

May 1, 1981

LB 192

SENATOR VICKERS: Mr. President and members, I rise to support the amendment. Let me outline for you a little bit of what I think could happen under 192. Under 192 because of the way the bill is drafted, it says that a corporation with less than 50 persons under the employment and one that has gross receipts for a 12 month period preceding the filing of the action of under \$2 million. Now out in Lincoln County, as most of you are aware, Prudential Insurance Company has purchased quite a substantial holding and are developing it for irrigation. Now this corporation that actually bought the land is a subsidiary of Prudential Insurance Company, but it is a separate Nebraska corporation, they would have probably less than 50 and I am just using them as an example for this idea that I have got. They are using...they would have probably less than 50 persons. It is possible that they would have less than \$2 million worth of gross receipts if they had 10,000 acres and corn was 100 bushel to the acre and \$3 a bushel and they gave half of it, and so forth. Now, if the Natural Resources District imposed some sort of a regulation on the use of water or fertilizer or something in that area and they decided they wanted to fight it, then under this provision of this law if they fought it and put an injunction on it, could drag it out for years in the courts, and if they should happen to win, we would paying their attorney fees. Now I don't think that is exactly the intention of the introducers. I agree with the assumption that the introducers introduced this bill with the Mom and Pop grocery store or the individual farmer or the individual business man that is harassed by a government agency, an agency of the State of Nebraska, whatever agency, if they are successful in defending their case, the state should pay their attorney fees. I think that is a good conclusion. I think it should be that way. But I agree that it should be discretionary so that it would allow the judges some discretion in a case that I just mentioned to you that...and I think this could happen. I can foresee it happening that if the individuals that are bringing the case about or fighting it in the courts obviously could afford it and have plenty of money behind them and maybe even doing it just for an opportunity to drag it out, put an injunction on it to keep it from happening, then it seems to me that making it discretionary and allowing the judges some discretion in this area would, in fact, reimburse the small individual that the intention of the bill or the introducers of the bill is to try to get to, and I urge the body's adoption of this amendment.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman and members of the Legislature,