

having been complied with, the question is, shall LB 37A pass? All those in favor vote aye, all those opposed vote nay. Please record.

CLERK: (Read record vote. See pages 2633-34 of the Legislative Journal.) 42 ayes, 1 nay, 4 present and not voting, 2 excused and not voting.

PRESIDENT ROBAK: LB 37A passes. LB 136.

CLERK: Senator Warner would move to return the bill for a specific amendment.

PRESIDENT ROBAK: The Chair recognizes Senator Warner to open on his motion.

SENATOR WARNER: Madam President, members of the Legislature, obviously this is a motion to return for purposes of commenting on the bill and then I will withdraw it unless there's other lights at which to react to what I say. As you will recall, LB 136 is a bill that deals with the state's ability to collect use tax, sales tax on goods, purchases out of state through catalog sales which, under existing law, in fact since 1967, has been subject to use tax but is difficult to collect simply because you do not know the purchasers of such goods. It may have been suggested to you by those who oppose the bill that it's unconstitutional. You will recall that Senator Jensen requested an opinion from the Attorney General in which the Attorney General, including other legal opinions that we have, indicated there is no constitutional issue certainly as far as due process is concerned. The other dealing with the commerce clause simply is untested at most. It's not suspect. But beyond that, it's the opinion of a number of people which I would share that the U.S. Supreme Court, if faced with the issue as presented in LB 136, would hold it to be constitutional. I think it's unlikely that the U.S. Supreme Court will retreat from the bill, it has so much in...or that they did retreat so much in the bill it has the opinion that the... in the Quill case, that I think it's unlikely they would reverse their course again. In other words, I think there's very good reason to believe that substan...that it is not constitutionally suspect but could very well be held up. LB 136 does not affect any Nebraska company. There's no requirement of any Nebraska company to pay or collect a sales tax beyond what they currently collect, which is from Nebraska residences. One of the