

January 20, 1981

LB 389-433

SPEAKER MARVEL: Senator Higgins.

SENATOR HIGGINS: Mr. Chairman and Senator Chambers, I merely want to state the fact that your very presence here and the fact that we are listening to you is a contradiction of your remarks that you do not have freedom. Thank you, Mr. President.

SPEAKER MARVEL: Senator Burrows.

SENATOR BURROWS: Mr. Speaker, members of the body, I would like to request permission we lay over the resolution until the hostages are in the air.

SPEAKER MARVEL: Any objection? If not, so ordered. We will go to item #6 now, introduction of bills.

CLERK: Mr. President, new bills. (Read by title LB 389-432. See pages 271-280 of the Legislative Journal.)

SENATOR CLARK PRESIDING

SENATOR CLARK: Could I have your attention just a moment, please? The AP has reported that the American hostages will fly out of Iran in the next thirty minutes. (applause).

CLERK: (Read by title LB 433. See pages 280-281.)

SENATOR CLARK: Senator Nichol, for what purpose do you arise?

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I wanted to say something but I don't want to say it if we have urgent business to do. This will take about two or three minutes.

SENATOR CLARK: Continue, we don't have any business right now.

SENATOR NICHOL: Okay, Senator Marsh has a bill in having to do with mammals and I wanted to tell you the story of the three mammals if I may. May I do that, sir?

SENATOR CLARK: Go right ahead if it is funny.

SENATOR NICHOL: Well, I don't know about that but once upon a time there were three mammals who lived happily in Mammalary Land. There was a papa mammal that we called Pappy and mama mammal that we called Mama and baby mammal we called Babble and the reason we called baby mammal Babble was because he talked a lot and asked embarrassing questions.

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PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by the Reverend Royce Willerton of the Southview Christian Church.

REV. WILLERTON: Prayer offered.

PRESIDENT: Roll call. Has everyone registered their presence?

CLERK: Mr. President, Senator Vard Johnson, Beyer, Fenger and Chronister would like to be excused for the day. Senator Kilgarin, Hoagland, Chambers until they arrive.

PRESIDENT: Record the presence, Mr. Clerk.

CLERK: There is a quorum present, Mr. President.

PRESIDENT: A quorum being present, are there any corrections to the Journal?

CLERK: The Journal is all right, Mr. President.

PRESIDENT: The Journal stands correct as published. Any messages, reports or announcements?

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined LB 531 and recommend that same be placed on Select File; 291 Select File; 311 Select File; 111 Select File with amendments, (Signed) Senator Kilgarin, Chair. (See pages 1158-1159 of the Legislative Journal.)

Mr. President, your committee on Business and Labor reports LB 394 to General File with amendments, 410 General File with amendments, 470 General File with amendments, (Signed) Senator Maresh, Chairman. (See pages 1159-1160 of the Journal.)

Your committee on Judiciary reports LB 512 to General File with amendments, (Signed) Senator Nichol, Chair.

Mr. President, I have a Lobby Registration report for March 12 through March 26, signed by...on file in my office.

PRESIDENT: All right then, we will proceed then with agenda item #4, a resolution on LR 47, Mr. Clerk. Will you read it.

CLERK: (Read LR 47.) Mr. President, the resolution is found on page 1126. Senator Vickers would like to amend

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LB 410

Mr. President, LB 410 was a bill introduced by Senator Landis. (Read title). The bill was first read on January 20 of last year, referred to the Business and Labor Committee. The bill was advanced to General File. Mr. President, there are committee amendments attached by the Business and Labor Committee.

SENATOR NICHOL PRESIDING

SENATOR NICHOL: Senator Barrett, are you going to handle the committee amendments?

SENATOR BARRETT: Yes. Mr. Chairman, members of the body, as I understand the committee amendments to 410, 410 dealing with the Nebraska Appeal Tribunal which is the body which hears disputed unemployment claims, the amendments to 410 provide that the Appeal Tribunal shall be a separate and independent administrative unit within the Department of Labor. The original bill, I believe, said separate and autonomous administrative unit. The amendments also provide that only the Commissioner of Labor shall exercise any administrative direction over the Tribunal, and finally the Tribunal may be administrative law judges appointed by the Commissioner of Labor or, of course, the current three-member body. I move the committee amendments to LB 410.

SENATOR NICHOL: We are voting on the committee amendments to LB 410. All those in favor vote aye, opposed nay.

CLERK: Senator Nichol voting yes.

SENATOR NICHOL: Have you all voted? Record, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of the committee amendments.

SENATOR NICHOL: The committee amendments are adopted. Senator Landis, are you going to handle the bill, please?

SENATOR LANDIS: Yes, Mr. Speaker. If you will open your red-backed books to LB 410, please pay attention only to the committee amendments because if you look at the first section it says "strike original sections 1 and 2 of the bill and insert the following", and sections 1 and 2 of the green copy are essentially the bill. Therefore, if you are looking at the green copy, you will be missing the point of the measure which is now found on the white pages of the committee amendments. The bill is designed to do

one thing and one thing only, and that is to ensure that the rule that was followed for 30 to 35 years in Nebraska would be returned to and that we would continue to have the Nebraska Appeals Tribunal under the direct administrative control and authority of the Commissioner of Labor. If you read our existing Employment Security Law, Chapter 48, I think a fair minded reading of that chapter would indicate that that is the intention of the Legislature when it passed the bill. That was the practice for 35 years. Last year by an administrative change in the Department of Labor this Appeals Tribunal was placed under the general counsel on the organization chart of the department, which means then that administrative practices such as vacations, promotions, allocations of resources, desks, rooms, those kinds of things, went through the general counsel's office before it went to the Commissioner. The Appeals Tribunal has always been meant to be an impartial body that had to weigh the judicial decision of unemployment compensation claims. The general counsel's office appears before the Tribunal in some cases. They advise other departments on the testimony to be given to the Tribunal and ultimately they also appeal decisions that the Tribunal makes to the District Court. Since they serve both as an input and output of this judicial body, it seems to compromise the impartiality of the body to place it under the administrative control of somebody who is going to be before the court in essence, and for that reason LB 410 seeks to return the Tribunal under the direct administrative control of the Commissioner. For all of its language, LB 410 comes down to three simple lines and you will find them on the white page and it is the second line 25, about three-quarters of the way down the page. It says, the Commissioner and no other agency employee shall exercise in the administrative direction of the Tribunal except as hereinafter provided, and hereinafter provided includes the chief administrative law judge, so that the day to day operation is run by the law judge. If there is an administrative problem it goes directly to the Commissioner, but nothing in between. That is the case that we operated under for 30 years and I think it has always proved to be good. I think to include another layer of bureaucracy between those two, to inject the general counsel is to inject a potential for impartiality...I'm sorry, for partiality in what should be a completely free and independent decision by a judge. I would like to substantiate that position by reading to you a letter from a man who many in this body know personally and many others know by reputation, Attorney General Clarence Meyer, the Republican Attorney General for this state for a number of years. Prior to serving as an

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LB 410

Attorney General, Clarence Meyer served as one of these hearing officers for the Nebraska Appeal Tribunal and he describes his feelings about this bill. "Here enclosed a copy of LB 410 which seeks to restore the independence of the Appeals Tribunal. I am fully in accord with the purpose of your LB 410. Shortly after leaving the Air Force in World War II I became the Chairman of the Appeals Tribunal and served in that capacity for three years until joining the staff of the Attorney General, James Anderson, in 1949. During all of my service the Tribunal had complete independence from any and all of the people who handled the day to day administration of the Employment Security Law. Those administrative people received their advice from the general counsel, which was proper. Presumably, they followed his advice in presenting their testimony, but when they appeared before the Tribunal they were treated as any other witness and had to justify their position in the testimony. Certainly the Appeals Tribunal should not be placed in the position where it had to justify its position to the general counsel." And I am seeking to have Clarence Meyer's opinion as well as my own perception as to what is fair returned to the status of law which it had for 35 years prior to its administrative change. I would seek the approval of the body to do that. I would also like to bring this back to the body. Just a couple of days ago there was some concern about the green copy language in its change to the white copy language from some of the members of the floor and some interested parties in the lobby, one interested party in the lobby. I have talked to every interested member on the floor and to the representative in the lobby and they agree that General File is not the place to have any conflict, that they are willing to see this go over to Select File, that at this point there is no direct opposition to the bill, and that I have made a good faith gesture or offering that in the event any language in the white copy, which is now agreed to, provides those Senators or that lobbyist with difficulty, I will negotiate those points prior to Select File consideration, and with that offer having been made, all objections to the bill on General File were dropped. I would move the advancement of LB 410.

SENATOR NICHOL: Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, I rise to support Senator Landis in his effort on LB 410. I listened to his presentation and I had read the bill earlier. I think that the current situation would be analogous to having a district judge officed with Marty Cannon as a trial attorney in Omaha or something. It just doesn't work for a

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LB 410

lot of impartiality. I think independence in a judicial function is important, and I urge you to support Senator Landis in LB 410.

SENATOR NICHOL: Senator Landis, did you wish to close?

SENATOR LANDIS: Mr. Speaker, I will just close by saying that I talked to Senator Barrett and to Senator Lowell Johnson about this and I have made the offer to them and I renew that offer to any other member of the floor. If there is problems with the language of the white copy, I will be happy to take it up and if we can find a more satisfactory way, I will be happy to do that before Select File consideration. At this point I know of no objection to any of the language in the bill.

SENATOR NICHOL: We are voting on the advancement of LB 410 to E & R Initial. All those in favor vote aye, opposed nay.

CLERK: Senator Nichol voting yes.

SENATOR NICHOL: Have you all voted? Record, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, on the motion to advance the bill.

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SENATOR CLARK: The motion lost. The next amendment is amendment number two of Senator Vickers to Section one. He wants to read a few things in first.

CLERK: Mr. President, very quickly, new bills: (Read by title for the first time, LBs 895-914 as found on pages 343-347 of the Legislative Journal.)

Mr. President, I have a hearing notice from the Public Works Committee for January 29, February 10, 11 and 17. That is signed by Senator Kremer as Chair.

Mr. President, Retirement sets hearings for Wednesday, January 7 and Revenue sets hearings for January 25, 26 and 27, signed by the respective chairmen.

I have a reference report referring LBs 848 through 880.

Mr. President, your committee on Enrollment and Review reports that 511 be reported to Select File with amendments, 192 Select File with amendments, 231 Select File with amendments, 454 Select File, 304 Select File, 69 Select File with amendments, 139 Select File, 139A Select File, 305 Select File, 239 Select File with amendments, 410 Select File with amendments, 278 Select File with amendments, 126 Select File with amendments, all signed by Senator Kilgarin.

SENATOR CLARK: We are now ready for the second Vickers amendment to Section one.

CLERK: Mr. President, the amendment reads as follows: On page 2, line 13, strike the word "life" and insert "safe yield."

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: Mr. President, since that is more of a technical one there the following amendment on Section two would be more applicable to take up and I think the Clerk has other amendments on Section one so if you would want to skip over this and go to the other amendments that are on Section one, that would be fine with me. You have other amendments and I think Senator Beutler and some other people might have amendments on Section one if you want to go ahead and take those up at this time.

CLERK: So are you withdrawing. . .you don't want this one then, Senator?

SENATOR VICKERS: That one is more of a technical one. It

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LB 410, 428, 448, 657
LB 417, 192, 314,

dangerous and I think that we have a responsibility to ensure that that doesn't continue to happen. I urge you to advance LB 417. I don't think that it is a major problem if you are going to move a combine a great distance to drop the platform, put it on a trailer and not endanger the public. I urge you to advance the bill.

SENATOR CLARK: The question before the House is the advancement of the bill. All those in favor say aye, opposed nay. The bill is advanced. LB 421. The Clerk would like to read in.

CLERK: Mr. President, I have a series of items to read in. Senator Higgins would like to print amendments to LB 314; Senator Vard Johnson to print amendments to LB 428; Senator Vard Johnson to LB 410; Senator Vickers to LB 192; Senator Warner to LB 192 and Senator Warner to LB 448. (See pages 456-462 of the Legislative Journal.)

Mr. President, I have a reference report referring gubernatorial appointments. (See page 463 of the Legislative Journal.)

I have a notice of hearing from the Education Committee and Senator Nichol moves that LB 657 be placed on General File notwithstanding the action of the committee. That will be laid over, Mr. President. (See page 463 of the Journal.)

February 10, 1982

LB 304, 410

SENATOR BEUTLER: Okay, could the Clerk explain the amendment, that is that it only requires one publication in one newspaper one time?

SPEAKER MARVEL: The Clerk will call the roll.

CLERK: Thank you, Mr. Speaker.

SPEAKER MARVEL: This is going to be a very interesting day. We can feel it up here.

CLERK: (Read roll call vote as found on pages 619-620 of the Legislative Journal.) 28 ayes, 18 nays, Mr. President, on the Beutler amendment.

SPEAKER MARVEL: The motion carried.

CLERK: I have nothing further on the bill, Mr. President.

SPEAKER MARVEL: The Call is raised. The motion is to advance the bill. All those in favor of advancing 304 to E & R for review say aye, opposed no. The motion is carried. The bill is advanced. 305.

CLERK: Senator Beutler, are you going to take it?

SPEAKER MARVEL: The request is to pass over 305 and we move to LB 410.

CLERK: Mr. President, LB 410, there are E & R amendments pending.

SPEAKER MARVEL: Senator Kilgarin, do you want to move the adoption of the bills?

SENATOR KILGARIN: I move we adopt the E & R amendment to LB 410.

SPEAKER MARVEL: All those in favor of that motion say aye, opposed no. The motion is carried. The E & R amendments to LB 410 are adopted.

CLERK: Mr. President, I have an amendment from Senator Vard Johnson and it is found on page 460.

SPEAKER MARVEL: Senator Lamb, your light is on. Oh, Senator Landis.

CLERK: In that case, I guess Senator Johnson is temporarily withdrawing? I now have an amendment from Senator Landis, Mr. President.

SENATOR LANDIS: Is there a Journal page number that I can refer to?

CLERK: No, sir.

SENATOR LANDIS: This amendment is now being passed out and will be on your desk. It is simply the concept of the bill in one sentence that everyone has agreed to and it makes the bill clear in only one sentence. The idea of the bill is to return to the situation that we have always had which is that the Nebraska appeal tribunal is under the administrative authority of the Commissioner of Labor only. That is the way it has been administered for roughly thirty-five years and we return to that after a brief hiatus because of an administrative decision in the Department of Labor. This has been worked out with John Hanlon. This language is acceptable to John. Interested senators including Senators Lowell Johnson and Bill Barrett have been apprised of this and have to my knowledge no objection. If the amendment is now on your desk let me read it to you. Once you adopt this amendment this is the language of the bill. It says, "Recognizing that a clear separation of functions and the protection of fair and impartial hearings are fundamental to the integrity of the adjudicative process, administrative oversight of the appeal tribunal and its administrative law judges shall be the non-delegable function of the commissioner." And then there is some existing language. "The commissioner shall provide the appeal tribunal with proper facilities and assistants for the execution of their functions." The point is that all administrative authority vests with the commissioner and the commissioner can now name a chief administrative law judge for what functions he may wish that person to perform such as setting case loads, dictating who will handle which cases. However, all those functions are the commissioner's and he gives them only to the appeal tribunal itself, not to any intermediary administrative personnel. I move the adoption of the amendments and am prepared to answer questions if you would like. If you want to go through the committee amendments which were adopted and which appear on the white page, you will find this concept but simply stated in about eight times greater length and for that reason we simply substitute one sentence that says it all.

SPEAKER MARVEL: The motion is the adoption of the Landis amendment to LB 410. All those in favor of the motion vote aye, opposed vote no.

CLERK: 26 ayes, 0 nays on adoption of the Landis amendment, Mr. President.

SPEAKER MARVEL: The motion is carried. The amendment is adopted. Senator Kilgarin, do you want to move?

SENATOR KILGARIN: I move we advance LB 410.

CLERK: Mr. President, Senator Johnson now moves his amendment found on page 460 of the Journal.

SPEAKER MARVEL: Senator Johnson.

SENATOR V. JOHNSON: Mr. Speaker, members of the body, Senator Landis had asked me a couple of days ago if I would allow his amendment to go first and I said there would be no problem with it. My amendment is designed and you can find it on page 460 of the Legislative Journal. It is a relatively simple amendment. The amendment does one thing. It just says if anybody takes an administrative appeal to the appeals tribunal on an unemployment compensation claim they can be represented in that appeal by anybody they want to have help them out. Thus, if they want to come in with a family friend, if they want to come in with their minister, if they want to come in with a coworker, they can come in with anybody before this administrative tribunal. And you might ask me why I am even raising this amendment, what is the problem? The existing language has been for years and years and years that when somebody goes before an appeals tribunal they can help themselves or they can have a lawyer with them or they can have an agent. That has always been the word, an agent of their own choice. Well recently the Nebraska appeals tribunal has concluded that if a claimant is represented by a nonlawyer, i.e. a paralegal, that the paralegal is not authorized by the existing law to act on behalf of that claimant and, therefore, the paralegal is engaged in the unauthorized practice of law. Now the Bar Association hasn't said so. Nobody else has said so but what has happened is that claimants have not had the ability because of that fairly informal decision made by the appeals tribunal to bring into the hearing with them somebody that they trust, somebody they want to represent them. Now in the administrative context there are many, many areas where people can be helped by friends. Social Security is a classic case. If I have a Social Security disability, a problem and I have to go for an administrative hearing, I don't have to be represented by a lawyer there. I can have anybody come in and help me. That is the existing law and no one has ever said that that is the unauthorized practice of law because Congress has specifically said that you can be represented by a friend. And once they have said that then that is it. You can be represented by anybody you want to have represent you. In the immigration context, Immigration Act says, you don't have to come in with a lawyer. You can come in with a friend, a minister, somebody who wants to help you with this case. The administrative process is to a large extent designed to be relatively simple and particularly in this area and I think it is wrong basically to develop a policy which says

if you are going to be represented the only person who can do it is a lawyer. So what this amendment does is it is designed to say you don't have to use a lawyer. You can have any person come in and help you out and if the person does a poor job well that is the way it goes but you can have anybody come and help you out. I would move the amendment.

SPEAKER MARVEL: Okay, the motion is the adoption of the Johnson amendment to LB 410. Senator Landis.

SENATOR LANDIS: I just want to make a brief statement in favor of the amendment. I support it a friendly amendment, the Johnson amendment in this case. I can tell you that this occurs on both sides of the question. Either a claimant or an employer may wish to call in a representative who is not an attorney. There are now businesses, particularly in Omaha, that are run by nonlawyers that advise employers on how to manage unemployment compensation and they also offer services of coming into one of these hearings and representing the business but they are not attorneys. Unless Vard's language is passed, those kinds of fiscal agents would also be excluded and in other words, the projected Johnson amendment is even-handed and can be applied both to claimants or employees and to employers. They are both in situations where they might want the relief that the Johnson amendment offers.

SENATOR CLARK PRESIDING

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: Mr. President, members, I wonder if Senator Johnson would respond to a question, please. Senator Johnson, first of all I commend you and Senator Landis for supporting this type of an amendment. It is pretty obvious this amendment was not brought to you by the Bar Association I would assume.

SENATOR V. JOHNSON: No.

SENATOR VICKERS: But I am wondering, the existing statute, the existing language has the phrase, "or other duly authorized agent," and wouldn't that phrase "other duly authorized agent" allow an individual to have a friend or a paralegal or somebody other than an attorney represent them at the present time?

SENATOR V. JOHNSON: Senator Vickers, you would think so but apparently it has been construed not to be the case. Now Senator Landis wants to comment on that. If you will just give him ... because he is more, he knows more about this than do I.

SENATOR VICKERS: Okay, Senator Landis, if you want to respond too.

SENATOR LANDIS: I would agree that the...I think the clear meaning of the statute already covers this situation. However, if you take the term "duly authorized" a tortured statutory interpretation can wrench that around that only a lawyer can be duly authorized and that is the basis I think of the statutory interpretation. I think that is a mistaken interpretation and Vard simply asks us to use absolutely nonmisunderstandable language. I mean there is no way not to read Vard's language, not to allow an individual to come in who doesn't happen to be an attorney but who is a friend or a trusted adviser or a business representative.

SENATOR VICKERS: In other words, what we are saying here is that we damn well mean what we said here before. Is that what you are trying to put into statute?

SENATOR V. JOHNSON: Well taken.

SENATOR VICKERS: Okay, thank you.

SENATOR CLARK PRESIDING

SENATOR CLARK: Senator Pirsch.

SENATOR PIRSCH: Thank you, Senator Clark. I have a question of Senator Johnson, please. Would he respond?

SENATOR JOHNSON: Yes.

SENATOR CLARK: Senator Johnson.

SENATOR PIRSCH: Senator Johnson, it says that anyone in these proceedings may be represented by counsel and formerly it was "or other duly authorized agent" and now it is "any duly authorized agent or person of his or her choice and such counsel may either charge or receive for such services a reasonable fee to be approved by the commissioner." In this case then, would the friend that you take in receive a fee and how do they fix those fees and does it depend on whether you are an attorney or whether you are just a friend?

SENATOR V. JOHNSON: Well the way I drafted the amendment, Senator Pirsch, is that the fee award is only available to somebody who is a lawyer because that only applies to the word, "counsel" and counsel I think is a particular term meaning somebody who is authorized to practice law. And the reason I did that is because if you have a friend who is going to help you out with this thing the fee issue is not going to be a big issue but if I allow a fee to be

charged then I, in a sense, am opening up the door frankly to professional services being conducted by nonlawyers and that was not my intention with this measure. My intention simply was to make certain that a claimant could bring before the appeal tribunal anybody the claimant wanted to bring in, who he thought could be helpful to his case.

SENATOR PIRSCH: Another question, Senator Johnson.

SENATOR V. JOHNSON: Yes.

SENATOR PIRSCH: If this is not to the satisfaction of the claimant, what recourse do they have?

SENATOR V. JOHNSON: If which is not to the satisfaction?

SENATOR PIRSCH: If the decision, the appeal.

SENATOR V. JOHNSON: They could then go into the court system and when they go into the court system under existing court... well they will have to be represented by a lawyer. They either represent themselves or by a lawyer.

SENATOR PIRSCH: And of course then it would make no difference whether they were represented in this proceedings by a lawyer or not.

SENATOR V. JOHNSON: Right, that is correct.

SENATOR PIRSCH: Thank you very much.

SENATOR CLARK: Senator Landis.

SENATOR LANDIS: I just want to say that in four years of serving as an appeal tribunal hearing officer I have never had the case that a counsel was appointed by the commissioner that I knew of and the payment was made. It is a rare circumstance that I have no personal knowledge of in over four years of experience.

SENATOR CLARK: Senator Johnson, do you wish to close?

SENATOR V. JOHNSON: Mr. Speaker, my remarks are very short. I think the amendment has been understood. Senator Landis and I have indicated that all we are trying to do is make certain that what the law presently looks like is what the law really is and the law says that anybody who appears before an appeals tribunal can be represented by counsel or a duly authorized agent and I would have construed duly authorized to have meant that you could bring in your friend if you want to because you have authorized him to act on your behalf. But through some tortured construction of existing statute by

some member of the appeals tribunal you can only bring in a lawyer. I don't think that was our intent when we passed the law initially. I don't think that should be our intent today. So I offered the amendment to tell the appeals tribunal and anybody else, look, you can bring in any person to help you out if you want to do it and that is the function of the amendment.

SENATOR CLARK: The question before the House is the adoption of the Johnson amendment. All those in favor vote aye, opposed vote nay. Record the vote.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of the Johnson amendment.

SENATOR CLARK: The amendment is adopted. Are there any further amendments?

CLERK: Nothing further on the bill, Mr. President.

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move we advance LB 410.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed no. The bill is advanced. LB 278.

CLERK: Mr. President, there are E & R amendments to LB 278.

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: (Mike not on.) ...278.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. The E & R amendments are adopted.

CLERK: Mr. President, Senators Goodrich and Beutler now move to amend and the amendment is on page 417 of the Legislative Journal.

SENATOR CLARK: Senator Goodrich.

SENATOR GOODRICH: Mr. President, members of the body, this is the amendment that Senator Marsh and Senator Beutler requested that I agreed to on General File. I did agree to it so we are putting it on now. It provides that the contracts in question shall be in writing and the other provision is that if the amount, this is what Senator Marsh wanted, if the amount of the refund was less than \$10 they wouldn't have to fool with it in the Department of Revenue. I move the adoption of the amendment.

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LR 222
LB 126, 137, 139, 212,
212A, 215, 278, 304,
353, 410, 417, 421

PRESIDENT: Any discussion on the motion to appoint a committee of five to escort the Chief Justice into the Chamber? Hearing none, all those in favor then of the motion to appoint the committee signify by saying aye, opposed nay. Motion carries and the Chair appoints the following committee to escort the Chief Justice; Senator Nichol, Senator Vard Johnson, Senator DeCamp, Senator Cullan, and Senator Beutler. Those members would please follow Senator Nichol up the aisle and go to escort the Chief Justice. And now the Chair will read some matters in.

CLERK: Mr. President, new resolution, LR 222 by Senator Chambers. (Read.) Pursuant to our rules, that will be laid over, Mr. President.

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 215 and find the same correctly engrossed; LB 304 correctly engrossed; LB 410 correctly engrossed; LB 278 correctly engrossed; LB 126 correctly engrossed; LB 212 correctly engrossed; LB 212A correctly engrossed; LB 353 correctly engrossed; LB 417 correctly re-engrossed; LB 139 correctly engrossed; LB 421 correctly engrossed; all signed by Senator Kilgarin.

Mr. President, your committee on Banking whose Chairman is Senator DeCamp instructs me to report LB 137 advanced to General File with committee amendments attached, Mr. President.

PRESIDENT: While we are waiting for the committee to come back, the Chair takes pleasure in introducing Bill Hefner, son of Senator Elroy Hefner. He is under the North balcony. Will Bill stand up and be recognized. Bill, where are you? Welcome to the Unicameral, Bill. The Legislature will be at ease until the committee returns. The Chair recognizes Sergeant at Arms, Ray Wilson.

SERGEANT AT ARMS: Mr. President, your committee now escorting his honor the Chief Justice of the Supreme Court of the State of Nebraska.

PRESIDENT: The committee will escort the Chief Justice to the podium. Chief Justice Norman Krivosha.

CHIEF JUSTICE NORMAN KRIVOSHA: (Gave the State of Judiciary Message as found on pages 689 - 703, Legislative Journal.)

PRESIDENT: The committee will escort the Chief Justice

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LB 36, 410

I ask you to render that decision based upon the information we have given you knowing that none of us are experts in the control of this type of a disease. I ask you to support the bill.

SENATOR CLARK: The question before the House is the advancement of LB 36. We will take a machine vote. Have you all voted? Once more, have you all voted that wish to vote? Senator Kahle.

SENATOR KAHLE: This is an important issue for agriculture and I think we should have a Call of the House and a roll call vote so we're all recorded.

SENATOR CLARK: A Call of the House has been requested. All those in favor of a Call of the House will vote aye. Record the vote.

CLERK: 13 ayes, 0 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All senators will take their seats please and check in. Will you all check in, please. Senator Hoagland, will you check in. You did? Thank you. Senator DeCamp, will you check in, please. Senator Cullan. We're looking for Chambers and Carsten. Did you want to continue with the roll call vote now? We're short two. Senator Apking.

SENATOR APKING: Reverse the order.

SENATOR CLARK: All right, fine. We will reverse the order. Senator Kahle, are you ready to start roll call?

SENATOR KAHLE: How many are missing?

SENATOR CLARK: Two, Senator Carsten and Senator Chambers. Senator Chambers is here. We're only short one. The Clerk will call the roll in a reverse order.

CLERK: (Read roll call vote in reverse order as found on pages 837-838 of the Legislative Journal.) 18 ayes, 24 nays on the motion to advance the bill, Mr. President.

SENATOR CLARK: The bill is not advanced. We will go back to 335 with a motion. We have some things to read in first.

CLERK: Mr. President, Senator Landis would like to print amendments to LB 410. Senator Lamb offers explanation of vote. There will be an Agriculture and Environment executive session at eleven fifty-five underneath the North balcony. That is Ag and Environment, North balcony, eleven fifty-five. (See pages 838-839 of the Legislative Journal.)

February 25, 1982

LB 304, 353, 410

SPEAKER MARVEL: We are dealing with the motion to return the bill to Select File for a specific amendment. Call the roll.

CLERK: (Read the roll call vote as found on page 868 of the Legislative Journal.) 19 ayes, 22 nays, Mr. President, on the motion to return the bill.

SPEAKER MARVEL: The motion lost. Okay, the Clerk will read LB 304.

ASSISTANT CLERK: (Read LB 304 on Final Reading).

SPEAKER MARVEL: We are on Final Reading. Will all legislators please be in their seats.

ASSISTANT CLERK: (Read LB 304 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill, 304, pass? Those in favor vote aye, opposed vote no. Have you all voted? Clerk, record the vote.

ASSISTANT CLERK: (Read the record vote as found on page 869 of the Legislative Journal.) The vote is 46 ayes, 0 nays, 3 excused and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. The Clerk will read LB 353 with the emergency clause.

ASSISTANT CLERK: (Read LB 353 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass with emergency clause attached? Those in favor vote aye, opposed vote no. Have you all voted? Clerk, record the vote.

ASSISTANT CLERK: (Read the record vote as found on page 870 of the Legislative Journal.) The vote is 44 ayes, 2 nays, 3 excused and not voting.

SPEAKER MARVEL: The bill is declared passed with the E clause attached. We now go to 410 with emergency clause attached.

CLERK: Mr. President, Senator Landis would move to return LB 410 to Select File for a specific amendment. The amendment is found on page 838 of the Legislative Journal.)

February 25, 1982

LB 410

SPEAKER MARVEL: The Chair recognizes Senator Landis.

SENATOR LANDIS: Thank you. Mr. Speaker and members of the Legislature, because of a bill drafting error and the way that an amendment was written previously, some language that was meant to be struck was not struck and appears in your final copy language. If you will take a look on 388...or rather 838 of the Journal, you will see that I am striking language that appears in previous forms of the bill. What remains is the one sentence that says, the Department of Labor Commissioner will administer the Appeals Tribunal and that appears I think on page 4 of the bill as you look at it. The policy remains absolutely unchanged. It is just that we say it two different ways, and I am striking the first way and this is by agreement with all parties. Secondly, the Bar Association indicated that the change that Vard and I made concerning an individual being represented before the Tribunal by somebody other than a lawyer was satisfactory with them so long as it applied only to the Appeals Tribunal. The way that we amended it, however, tacked onto an appearance before a court, and, of course, we had some difficulties there with the unauthorized practice of law, and in that case we needed to clarify our intention. The intention was that we had a statute that clearly outlined an individual, a claimant's or a business's right to be represented by somebody other than an attorney in the Appeals Tribunal. Unfortunately, we tacked it onto the wrong sentence. We solved that with this amendment. The two changes are housekeeping. One, they bring the Final Reading copy into the conformance as to what I told you we wanted to do, and, two, it applies where we asked you to agree to only to the Appeals Tribunal situation and not because of the grammatical connection to a court. I would move the adoption of the amendment and then we can read this bill on another day.

SPEAKER MARVEL: The motion is to return the bill to Select File for a specific amendment. All those in favor vote aye, opposed vote no. Record the vote.

CLERK: 41 ayes, 1 nay on the motion to return the bill.

SPEAKER MARVEL: The motion is carried. We are now ready for adopting the amendment. All those in favor of adopting the amendment vote aye, opposed vote no. Have you all voted? Okay, record the vote.

CLERK: 42 ayes, 0 nays on the adoption of Senator Landis's amendment.

March 3, 1982

LR 232
LB 215, 378, 410, 417,
665, 848, 850, 898

advanced to General File with committee amendments attached.
Signed by Senator Cullan.

Public Works committee whose Chairman is Senator Kremer reports 848 advanced to General File with committee amendments attached; 850 advanced to General File with Committee amendments attached. Both signed by Senator Kremer as Chair.

Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 215 and find the same correctly engrossed; 410 and 417, all correctly engrossed.

Mr. President, LR 232 is ready for your signature.

PRESIDENT: While the Legislature is in session and capable of doing business, I propose to sign and I do sign LR 232.

CLERK: Mr. President, communications from the Governor on gubernatorial appointments: Mr. Sheldon Harris to the Nebraska Investment Council, and a series of appointments to the Manufactured Housing Advisory Board. Both will be referred to the Reference Committee.

I have an Attorney General's opinion addressed to Senator Wesely; an Attorney General's opinion to Senator Vard Johnson on LB 665; and an opinion to Senator DeCamp on LB 898. All will be inserted in the Journal.

Mr. President, Senator DeCamp would like to print amendments to LB 378 in the Legislative Journal.

And I have received a report from the Policy Research Office pursuant to statutory provision.

And the committee on Constitutional Revision and Recreation reports a gubernatorial appointment confirmation hearing.

PRESIDENT: We are ready then for agenda item #4 on motions. We are ready for, Senator DeCamp, the Banking Committee's gubernatorial appointments report which I believe is the first motion up. Mr. Clerk, do you want to proceed with that motion?

CLERK: Mr. President, the first report is by Banking and it is a report on a Ms. Rosemary Hannam and it is found on page 777 of the Journal.

PRESIDENT: The Chair recognizes Senator DeCamp.

March 11, 1982

LB 215, 410, 417

SENATOR CLARK: As soon as all Senators get in their seats, we will start Final Reading. Will all Senators take their seats please so we can start Final Reading. Senator Haberman. We will now go to Final Reading, LB 215 with the emergency clause. The Clerk will read.

CLERK: (Read LB 215 on Final Reading.)

SENATOR CLARK: All provisions of law according to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached? All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted? Record the vote.

CLERK: (Record vote read. See page 1115, Legislative Journal.) 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed. The Clerk will now read LB 410E.

CLERK: (Read LB 410 on Final Reading.)

SENATOR CLARK: All provisions of law according to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached? All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted? Record the vote.

CLERK: (Record vote read. See pages 1115 and 1116, Legislative Journal.) 48 ayes, 0 nays, Mr. President.

SENATOR CLARK: The bill is declared passed with the emergency clause attached. The Clerk will now read 417 with the emergency clause.

CLERK: (Read LB 417 on Final Reading.)

SENATOR CLARK: All provisions of law according to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached? All those in favor vote aye, opposed vote nay. Have you all voted? Have you all voted? Record the vote. I voted aye.

CLERK: (Record vote read. See pages 1116 and 1117, Legislative

March 11, 1982

LB 215, 410, 417, 493, 577,
584, 538, 643, 689, 791, 837,
807, 900, 815

SENATOR KILGARIN: I move we advance LB 807.

PRESIDENT: Motion to advance LB 807 to E & R for Engrossment. Any discussion? All those in favor signify by saying aye. Opposed nay. The motion carries and LB 807 is advanced to E & R for Engrossment. The Clerk will read some matters into the record.

CLERK: Mr. President, I have a reference report referring LB 971 to Appropriations. I have notice of hearing for LB 971 by the Appropriations Committee.

Your Committee on Miscellaneous Subjects reports LB 493 indefinitely postponed; 584, 638, 643, 689, 791, 815, 837, and 900 all indefinitely postponed.

Mr. President, LBs 215, 410 and 417 are ready for your signature.

PRESIDENT: While the Legislature is in session and capable of doing business I propose to sign and I do sign LB 417, LB 410 and LB 215. Ready, Mr. Clerk, then for LB 577.

CLERK: Mr. President, I have no E & R amendments to LB 577. I do have a motion to indefinitely postpone the bill. That is offered by Senator Wesely. That would also lay the bill over unless Senator Beutler or Koch agree to take it up at this time.

PRESIDENT: Senator Koch or Beutler, do you have any reaction to the motion....there is a motion to indefinitely postpone, what do you wish to do? Senator Koch, did you... what do you wish to do?

SENATOR KOCH: Mr. President, I will leave that to the high and profound ethics of my good friend, Senator Wesely. First of all, I did not like the motion in the first place, but obviously Senator Wesely thinks it is important that we discuss it some more, so why don't we discuss it today.

PRESIDENT: Okay, we will let it go then, Senator Koch, is that all right? Let's debate it today then.

SENATOR KOCH: What's my prerogative here?

PRESIDENT: Senator Wesely.

SENATOR KOCH: I would prefer to take it up today.

PRESIDENT: All right. Senator Wesely, he would just as soon take it up right now.

March 11, 1982

LB 215, 410, 417

Your Enrolling Clerk has presented to the Governor the bills that were read on Final Reading this morning. (Re: LBs 215, 410 and 417.)

PRESIDENT: I want to compliment everybody for really sticking around and cooperating for moving quite a number of bills this afternoon. It was a very good performance at a time where it was very well needed, so congratulations to you and have a good weekend and we will ask....is Speaker Marvel here? Senator Haberman, do you want to move....Rex, do you want to move that we adjourn us until Monday 9:30 a.m.

SENATOR HABERMAN: Mr. President, I move that we adjourn until Monday 9:30 a.m.

PRESIDENT: Senator Haberman moves that we adjourn until 9:30 a.m. Monday, March 15th. All those in favor signify by saying aye. Opposed nay. We are adjourned until Monday at 9:30 a.m.

Edited by:

Marilyn Zank
Marilyn Zank

March 16, 1982

LR 252
LB 215, 410, 417

SENATOR LAMB PRESIDING

SENATOR LAMB: The morning prayer will be offered by Reverend William Beatty, pastor of the Covenant Presbyterian Church, Omaha.

PASTOR BEATTY: (Prayer offered).

SENATOR LAMB: Roll call. Record.

CLERK: There is a quorum present, Mr. President.

SENATOR LAMB: Any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR LAMB: Are there any messages, reports or announcements?

CLERK: Two items, Mr. President. A communication from the Governor addressed to the Clerk. (Read. Re: LBs 215, 410, 417. See pages 1180 and 1181, Legislative Journal.)

Mr. President, a new resolution offered by Senator Beyer, LR 252. (Read. See page 1181, Legislative Journal.) That will be laid over, Mr. President.

SENATOR LAMB: Item #5, Final Reading, one hour limit. Item #4, gubernatorial appointments, Public Works Committee. Senator Kremer.

CLERK: Mr. President, the first report offered by the Public Works Committee is regarding Mr. Harold Peterson, Babette Prostok, and Merle Kingsbury. That report is on page 1076 of the Legislative Journal.

SENATOR LAMB: Senator Kremer, would you care to handle the gubernatorial appointments?

SENATOR KREMER: Thank you, Mr. Chairman. The Public Works Committee wishes to report favorably on the appointments of Mr. Guy F. (Jeff) Bush and Mr. Reed Gilmore appointed by the Governor to the Nebraska Oil and Gas Conservation Commission. The committee heard the testimony of these two men, reviewed their transcripts and report favorably and recommend to the Legislature these gubernatorial appointments be adopted by the entire Legislature. I so move.

SENATOR LAMB: The motion is to approve the gubernatorial appointments. All those in favor vote aye, those opposed

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