

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.

January 14, 1982

LB 448, 449

SENATOR CLARK: Can we have a little quiet please so the Clerk can hear the response.

CLERK: (Roll call vote continued. See pages 290 and 291, Legislative Journal.) 17 ayes, 26 nays, Mr. President.

SENATOR CLARK: Motion lost. We are back on the bill. The motion before the House is the advancement of LB 448 to E & R. Is there any discussion? If not, those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 40 ayes, 0 nays on the motion to advance the bill, Mr. President.

SENATOR CLARK: The Chair declares the bill advanced. We will take up LB 449.

CLERK: Mr. President, LB 449 offered by the Performance, Review and Audit Committee and signed by its members. (Read.) The bill was first read on January 20 of last year, referred to the Public Health and Welfare Committee for hearing. The bill was advanced to General File, Mr. President. There are committee amendments pending by the Public Health and Welfare Committee.

SENATOR CLARK: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, the Public Health and Welfare Committee adopted the same philosophy on all of the sunset bills dealing with the Bureau of Examining Boards. The amendments are the same. They delete the testing requirement for continuing education that was proposed in the sunset bill. It deletes the promulgation of sanitary rules and regulations and inspections and it deletes the requirement to file all alleged statutory violations with the Attorney General. To be consistent with the position that the Legislature took on the last issue we would again have to adopt an amendment reinstating the position as far as the Attorney General's office is concerned.

SENATOR CLARK: There is an amendment on the desk.

CLERK: Mr. President, Senator Warner would move to amend, by striking the reference to paragraph nine in the committee amendment number five and renumber the sections accordingly.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, I move adoption of the amendment to the committee amendment which reinstates in this case, Section 9 of the original bill and that was the one that required all complaints for a violation of statute would be forwarded to the Attorney General for appropriate processing and incidentally this was the board where the issue was called to our attention where an individual had used a drug prohibited specifically by law and we believed in the committee that that portion ought to be ... it automatically ought to go to the Attorney General and not be processed by the Department or the Bureau or the Board.

SENATOR CLARK: This is the same amendment you had on 448, right? The question before the House is the adoption of the amendment. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 28 ayes, 0 nays on adoption of Senator Warner's amendment.

SENATOR CLARK: The amendment is adopted. We are back on the committee amendments for the adoption of the committee amendments. Is there any discussion on the committee amendments? Senator Warner.

SENATOR WARNER: One more time, this is just to point out what the committee did on all of these. Continuing education is what is being stricken. The position of the committee on this as it was on all of them, that the individual citizen ought to be assured that the individual having the license is being keeping up on the latest techniques. Continuing education is how that is accomplished. The other provision that is being stricken, the main one, is the inspection again of facilities as opposed to the individual for cleanliness and that only on the basis when there was a formal complaint which was also true on the other, and I did not think that those were unreasonable provisions.

SENATOR CLARK: The question before the House is the adoption of the committee amendments as amended. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

January 14, 1982

LB 449, 628, 738, 768

SENATOR CLARK: Have you all voted? Have you all voted? If you're here I wish you would please vote. Record the vote.

CLERK: 25 ayes, 9 nays, Mr. President, on adoption of committee amendments.

SENATOR CLARK: The committee amendments are adopted. We are now on the bill. Senator Warner, did you want to take the bill?

SENATOR WARNER: Mr. President, I move the bill be advanced. In summary it does the same things as the basic changes that were made in the previous bill. It reinstates the board. I would move its advancement.

SENATOR CLARK: The question is the advancement of 449. All those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: The Clerk will record.

CLERK: 33 ayes, 0 nays on the motion to advance the bill, Mr. President.

SENATOR CLARK: The bill is advanced. Senator Pirsch, would you like to recess us until one-thirty, please? We have one thing to read in first.

CLERK: Mr. President, I have a unanimous consent request from Senator Wiitala to add his name to LB 738; Senator Wiitala to LB 628; Senators DeCamp, Labedz, Rumery and Kremer to LB 768. (See page 292 of the Journal.)

SENATOR CLARK: No objections, so ordered.

CLERK: And I have a Speaker's announcement moving two bills from Passed Over to General File.

SENATOR CLARK: No objection, so ordered. Senator Pirsch.

SENATOR PIRSCH: I move we recess until one-thirty.

SENATOR CLARK: You have all heard the motion. All those in favor say aye, opposed no. We are adjourned until one-thirty.

Edited by Arleen McCrory.
Arleen McCrory

6717

January 20, 1982

LB 36, 208, 212, 263, 267, 335,
353, 370, 402, 448, 449,
450, 525

LB 448 and recommend that same be placed on Select File with amendments; LB 449 Select File with amendments; LB 450 Select File with amendments; LB 263 Select File with amendments; LB 212 Select File with amendments; LB 370 Select File with amendments; LB 335 Select File with amendments; LB 353 Select File; LB 208 Select File with amendments; LB 36 Select File; LB 402 Select File; LB 525 Select File with amendments, all signed by Senator Kilgarin. (See pages 388-391 of the Legislative Journal.)

SENATOR CLARK: We are now ready for item #5, LB 267.

CLERK: Mr. President, LB 267 introduced by Senator Richard Peterson. (Read title.) The bill was read on January 16 of last year, referred to the Public Health and Welfare Committee for public hearing. The bill was advanced to General File with committee amendments attached, Mr. President.

SENATOR CLARK: Senator Wesely, do you want the committee amendments?

SENATOR WESELY: Yes, Mr. President, members of the Legislature, this bill was referred to the Public Health Committee, was heard last year and there was a concern at that time about the fact that it applied only to Dental Review Committee and the feeling was that by just limiting it to the Dental Review Committee there might be some special legislation constitutionality problems and so we thought that the concept was worthy of application across the board to all peer review committees and so the committee amendment would strike the fact that this is specifically dealing with the Dental Review Committee and make it applicable to all Nebraska peer review committees and again the concept is this in LB 267 that proceedings before a peer review committee would still take place and function as they have before. The question comes when court action is taken and some action is taken before a dentist or anybody associated with a peer review committee. They cannot then go to the committee records and use the committee action against the person or for the person for that matter who is being brought to court and being contested in court. So that you could still use materials and all that that would be brought before this peer review committee but the actual work of the committee would be kept out of the court process and decided that would be separated from the court action. That is what we are trying to do and we thought if it was applicable to dentists it ought to be applicable to others. So that is what the committee amendment does, Mr. President.

January 29, 1982

LB 448, 449

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted? We have to have one more vote or else we get a Call of the House. Record the vote.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of the Warner amendment.

SENATOR CLARK: The Warner amendment is adopted. Next amendment.

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

SENATOR CLARK: Senator Warner. The motion before the House from Senator Warner is to advance 448 to E & R. All those in favor say aye, opposed. The bill is advanced. We go to the last bill, LB 335. Senator Warner, and for what purpose?

SENATOR WARNER: (Mike off) mine on 449 and 450.

SENATOR CLARK: Okay, we will, Senator Warner, go to 450 or 449, first.

CLERK: Mr. President, LB 449, there are E & R amendments pending, Mr. President.

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 449.

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

CLERK: Mr. President, Senator Warner would move to amend the bill.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, the same motion to make it consistent with the passage of the legislation making the Department of Health a code agency. I move its adoption.

SENATOR CLARK: All those in favor of the amendment vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

January 29, 1982

LB 449, 450, 335

SENATOR CLARK: Record the vote.

CLERK: 25 ayes, 2 nays, Mr. President, on the adoption of the amendment. I have nothing further on the bill, Mr. President.

SENATOR CLARK: Senator Warner. The motion before the House is to advance 449. All those in favor say aye, opposed. The bill is advanced. LB 450.

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

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 450.

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

CLERK: Mr. President, Senator Warner would move to amend the bill.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Same motion, Mr. President, to reconcile the bill with the passage of LB 249 last year. I move its adoption.

SENATOR CLARK: All those in favor of the Warner amendment to 450 will vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 26 ayes, 0 nays on the motion to adopt Senator Warner's amendment.

SENATOR CLARK: The amendment is adopted.

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

SENATOR CLARK: Senator Kilgarin, do you wish to move the bill? 450.

SENATOR KILGARIN: I move we advance LB 450.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. The bill is advanced. LB 335.

February 4, 1982

LB 32, 69, 192, 198, 229, 231, 239,
263, 264, 270, 309, 347, 370, 403,
418, 423, 431, 448, 449, 490, 492,
511, 542, 563-66, 572, 592

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The opening prayer will be given by Pastor Glenn Frazier of the Antelope Park Church of the Brethren.

PASTOR FRAZIER: Prayer offered.

SPEAKER MARVEL: Roll call. Please record your presence. Will you please record your presence? Senator Cope and Senator Warner, would you please record your presence? Record.

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

SPEAKER MARVEL: Do you have anything to read into the record?

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 69 and find the same correctly engrossed; 192, 198, 231, 239, 263, 370, 431, 448, 449, 511 and 592 all correctly engrossed. (See pages 540 through 544 of the Legislative Journal).

Mr. President, LBs 32, 229, 264, 309, 347, 403, 418, 423, 490, 492, 542, 563, 564, 565, 566, and 572 are ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign engrossed LB 32, engrossed LB 229, engrossed LB 264, engrossed LB 309, engrossed LB 347, engrossed LB 403, engrossed LB 418, engrossed LB 423, engrossed LB 490, engrossed LB 492, engrossed LB 542, engrossed LB 563, engrossed LB 564, engrossed LB 565, engrossed LB 566, engrossed LB 572. We are down to item #4, motions, and the first motion concerns LB 270.

CLERK: Mr. President, LB 270 was last considered by the Legislature January 27th. At that time Senator Barrett offered a motion to indefinitely postpone the bill. That motion prevailed. Subsequent to that action, Senator Cullan offered a motion to reconsider the body's action to indefinitely postpone LB 270. That motion is found on page 450.

SPEAKER MARVEL: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature,

February 11, 1982

LB 449, 511, 592

SPEAKER MARVEL: The bill is declared passed with emergency clause attached. The next bill on Final Reading is 449.

CLERK: Mr. President, Senator Warner would move to return LB 449 to Select File for a specific amendment.

SPEAKER MARVEL: The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President and members of the Legislature, I move the bill be returned. The amendment that I have puts into the statute an Attorney General's....or it is in response in part to an Attorney General's Opinion, but it puts into the statute a definition for contact lens as it relates to optometry plus another very technical amendment, and I was to receive a letter from the Department of Health on the amendment which I just received this moment. So I would move to have the bill returned for the specific amendment but not acted upon today because they have one suggested change and I think would like to check that out. So I would just move that the bill be returned for the specific amendment but not be taken up.

SPEAKER MARVEL: Okay, you have heard the motion of Senator Warner. All those in favor of that motion vote aye, opposed vote no. Record the vote.

CLERK: 36 ayes, 0 nays on the motion to return the bill, Mr. President.

SPEAKER MARVEL: The Clerk will read on Final Reading LB 511.

CLERK: (Read LB 511 on Final Reading.)

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

CLERK: (Read the record vote as found on page 661 of the Legislative Journal.) 46 ayes, 0 nays, 1 excused and not voting, 2 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. The Clerk will now read LB 592.

CLERK: (Read LB 592 on Final Reading.)

February 23, 1982

LR 229
LB 230, 365, 449, 801

Journal.) The motion is to advance the bill.

SENATOR NICHOL: That is right. We are voting on to advance the bill and we are having a roll call vote.

CLERK: (Roll call continued for vote.) 24 ayes, 21 nays, Mr. President, on the motion to advance the bill.

SENATOR NICHOL: The bill fails to advance.

CLERK: Mr. President, a couple of items to read in if I may. Senator Warner would like to print amendments to 449 in the Journal. (See page 820 of the Journal.)

Your Committee on Retirement Systems reports LB 365 advanced to General File with committee amendments attached. (See pages 821 and 822 of the Legislative Journal.)

New resolution, LR 229, signed by Senator Fowler and others. (Read LR 229 as found on page 822 and 823 of the Legislative Journal.) That will be laid over, Mr. President.

SENATOR NICHOL: We will move on to LB 801, Mr. Clerk.

CLERK: Mr. President, LB 801 offered by the Business and Labor Committee and signed by its members. (Read title.) The bill was read on January 13 of this year. It was referred to Business and Labor for hearing. The bill was advanced to General File, Mr. President. There are committee amendments pending by the Business and Labor Committee.

SENATOR NICHOL: Senator Barrett, do you want to take up the committee amendments?

SENATOR BARRETT: Yes, thank you, Mr. President and members, the committee amendment to LB 801, which is an unemployment compensation bill, is simply a technical amendment. The amendment is made necessary because of a drafting error in the bill. It was a communication problem, frankly, between myself, the staff and the Department of Labor. I take full responsibility. The amendment is necessary to the integrity of the bill, and I would, therefore, move the adoption of the committee amendment.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The motion is the adoption of the committee

March 4, 1982

LB 449

CLERK: Mr. President, LB 449 was on Final Reading. On February 11 Senator Warner had made a motion to return the bill for a specific amendment. That motion prevailed, and we now have the amendment before us, Mr. President. Senator, do you want to....okay, we need to readvance the bill and then return it again.

SPEAKER MARVEL: The first motion is to readvance the bill, LB 449. All those in favor of that motion say aye. Opposed no. The motion is carried. The bill is readvanced.

CLERK: Mr. President, Senator Clark would now move to return LB 449 to Select File for a specific amendment, and I believe it is the amendment that is found on page 820 of the Legislative Journal.

SPEAKER MARVEL: The Chair recognizes Senator Clark.

SENATOR CLARK: I have the amendment that was prepared by Senator Warner, but Senator Warner is not here, he is down in the Budget Committee and asked me to take this amendment. What this does, this is the same thing and it is on your desk right now. I had it distributed on there. What it does is say what a prescription for a contact lens is and who can fit the contact lens. That is a professional, either an optometrist or an ophthalmologist, either one, or anyone that is an oculist that is in their offices or under direct supervision can do this, but they cannot do it if they are not under the direct supervision of either an optometrist or an oculist... or an ophthalmologist. That is all the amendment does. I would move to have the bill returned for the specific amendment.

SPEAKER MARVEL: The Chair recognizes Senator Carsten.

SENATOR CARSTEN: Mr. President, I would support Senator Clark's move to return the bill for the specific amendment. The problem as I understand it that is in some instances prevalent is that once a prescription is given to an individual to go fill for a contact lens even though they may be given a particular place to go, once that individual walks out the office door they may go to whomever they so desire. That individual may or may not be properly prepared to fit those lenses and in the interest of the patient and the care for those people with eye problems that this amendment is directed towards. I would support the move to return for the specific amendment.

March 4, 1982

LB 449

SPEAKER MARVEL: Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, at this point in time I would oppose the Clark amendment. I think that it is...I don't know exactly whether Senator Clark's amendment is a good one or whether it is not at this point in time. However, I do know that the Public Health and Welfare Committee is looking at licensure in a whole number of areas this year and I think the real answer to the problem as far as opticians are concerned is that there isn't a licensure of opticians at all, and opticians should be regulated. They should have to demonstrate that they have some capabilities and some qualifications before they are allowed to simply set up their shops. And I don't believe that at this point in time we should amend LB 449 to take care of the problem. I think the approach would be to come in and establish licensure for opticians and establish the criterion standards at that point in time. The other point I would make is that there are individuals who do receive contact lenses whether it be under...from optometrists or ophthalmologists, may obtain the contacts from opticians but the primary eye care is still the ophthalmologist or the optometrist, and if there are any problems they would go back to those individuals and not back to the optician. So I guess I don't see the major health care issue that other peoples have seen here, but, secondly, if we are going to regulate opticians I think it should be through a licensure bill specifically regulating opticians and not as an amendment to LB 449. And so I would at this point in time urge you to reject the Clark amendment and we could handle this fight between the three Os or whatever we want to call it when we set up the standards for regulating opticians in the next session of the Legislature.

SPEAKER MARVEL: The Chair recognizes Senator Remmers.

SENATOR REMMERS: Mr. Chairman and members of the Legislature, I support the amendment. In regard to the delaying for another year for a licensure bill, I think this is probably...the licensure bill is probably necessary but I think in the meanwhile we have no guarantee what will come out of the next session of the Legislature, whether that will happen next year or two or three years down the road. I think this is an area that needs to be tightened up. I think that consumers do not understand the technical problems involved in their contact lenses and that type of thing, and I believe that we would all agree that a qualified person should supervise this work, and I would encourage the adoption of the amendment.

SPEAKER MARVEL: Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman, I would rise to oppose the Clark amendment and the reason why I do is that I have had correspondence on both sides of this issue from people in Grand Island. I think that all of them feel that there is something that needs to be done, but my own personal opinion is that we ought to have a hearing before the Health Committee before we put into legislation something that many of us do not fully understand. And I, for one, am not prepared to vote on something that was...where we start to put in legislation where we haven't had the opportunity of a public hearing for people to appear and to the things that Senator Cullan is suggesting. It just seems to me that it is wrong for us to legislate in this area without that kind of a hearing. And I know that I have people on both sides of the question. I would like to hear the debate, at least know of the debate, and feel that one of our committees in this Legislature heard the debate and are making a recommendation to us. I think we all have got to recognize that everybody has an iron in the fire. Everyone of them wants the thing the way they want it but it would good I think for us to have a hearing and see what our Health Committee feels about it.

SPEAKER MARVEL: The Chair recognizes Senator Clark for purposes of closing.

SENATOR CLARK: Mr. Chairman and members, it is not my amendment. This is Senator Warner's amendment from the Performance and Review Committee. I have got a list of twenty reasons right here from a doctor as to what would happen with a contact lens, what could happen, the reason that they have to have a doctor present. He does not have to be fitting them. An optician can do the fitting if he is in his office under his supervision. But if any of these things happen, I am sure that any of you that have contact lenses would want someone there to know whether there is redness, or dryness, or superficial abrasions or whatever the problem is, to have the doctor there to look at it to find out that is true or not true. That is really all the amendment does is to tell what it is, that it has to be under the direct supervision. I don't think you should ever wait to take care of eye health care. I think the best we can do is give the people all the protection in the world we can give them. I had nothing but fighting from the ophthalmologists when I put the eye drop bill through, and all the horrible things they said was going to happen, I want to tell you has never

March 4, 1982

LB 449

happened. The people are getting better eye care today because of it and the ophthalmologists were the ones that were fighting the bill. Now the things that they purported at that time were not true, however, the ophthalmologists and the optometrists are both together on this knowing that they have to have this type of thing and someone is not fitting contact lenses. I think that in Hastings at the present time there is a doctor there, an ophthalmologist who says that he is going to allow a hearing specialist to put in contact lenses, if you can believe that. A hearing specialist. I don't know what in the world a man that is fitting hearing aids would have to do with contact lenses, but that is the type of things that are happening. Right now they can take a prescription and go across town someplace, get an oculist to fit these and he is not qualified to fit them. He is not a doctor. He merely manufactures the lens, and certainly I don't think you would want that. And I am just taking this for Senator Warner from the Performance and Review Committee to return this bill for this specific amendment. And I would certainly urge you to do that. I don't think you would want to wait a year or two years or any other time, and certainly I would think you would take the advice of the professional people doing the work. If you had contact lenses, I think you would want the best person in the world to fit them, let alone a licensed person, at least, to fit them. Oculists are not licensed people to fit contact lenses. That is what it is. So I would certainly urge you to return the bill. Thank you.

SPEAKER MARVEL: The motion shall be to return the bill for a specific amendment. The bill is LB 449. All those in favor of that motion...all in favor of that motion vote aye, opposed vote no. Have you all voted? Call of the House has been requested. Shall the House go under Call? All those in favor of that motion vote aye, opposed vote no. Record.

CLERK: 17 ayes, 0 nays, Mr. President, to go under Call.

SPEAKER MARVEL: The House is under Call. All legislators please return to your seats, record your presence, and unauthorized personnel please leave the floor. Senator Kilgarin, will you please record your presence? Senator Labedz, Senator Pirsch. They are excused. Okay. While we are waiting for...in the south balcony as guests of Senator Haberman are Greg and Priscilla Harms and Scott, Pat, Cherrie, Sarah, all from Imperial. Would you please stand so we may recognize you? And from Norfolk, Sandy Effle

March 4, 1982

LR 240

LB 449, 568, 662, 678,
637

as guest of Mr. and Mrs. Richard Peterson. Where are you located? There you are. Okay. The Legislature is under Call. The Clerk is authorized to take call in votes.

CLERK: Senator Dworak voting yes. Senator Marsh voting no. Senator Fowler voting yes. Senator Schmit voting...continues to vote no. Senator Warner voting yes. Senator Lowell Johnson voting yes. Senator Cope voting yes. Senator Cullan, you still are. You are consistent, Senator. Senator Stoney voting...Senator... Senator Stoney, I'm sorry, no. Senator Newell voting no. Senator Sieck, you did vote, yes, Senator. Senator Chambers voting no. Roll call vote has been requested. All legislators please return to your seats so we may proceed with the roll call. Okay.

CLERK: (Read the roll call vote as found on page 992 of the Legislative Journal.) 24 ayes, 17 nays, Mr. President, on the motion to return the bill.

SPEAKER MARVEL: It needs 25, right. The motion lost. The Clerk has got a couple of items to read in.

CLERK: Mr. President, Senator Nichol would like to print some amendments to LB 568 in the Journal; Mr. President, Senator Hefner would like to print amendments to LB 678 in the Legislative Journal.

Mr. President, Business and Labor offers a report on gubernatorial confirmation hearing. That is signed by Senator Barrett as Chair.

Mr. President, I have a new resolution, LR 240 (read). (See pages 996 and 997, Legislative Journal.) That will be laid over, Mr. President.

Mr. President, in addition to that, Senator DeCamp would like to print in the Journal a communication he received from Mr. Leuenberger.

SPEAKER MARVEL: Hearing no objections, so ordered.

CLERK: Mr. President, Senator Hefner would like to add his name as cosponsor to LB 637.

SPEAKER MARVEL: Hearing no objections, so ordered. Senator Kilgarin.

CLERK: Mr. President, I have no amendments on LB 662.

March 4, 1982

LB 634, 827, 449

CLERK: 25 ayes, 16 nays, Mr. President.

SENATOR CLARK: The bill is advanced. We have one more bill. It has no amendments on it. LB 827. We will take that up now.

CLERK: I have nothing on the bill, Senator.

SENATOR KILGARIN: Thank you, Mr. Speaker. I move we advance LB 827.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. All those in favor vote aye, opposed vote no. Record the vote. You usually do that on Friday afternoons.

CLERK: 29 ayes, 1 nay, Mr. President.

SENATOR CLARK: The bill is advanced. Senator Duda, would you care to adjourn us until tomorrow morning at nine o'clock after he reads something in here? He also wants to announce what we are going to do tomorrow.

CLERK: Mr. President, Senator Wesely would move to reconsider the vote on the motion to return LB 449 to Select File for specific amendment.

Mr. President, Senator Wesely offers a Rules Committee report. Both will be laid over.

SENATOR CLARK: The Clerk will tell you what the agenda is tomorrow morning.

CLERK: Mr. President, as I understand it, the Speaker's agenda calls for Final Reading for an hour, from about nine to ten o'clock tomorrow morning, followed by the consent calendar. Copies have been distributed. They are available through my office if you want to see them. We will have hopefully a revised consent calendar for you showing the bills that have been struck pursuant to the three member rule. So if you need copies of that we will have that available for you probably first thing in the morning.

SENATOR CLARK: Senator Duda.

SENATOR DUDA: Mr. President, I move that we adjourn until nine o'clock tomorrow morning.

SENATOR CLARK: You heard the motion, all those in favor say aye, opposed. We are adjourned until nine o'clock tomorrow morning in spite of Senator Chambers.

March 9, 1982

LB 652, 449, 637, 749

What is being done here today and what are the principles? I thought the rule of the Legislature declares that if there has not been sufficient debate on an issue, the question being called would be out of order but if the rules are to be thrown by the boards, at least I've put my comment into the record. I think it is a shabby move. I think it is indicative of a lot of things that happened when being done by people who call themselves Christians. They talk all of the highfalutin, high sounding things until they get tired and it is no longer in their interests to talk those kinds of things. So I am expressing as strongly as I can without raising my voice, an objection to this tactic if the Chair does not rule the motion out of order.

SENATOR NICHOL: Because the debate has been orderly, you've been extremely good today, I think what we will do, we will adjourn and carry this on after lunch and, Senator Hoagland, did you rise for a purpose?

SENATOR HOAGLAND: I was going to suggest, Mr. President, that if the body wants to vote on advancement before lunch, I will, if that is the general sentiment and I think maybe it is, I will withdraw the motion to kill and we can take a vote on whether to advance the bill before lunch.

SENATOR NICHOL: Is there an objection to Senator Hoagland withdrawing his amendment? Senator Chambers. Okay, there is an objection. We are in the middle of a motion to cease debate so, Mr. Clerk, if you would record then we will go on from there.

CLERK: 15 ayes and 7 nays to cease debate, Mr. President.

SENATOR NICHOL: The Clerk has something to read into the record and then Senator Wesely will adjourn us until after lunch, recess.

CLERK: Mr. President, your committee on Business and Labor whose chairman is Senator Barrett reports LB 749 advanced to General File with committee amendments attached and LB 637 General File with committee amendments attached, signed by Senator Barrett. Senator Vickers would like to print amendments to LB 449 in the Legislative Journal. (See pages 1064-1068 of the Legislative Journal.)

SENATOR NICHOL: Senator Wesely.

SENATOR WESELY: Mr. President, I move that we recess until two o'clock this afternoon.

March 16, 1981

LB 449

SENATOR LAMB: LB 717 passes with the emergency clause attached. Will the Clerk please read LB 449.

CLERK: Mr. President, I have a motion on the desk.

SENATOR LAMB: Read the motion.

CLERK: Senator Vickers would move to return the bill to Select File for a specific amendment, and the Vickers amendment is found on page 1066 of the Legislative Journal.

SENATOR LAMB: Senator Vickers.

SENATOR VICKERS: Mr. President and members, the amendment that is on page 1066 is an amendment very similar to the amendment offered by Senator Clark a few weeks ago, with one exception, there is a change in the last line as far as the expiration date is concerned. It was my belief that the expiration date should be under the control of the person issuing the prescription. If the prescription was kept under the control of that person, then there was no need for an expiration date. If, on the other hand, the prescription was given to the patient or given to a third person, then an expiration date should be included, and that is the main difference in this amendment and the one of a few days ago. The other questions relating to this amendment I am sure many of you have thought about and understand and I just would ask for the body's assistance in moving LB 449 back to Select File for this specific amendment and then we can adopt the amendment at that time. Thank you, Mr. President.

SENATOR LAMB: The Chair recognizes Senator DeCamp. Senator Hoagland.

SENATOR HOAGLAND: Mr. President and colleagues, I would like to rise in opposition to Senator Vickers' amendment. If my understanding of this amendment is correct, and perhaps Senator Vickers or Senator Clark or other proponents of this amendment can correct me if I am wrong, this would extend a form of regulation to opticians in the State of Nebraska which in some cases would deprive opticians of up to 40 or 50 percent of their current business in fitting contact lenses. I have a particularly competent optician whose offices are in my legislative district, a gentleman named Don Torrison who is in his early sixties, was an expert witness for me in a trial. I know that Mr. Torrison is very competent. Ever since

contact lenses have been in existence why Mr. Torrison has been fitting them as an optician. I have heard from him and other opticians who understandably object strongly to our passing or considering at the final stage of debate in this Legislature on this particular piece of legislation an amendment that would deprive them of 30 or 40 percent of the business that constitutes their livelihood. Now without reaching the merits of whether or not opticians should be able to fit contact lenses, I think at the very least we should have a committee hearing on this particular issue. The opticians should have an opportunity to come down along with the ophthalmologists, the physicians who I understand support the position of the opticians on this issue, and be able to make their case before the Public Health and Welfare Committee to rebut the case that I know a lot of optometrists have been making to us privately in our offices over the last three weeks. I don't think it is good practice on Final Reading to ask this Legislature to impose a substantive change of this nature which, as I indicate, it is my impression would take business away from a whole category of professionals in the State of Nebraska that have been fitting and in other respects treating patients with contact lenses and that have been doing that for a great number of years. I would be interested in hearing from the proponents of this measure as to whether or not this would not in effect do that and whether or not it is not appropriate in those circumstances to have a public hearing before we consider a change of this magnitude as I indicated again on Final Reading. So until those concerns of mine are clarified, I would oppose this amendment and would ask my colleagues to do the same. Thank you, Mr. President.

SENATOR LAMB: Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, I would also rise to oppose any amendments to LB 449 at this point in time. I would like to remind the Legislature that this bill is a sunset proposal and that also the Board of Optometry must if it is to stay in existence, this bill must pass, it must pass with 33 votes. I wonder how many of us are going to be willing to support changes in the scope of the practice of these three professions made in a sunset bill, and I think there is some risk inherent in adoption of this amendment to the optometrists that the sunset bill might not be enacted with a sufficient number of votes to have the emergency clause on it and that could be a problem. I think that it is very unwise to try major amendments on

March 16, 1982

LB 449

LB 449 at this point in time. The second point I would make is that my office contacted Dr. Smith, the Director of the Department of Health, and asked him about his opinion on this issue. He concurred that the best approach would be to proceed with an interim study and develop legislation, specific legislation to deal with the conflict in this area of practice and enact a sunset bill on Final Reading. So we will be proceeding with a study on all the sunset bills and also with the study of licensing opticians in the State of Nebraska. The third point relates to the problem with the Attorney General's Opinion that has been alluded to earlier. As you know, the initial Attorney General's Opinion came out some 14 years ago and the opinion in 1981 merely reaffirmed that position. In the entire period of time the Department of Health has done nothing about this issue and so I don't see that if nothing has been done for 14 years, I don't see that there is any need to make changes at this late date. I think it is unwise of us to make major amendments in these areas on Final Reading on a sunset bill. If the optometrists want to change the scope of practice of other professions, I think it is appropriate that that be done in a different legislation and not in a sunset bill. I urge you to reject the Vickers amendment and to enact LB 449 this morning on Final Reading.

SENATOR LAMB: Senator DeCamp. The question has been called for. Those in support vote aye. I see five hands. Now you can vote. Voting on ceasing debate. Record.

CLERK: 30 ayes, 9 nays, to cease debate, Mr. President.

SENATOR LAMB: Debate has ceased. Senators Vickers to close. The motion is to return the bill to Select File for a specific amendment.

SENATOR VICKERS: Mr. President and members, the comments by Senator Hoagland and Senator Cullan I don't think are quite appropriate to exactly what we are doing here today. It seems to me that it is very simple. We are trying to clarify the law as the Attorney General's office has assumed that it was since 1968 and reassumed it again last year, that it is as a matter of fact illegal for opticians to fit and adapt contact lenses. Now, the question as to whether or not that is proper, and if the Public Health Committee cares to have an interim study on that during the summer and legislation dealing with that issue next year, that is a separate question. If they care to do that, that is fine, and it can certainly effect legislation next year and if this body chooses to

March 16, 1982

LB 449

adopt it that would look in that direction. But the issue right now today is whether or not individuals with no formal training, no licensing, should be allowed to fit and adapt contact lenses that set directly on the eyeball. It is a different thing completely than fitting eyeglasses. We all know it. So it seems to me that the adoption of this amendment is not a major change. It is simply a clarification of what we have assumed was there all the time and I urge for the return of this bill for the adoption of this amendment, Mr. President.

SENATOR LAMB: The motion is to return the bill to Select File for a specific amendment. Those in support vote aye. Those opposed vote nay.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Two excused, Senator Vickers. Record. Record vote has been called for.

CLERK: (Read the record vote as found on page 1186 of the Legislative Journal.) 22 ayes, 25 nays, Mr. President, 2 excused and not voting.

SENATOR LAMB: The motion fails. Please read the bill.

CLERK: (Read LB 449 on Final Reading.)

SENATOR LAMB: All provisions of law relative to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached? It takes 33 votes. All those in support vote aye. Those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Record.

CLERK: (Read the record vote as found on page 1187 of the Legislative Journal.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President.

SENATOR LAMB: LB 449 passes on Final Reading with the emergency clause attached. The next bill on Final Reading is LB 547. Please read the bill.

CLERK: Mr. President, I have a motion on the desk.

SENATOR LAMB: Read the motion.

March 18, 1982

LR 243
LB 202, 267, 449, 579, 606, 628, 630,
654, 662, 692, 702-703, 717-719,
728-729, 778, 801, 829, 852

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by LeRoy Hofker, Treasurer of Gideons International, the bible distribution society, from Lincoln, Nebraska.

LeROY HOFKER: (Prayer offered).

PRESIDENT: Roll call. Have you all registered your presence so we can get underway? Senators Wagner and Fowler, if you would go over there to the desk and push that button, we could get underway. Senator Higgins, if you will push that button, I will show you are here. Okay, have you all registered your presence? 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: I have no corrections this morning, Mr. President.

PRESIDENT: The Journal will stand as published. Any messages, reports or announcements?

CLERK: Mr. President, LBs 267, 702, 717, 449, 579, 662, 718, 719, 728, 729, 778, 606, 630, 801, 703, 692, 654, and 829 are ready for your signature; as is LR 243.

PRESIDENT: While the Legislature is in session and capable of doing business, I propose to sign and I do sign LB 267, 702, 449, 579, 662, 718, 719, 728, 729, 778, 606, 630, 654, 692, 703, 801, and 829.

CLERK: Mr. President, Senator Wagner would like to print amendments to LB...I am sorry, Senator Wesely, to print amendments to LB 852.

And Senator Chambers would move to reconsider the vote to indefinitely postpone LB 202. That will be laid over.

PRESIDENT: Okay, so ordered. We are ready then for Final Reading. The Sergeant at Arms will secure the Chamber, all members will return to your desks, and all other people will leave the floor of the Legislature. We are ready for Final Reading. All right, Mr. Clerk, I guess we are all in place so let's proceed with the reading of LR 628 on Final Reading.

CLERK: (Reading of LB 628 on Final Reading.)

LB 69, 267, 359, 435, 449, 579, 606, 628,
630, 654, 662, 692, 702, 703, 717, 718,
719, 722, 728, 729, 778, 782, 801, 829

March 22, 1982

PRESIDENT: The amendment is adopted. We are going to stop now and recess until 1:30 and then we will come right back onto this bill. Senator Nichol, would you like to recess us until 1:30. We have one communication to read in.

CLERK: Mr. President, engrossed LBs 267, 359, 435, 449, 579, 606, 628, 630, 654, 662, 692, 702, 703, 717, 718, 719, 722, 728, 729, 778, 782, 801, 829 and 69 were signed by the Governor on March 19 and delivered to the Secretary of State.

SENATOR NICHOL: Mr. Chairman, I move we recess until 1:30 this afternoon.

SENATOR CLARK: You have heard the motion. All those in favor say aye. Opposed. We are recessed until 1:30.

Edited by:

Marilyn Zank
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