about adding this state origin clause to it, and it isn't anything that is unusual or new except we would like to put in this one clause that also we can't use the state origin as a discriminatory effect on it and we ask you to support the bill and move it to E & R Initial.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: A question of Senator Rumery.

SPEAKER MARVEL: Senator Rumery.

SENATOR KOCH: Senator Rumery, why don't we make it all-inclusive then and include all sectors of the State of Nebraska?

SENATOR RUMERY: Beg pardon?

SENATOR KOCH: Why don't we make it all-inclusive? You have here in this bill, which bothers me, that is the reason I looked at it, "has received a postsecondary educational degree". Now why don't we say that any industry, educational institution, whatever it might be in this state, that this shall be applicable to?

SENATOR RUMERY: Well, I guess I thought we probably should walk before we run.

SENATOR KOCH: Walk, well, I always heard we should crawl before we walk or something.

SENATOR RUMERY: We have advanced (interruption) crawling.

SENATOR KOCH: Oh, we are through the crawling stage, okay. But I just can't believe we are going to do this. One case, and we have spelled out pretty clearly here, "has received a postsecondary educational degree". And we all know there are some institutions in this nation that you get the same degree but I will tell you, you go out to get a job, Columbia University, Harvard, some of those places carry a higher value than other places simply because of the rigors and the quality of education that has been associated

April 6, 1981

LB 436, 59

with that institution for a long time. I can't believe we are going to do this because if we do then we should make it applicable in every other case where people are in the practice of hiring for some position. I oppose the bill.

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKERS: Mr. President, members, very briefly, there was another point that I think needs to be made on this that I failed to make earlier. I think the members of this body need to be aware as to what, exactly what they are doing and among that, among what we are doing with this is this would be the first state, in my information that I have, no other state has state origin as part of their hiring discrimination practice. So if we want to be the first state and the only state to include that, then I guess you go ahead and vote for LB 436 but I don't think that is a good practice and I, again, bring it to this body's attention that what we are doing is a very serious, a very serious matter. I oppose the advancement of LB 436.

SPEAKER MARVEL: Senator Rumery, do you wish to close? Do you wish to close, Senator Rumery?

SENATOR RUMERY: Mr. President and members of the Legislature, I simply again point out that this adds another phrase to the discriminatory provisions in law already and I would like to answer the problem of inbreeding, and this particular department that I happen to know about, they haven't added a Nebraska graduate since 1973. I fail to see how there would be any inbreeding with that few people on the staff. Mr. President, I move the advancement of the bill.

SPEAKER MARVEL: Okay, Senator Rumery was closing. The motion is the advancement of LB 436. All those in favor vote aye, opposed vote no.

SENATOR KAHLE PRESIDING

SENATOR KAHLE: Please vote. Please vote. Senator Rumery, what do you want to do with it? Record.

CLERK: 6 ayes, 20 nays on the motion to advance the bill, Mr. President.

SENATOR KAHLE: The bill lost. The next bill is LB 241.

CLERK: Mr. President, if I may, right before that, your committee on Enrollment and Review respectfully reports they have carefully examined LB 59 and find the same correctly

April 6, 1981

LB 241, 129, 436

CLERK: Yes, sir. Mr. President, your committee on Judiciary gives notice of hearing on LB 129 next Monday.

A reference report from the board, and Senator Koch would like to print amendments to LB 436 in the Journal, Mr. President. That is all I have.

SENATOR KAHLE: Senator Clark, would you like to adjourn us until tomorrow morning at nine o'clock?

SENATOR CLARK: Mr. President, I move we adjourn until nine o'clock tomorrow morning, April 7th.

SENATOR KAHLE: All those in favor of that motion signify by saying aye, those opposed same sign. We are adjourned until nine o'clock tomorrow morning, April 7th.

Edited by


Mary A. Turner

May 12, 1981

LB 243, 436, 523

SENATOR CLARK: Newell.

SENATOR SCHMIT: Newell? Let's go ahead and vote on the board.

SENATOR CLARK: The question before the House is the advancement of 243. All those in favor vote aye. All those opposed nay. Voting no.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Once more, have you all voted? Senator Schmit, I am going to call the vote.

SENATOR SCHMIT: Then let's have a roll call vote, please.

SENATOR CLARK: Call the roll.

CLERK: (Read the roll call vote as found on page 1978 of the Legislative Journal.) 23 ayes, 20 nays, Mr. President, on the motion to advance the bill.

SENATOR CLARK: The motion failed. The bill fails to advance. LB 436.

CLERK: Mr. President, if I may right before that, your committee on Miscellaneous Subjects whose Chairman is Senator Hefner reports LB 523 to General File with amendments, and it is signed by Senator Hefner as Chair. (See pages 1978 and 1979 of the Legislative Journal.)

Mr. President, LB 436 was a bill introduced by Senator Rumery. (Read title.) The bill was read on January 20, referred to Business and Labor. The bill was advanced to General File. The membership considered the bill on April 6 of this year, Mr. President. At that time the bill failed to advance.

SENATOR CLARK: Senator Rumery, do you want to explain the bill?

SENATOR RUMERY: Mr. President and members of the Legislature, you heard the little bit of history about this bill. I want to correct a few things that were said about it before. It was indicated that this was a special bill for a special person, and it is not. We did use an example of a special case that had been....that had occurred, but you will recall that in our Constitution now we are prevented from discriminating against a number of things in our existence here. If you are going to hire people you

May 12, 1981

LB 436

can't discriminate on race, color, religion, sex, disability or national origin. We simply want to add the other provision of state origin, and there have been examples that have...where the state origin has been used as discrimination. We don't think that discrimination ought to be used in any form. Therefore, I move that the bill be advanced.

SENATOR CLARK: Motion on the desk.

CLERK: Mr. President, Senator Koch moves to indefinitely postpone the bill.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Thank you, Mr. Chairman. The last time we discussed 436 we were talking about the issues involved, and Senator Rumery, as much as I dislike disagreeing with you, I can't see the need for this type of legislation. And I looked at the people who supported the bill and looked at those who oppose it, unless you can prove to me otherwise, that the University has changed their position because they hire frequently in terms of staffing and in terms of meeting accreditation standards, in terms of broadening those who teach at that system, where they come from I think is important. And if in the hiring practice of the University system when you are seeking scholars and those who achieve the degrees that are necessary for them to be academicians, if we must first of all take into consideration that the state must first be considered prior to going outside, then you have added one more obstruction in terms of hiring for the needs of the University institution and for scholarly achievement. The University of Nebraska is known for its great football teams. Nationwide many times it is in preseason selected as the number 6, 7, 2 or 3 team in the nation on early predictions. I would hope some day that the University might achieve this also in academic excellence in terms that our colleges would achieve that kind of recognition in the academic world. And I believe that if we are going to put this kind of obstruction in there, we are going to deter the University from hiring certain kinds of professors and other kinds of scholars which is necessary for an institution to achieve a name of excellence. Therefore, it is with reluctance that I offer this motion to indefinitely postpone, because until the University tells me that this will not impede the procedure of good hiring practice, the kinds of people they are seeking for certain kinds of positions available, I cannot support this type of legislation. Therefore, I ask for the indefinite postponement of LB 436.

May 12, 1981

LB 436

SENATOR CLARK: Senator Marsh.

SENATOR MARSH: Mr. Chairman and members of the Legislature, reluctantly I rise to support the kill motion. As many of you who have been in the Legislature before know, I have been a strong advocate for civil rights. I have been a strong advocate against discrimination, but I feel this is a step backward where the emphasis should not be. We should be spending our time in the other categories which are law. I rise to support Senator Koch's motion to indefinitely postpone.

SENATOR CLARK: I would like to announce some visitors we have from the Friendship Force from Korea, Mr. Soo Kim and Soon Kim, his wife. John Prouty and Stephanie Prouty are the host people over here, and they are guests of Senator Bodrich. Will you stand and be recognized, please. A special welcome to you from the Legislature. Senator Vickers.

SENATOR VICKERS: Mr. President and members, I, too, rise to support the motion to indefinitely postpone LB 436. As you will notice in your bill book, I was one of the committee members that voted against advancement of LB 436. I think the precedent that we are setting with LB 436 is a bad one. I don't think that we should have a practice in this state and in the United States of America of indicating that there is a difference between people because of the various states that we are from. This is a United States and we should operate that way. I don't think the intention of the original purpose of the law indicating that it was unlawful to discriminate based on sex, religion, national origin and so forth, I don't think it was their intention to also include that within the United States. I think the Missouri River, whether you are on this side or the other side, or whether you are on one side or the other of the Kansas border, or Colorado or any other border in the United States, does not mean that those individuals on either side of the border are not fully qualified to serve in about any position. To put the employers in this state in a position where they had to hire people from this state in preference to other states, I think is wrong. I slightly disagree with my good friend, Senator Rumery, in the fact that I think this is special legislation and I think it has hinted at one particular issue but it will cover much, much more than that. One of the sections of the bill even indicates that you cannot make a distinction based on where you received your postsecondary educational degree. I think that is putting quite a burden also on the employers of this state to indicate

May 12, 1981

LB 436

that if an individual applies for a job in McCook, Nebraska whether or not they graduated from Kansas State or the University of Kansas or Kearney State or the University of Nebraska would make a difference. I don't think that is good policy and I certainly urge this body's help and vote for Senator Koch's motion to indefinitely postpone LB 436.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: The question has been called for. Do I see five hands? I do. All those in favor of ceasing debate vote aye. All those opposed vote nay. Have you all voted on ceasing debate? Voting aye, Mr. Clerk.

CLERK: Senator Clark voting aye.

SENATOR CLARK: Have you all voted on ceasing debate? Record the vote. Record the vote, Pat.

CLERK: 28 ayes, 1 nay to cease debate, Mr. President.

SENATOR CLARK: Debate has ceased. Senator Koch, on your motion.

SENATOR KOCH: Mr. Chairman and members of the body, if we pass this piece of legislation, we are setting a precedent that I don't think we can defend in a lot of practices, not only the practice of hiring at the higher institutions of learning, state colleges, community colleges, public education, you name it, it means that we are going to give first priority to the state of origin which would be the State of Nebraska as a residence and I don't believe that is in the best interests of education or any other type of practice, whether it be medicine, you name the field. It is with reluctance then that I ask that we indefinitely postpone LB 436 because if we pass this, we are going to start a precedent where we are going to put the state of origin in a lot of other pieces of legislation that might affect a far wider parameter of interests than just this particular interest. So, therefore, I ask reluctantly that we indefinitely postpone LB 436, and no disrespect to Senator Rumery but in the best interests of the private sector of education and the public sector of higher education and other professions where this is important to us. Thank you.

SENATOR CLARK: The question before the House is the indefinite postponement of 436. All those in favor vote aye. All those opposed vote nay.

May 12, 1981

LB 436

CLERK: Senator Clark voting yes.

SENATOR CLARK: We do not take call in votes. We are not under Call. Have you all voted? Have you all voted? Record the vote.

CLERK: 20 ayes, 19 nays on the motion to indefinitely postpone, Mr. President.

SENATOR CLARK: The bill is indefinitely postponed. We are now going to take LB 318. Even though we are late we have a lot of guests in the House that came in to hear this bill so we are going to take LB 318.