

January 13, 1982

LB 278

CLERK: Mr. President, Senator Beutler would move to amend the committee amendments. (Read the Beutler amendment as found on page 276 of the Legislative Journal.)

SENATOR NICHOL: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, the Revenue Committee obviously did a good thing in giving balance to this bill when it added the amendment that provided that when the sales tax goes down during the fixed price contract period, that the contractor should pay in to the Department of Revenue the difference. That is in return for the benefit he gets when the sales tax goes up. In theory that all sounds very nice, and obviously in terms of the contractor recovering his money when the sales tax goes up, he is going to make a point to do that because those are dollars in his pocket. On the other hand, when it goes in the other direction there is no way that I can see that the Department of Revenue is going to have information that it is owed money by the contractor. In other words, as a practical matter probably, in my opinion, most of the contractors are not going to pay that amount in to the Department of Revenue. I don't know how you correct something like that. If you are going to have something like this in your law, I am really not sure you should have anything altogether on this situation since there are a lot of different kinds of fixed priced contracts in our society other than construction. But if you are going to have this kind of a law, at least it seems to me you should try to do something to encourage them to abide by the law and to pay in the amount when they benefit by virtue of the law. And so all I am asking is that a provision being put in making it a misdemeanor in the event that they do not pay in that amount so that should they ever be audited it will come to light and they can be penalized, and so that those who wish to take the risk of not paying in that amount know that there is, in fact, some penalty for not doing so. And I made the penalty a two-stage penalty so that it is a one class of misdemeanor if the amount is over \$300 that is involved, and a small misdemeanor if the amount is less than \$300, \$300 being a figure that is in our statute with regard to larceny statutes, a distinction we make in the larceny law. So this simply represents my best effort to albeit probably not an altogether...it is not going to be an altogether effective method of encouraging the people to pay in when they owe the Department of Revenue money. Senator Carsten, my apologies for not having a chance to talk to you about this beforehand, but I just saw it. Thank you.