

April 19, 1978

LB 44, 956

PRESIDENT: Record your vote. Have you all voted?
Record.

CLERK: 21 ayes, 18 nays, Mr. President.

PRESIDENT: Motion fails. Do you have anything else on
this bill?

CLERK: Nothing further on this bill, Mr. President.
Mr. President, Senator Koch moves to override the Governor's
veto of LB--moves that LB 44 become law notwithstanding the
objections of the Governor.

PRESIDENT: The Chair recognizes Senator Koch.

SENATOR KOCH: Mr. President, members of the body, the
Governor in his veto message and I quote: "LB 44 is a
brazen attempt to violate separation of the powers clause
of the constitution of the State of Nebraska." Secondly
he states and I quote: "It is blatantly unconstitutional."
LB 44 is not now nor ever was an attempt to violate the
separation of powers. The purpose of LB 44 to enlighten
you is to give that branch of government which makes laws
and creates agencies, the power to carry out those laws and
the authority to assure the people of the State of Nebraska
that those laws conferring power in agencies are carried out
as we intend. The several state agencies are grand rule
making power for a distinct purpose namely to carry out in
detail the intent of the Legislatures expressed in law.
Rules of agencies have the force and effect of law and
exert the same impact upon the citizens of the state as do
statutes. LB 44 is a law to protect citizens from abuse
by the state and those agencies which we create. Wisconsin
has the most farreaching law of any state in the union as
it relates to legislative oversight of agency rules. The
only court challenge on this legislative power in Wisconsin
did not overthrow that power nor have there been subsequent
court challenges and the legislative committee still stands
in Wisconsin to exercise the powers intended by the Legisla-
ture. I submit to you that LB 44 is not blatantly unconsti-
tutional. It is subject to attack unconstitutionality grounds
to be sure but it is not blatantly unconstitutional. The
Attorney General's opinion of 22277 does not say LB 44 is
unconstitutional but rather points out distinctly that there
is a potential issue that might relate to the constitution.
Only a court decree can render a law unconstitutional and
because of the experience of Wisconsin, I believe LB 44 will
withstand a constitutional challenge. At least we can allow
Senator Murphy's law to come into full effect if we so desire
and we did pass that law this session. I ask for this body
to override the Governor's veto on LB 44.

PRESIDENT: Senator Newell calls for the previous question. Are
there five seconds? I see five seconds. The question is,
shall debate now cease. Record your vote. Have you voted?
Have you all voted on...? The question is, shall debate
cease on the override of 44. Record.

CLERK: 27 ayes, 6 nays to cease debate, Mr. President.

PRESIDENT: All right. Senator Koch, for what....?

SENATOR KOCH: Mr. President, I ask for the House to go
under Call and be prepared for a roll call vote.

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