

April 6, 1981

LB 241

of that sign. It is taking a personal property. This bill would say, "Cities and counties, you cannot take somebody's property without compensating for it", and you have all these other options that you could use that would prevent you from having to do that in the first place. Now let's go through a couple of the other items that have come up. We have talked about the changes this law would bring to the state. I passed out for you some information about what other states have done. Quite clearly the effort to allow for just compensation for the taking of personal property, and more specifically the taking of someone's signs, has become very much an issue in other states and the handout I gave you shows that, that frequently throughout the country now states have adopted legislation just like LB 241. The federal policy is exactly like 241. The State Highway Department uses the policy exactly like LB 241. This is a policy decision that is now becoming much more prevalent across the country and it is only a matter of time, I think, until Nebraska takes that step and I would prefer that that step be taken this year with LB 241. I think that it was brought up earlier that this is an exception for signs and that this makes a difference on behalf of signs and, in fact, that is wrong. The reason we are bringing this bill to the Legislature is that signs have been singled out in Lincoln, particularly, but other cities can do the same thing. Although they have the option of amortizing other businesses and other nonconforming zoning situations, they really don't except for in the case of signs. The exception is now being placed in by the present ordinance we have in the City of Lincoln. This would bring signs in the same situation as all other nonconforming uses. It would bring them to the same situation as other nonconforming uses instead of singling them out to take away their personal property. So this is an attempt to try and make more fairness and more equity in the situation, not to provide a special exemption or a special help to the signs. So that is a misconception. I hope you realize that that is not the case at all. I think it should be clear that this whole situation is one in which I think is unconstitutional, the present law that we have. A number of states have declared legislation such as on the books right now that LB 241 would amend as unconstitutional. In New Mexico they said, and I quote, "The public good the city sought to protect by this ordinance is questionable while the loss to the individual is clear. The failure of the city to pay for the signs or to provide a grandfather clause makes the ordinance unconstitutional", and that is just one court case. You can find numerous court cases which have shown that the right of the police powers of the cities to take somebody's property and not compensate them for it is