

February 10, 1982

LB 410

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