

March 6, 1992

LB 1063  
LR 219

remainder of my time.

SPEAKER BAACK: Senator Landis.

SENATOR LANDIS: Thank you. I want to finish the line of argument I was on, and I want to address one more brief discussion I'm sure that we'll want to continue on the subject. I think you can look on the face of this and think that it allows you the two options of either taxing personal property, and some form of personal property, at our discretion, or not taxing personal property. I think upon close examination it leaves us only the prospect of not taxing personal property, because the ways in which we might choose to tax personal property would run afoul of the court. And the way that it would run afoul is that there would be distinctions between what we could do, or distinctions that we would choose, and those distinctions would not meet the standard of the special legislation clause of the Constitution. And to make that exception you have to start making this less simple, and that's the...the virtue here is the simplicity, the difficulty is that in its simplicity it has not captured, I think, a line of thought available to the court. And I think the court has been very activist in its interpretation of tax policy, and is prepared to tell us what good tax policy is at the drop of a hat, or a lawsuit. The second point that I want to make here is that we have gone to great lengths to tell the State of Nebraska citizens what system we think might survive the Legislature...

SPEAKER BAACK: One minute.

SENATOR LANDIS: ...they might be getting in the face of a constitutional amendment. And there is a line of authority that tells us that our retroactivity provisions in 1063, and the retroactivity provisions in 219 are effective, and that we can give the Nebraska voter a good, clear snapshot of the future to either endorse or reject. That does not occur with this amendment. Without the retroactivity language it strikes me that we might as well just stop doing 1063. And although I know there are many of you who would like to do that, I think you'll have a tougher time getting voters to vote a constitutional amendment with no snapshot than with a flawed snapshot. And in that sense I think that's another reason why this language is inferior to what the committee has reported out and has been already amended by the body. Thank you.