

March 10, 1992

LB 1063
LR 219

to oppose the amendment by Senator Kristensen to the Lindsay amendment. Clearly, the specific issue in the way we treat personal property is two different standards. There are personal property that we are going to tax that is depreciated and personal property that is not depreciated that we are not going to tax. We have used the double standard approach throughout the discussion of this proposal. What Senator Lindsay does, although I don't like the date because the problem with December 31 is that it leaves an opportunity for the Legislature to act prior to December 31, if it should pass the May or the November ballots, on any changes, and it is very likely that if the amendment is adopted, that the Legislat...and it is probably very likely if the amendment isn't adopted, the Legislature will be back in session this year, but if it is not adopted, it is a moot issue. If it is adopted, the opportunity arises, if it should happen in May, that there would be an opportunity between May and December to make changes that weren't in effect with regard to the change that was made in the Constitution. So I put up an amendment, and it was after Senator Kristensen's, to change the date to a May 1 date, but I think clearly that the purpose is to show that there is a specific difference in how things are treated. I guess if you don't have a date in there, and say that at this point in time that there is a change, then the constitutional amendment, itself, is in conflict with itself, if it is going to read that so long as the classifications are exempted, exemptions enacted as made in conformance with Article III, Section 18 of this Constitution. You know, it's...I guess I would argue that it is predicated on the belief, which I don't believe, that you can, and I clearly don't think the case law shows that you can enact a bill that is unconstitutional, and then have a constitutional amendment passed and argue that the bill is retroactive to the passage of the constitutional amendment, which is, in itself, retroactive to January 1 of that same year. The...clearly, it is going to be in conflict with itself. The constitutional amendment, which uses a date specific, that being January 1 when it takes effect, it says these provisions in the Constitution are to be determined as effective January 1 of 1992, and then you pass a bill that becomes effective, if it has the emergency clause, upon the signature of the Governor prior to the passage of the constitutional amendment, those two don't conform. They are...that, in itself, will be the first lawsuit that is filed on this issue, and it, unless there is a departure from the case law in Nebraska, it is going to be followed down the line, and this...that, in itself, will rule the LB 1063 unconstitutional,

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