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LB 1063  
LR 219

Senator Moore did in the past was wrong. Now that would be a retrospective piece of legislation. That would either be a bill of attainder or an ex post facto law trying to make it legal what he did at the time was okay but later saying we don't want to do that. That's the danger and those are prohibited not only in our State Constitution but in our United States Constitution. What we're doing here though is saying that we have a piece of legislation that we want to make that become effective upon this passage of the constitutional amendment so the people, when they vote, know that this is the piece of legislation that will be in effect and, in fact, it will go and become operative. There are some safeguards. One of the safeguards is that people know that the activity that we're legislating in LB 1063 is going to happen. I mean, they're on notice of what is going to occur because of its operative dates and because of this discussion that we have had here in the Legislature. The constitutional amendment then will come in and, because the constitutional amendment will control over our other statutes, the constitutional amendment will allow that law, in effect, to be ratified. Now we still could come in in special session and reenact all these things. That might well be overkill, but, at this point, it certainly, I think, is the clear intention of most of the Legislature that 1063 or anything that we pass here in regards to personal property tax, this constitutional amendment will relate back and become retroactive, thus ratifying those actions. With that, again, I would urge the adoption of the amendment.

SPEAKER BAACK: Thank you, Senator Kristensen. Senator Hall.

SENATOR HALL: Thank you, Mr. President, and members, again, I rise to oppose the amendment to the amendment and I guess I'll have to hand out my memo. I didn't get it copied yet so I'll have to because this is the only one I have. But I will do that. It lists...specific to this question, it says if the Legislature enacts a law which is unconstitutional, will a subsequent amendment to the Constitution, which would change the violated provision of the Constitution, have the effect of validating the otherwise unconstitutional law? The answer in Nebraska to the question is no. And the memo goes through and lists the case law, that's good case law it hasn't been overturned. There hasn't been another provision that has said otherwise and it deals with some of those same cases that Senator Withem mentioned in his memo. One goes back to 1899, Finders v. Bottle. and it says it held that an act that the