

March 11, 1992

LB 1063
LR 219

history. I urge you to support this amendment.

PRESIDENT MOUL: Thank you, Senator Morrissey. Senator Hall.

SENATOR HALL: Thank you, Madam President and members. Would Senator Warner respond to a question?

PRESIDENT MOUL: Senator Warner.

SENATOR HALL: Senator Warner, is LB 1063 constitutional today?

SENATOR WARNER: Nope.

SENATOR HALL: Thank you. Madam President and members, the entire purpose behind this constitutional amendment is in order to allow LB 1063 to be passed into law and we're even doing that retroactively which I've pointed out a couple different times on the floor, quoted the cases that say that the provisions of passing a bill while it's unconstitutional do not withstand the test in Nebraska. And this case, the Legislature, and a few of the cases it was an issue of the Legislature did not know, there was not a question of whether or not it was constitutional, but what it turned out to be was an unconstitutional provision. Clearly in this case the specific purpose behind the constitutional amendment is to allow the passage of the bill, but we passed the bill prior to having the Constitution allow for its passage. In other words, it is illegal. At the point in time LB 1063 becomes law, it is illegal, it is unconstitutional. It is unconstitutional on its face and that's what we are about here. We are about the process in LR 219, I mean, you can talk about the taxing theories and everything else but we're about the process of passing an unconstitutional bill and in order to allow for that, hopefully, we are going to pass a constitutional amendment and ask the people to vote on it and then make it effective January 1 of this year. If LB 1063 passes and it more than likely will, becomes law, it's law until it is questioned. It's law until someone argues that it's unconstitutional and a court rules that it is unconstitutional. What happens if the CA fails, not here on the floor, but at the ballot box? You have put in place an unconstitutional statute as it relates to personal property knowing full well that it is unconstitutional, right in the face of a Supreme Court decision and testimony by the introducer of the proposals on the floor here today to its unconstitutionality. That's what we are about here today, ladies and gentlemen, and I don't think that there