

April 9, 1990

LB 1141
LR 239

Conway's amendment. I think it is an improvement. I think the community colleges need to be included in any type of change like this and that they should be properly included in this particular provision. Assuming this provision gets adopted, then we will have before us two proposed constitutional amendments, the first one being LR 239CA, and the second one being this LB 1141, in that form. I would like to speak to the conflict of passing both of those proposed constitutional amendments and submitting it to a vote of the people because our State Constitution does not state exactly what would happen if both constitutional amendments were voted upon and adopted by the people of Nebraska, and there could be all kinds of legal issues raised by such a conflicting situation. The statement has been made that if both of them are...both of these constitutional amendments are passed out of our Legislature and put on the ballot, then, obviously, the one that got the most votes, most votes in the election and the one that got the majority of the votes by the people of our state would therefore control and we would disregard the other amendment. That sounds simple. That sounds straightforward. That sounds reasonable, but our Constitution does not say that that would happen in that manner. The only thing our Constitution says is in Article III, Section 2, that if you have an initiative by the people of the state and if the people of the state, through the initiative process bring two conflicting constitutional amendments, then the constitutional amendment that gets the greater support would be the one that would be adopted, and the second one would be disregarded, and anything in conflict with the first one would not apply. The Constitution does not say, however, what happens if these constitutional amendments are put on the ballot, not by the people, but by the Legislature itself. By implication, if you have a process here which says in two conflicting amendments submitted by the people, the one would apply and the other wouldn't, and you don't have anything, any provision which takes care of the case when the Legislature advances two constitutional amendments, by implication, and I would argue then if that occurs, then you would have to reject both of them because you could mount the argument that if the people enacted LR 239CA and it conflicts with LB 1141, you'd say, hey, they must have not taken LB 1141 seriously because they passed LR 239, it conflicts with it, therefore, you throw out LB 1141. Vice versa, you could say if the people voted on LB 1141 and they rejected LR 239CA, they obviously knew that it conflicted, therefore, you can't put LR 239CA into the Constitution as well. It opens up a whole mess of constitutional arguments and it sets