

SENATOR LAMB: Senator Vard Johnson on the amendment.

SENATOR V. JOHNSON: Mr. Speaker, members of the body, of course this is a hard amendment. This is one that I cannot support, will not support, believe is wrong and also will cost the State of Nebraska a half a million dollars annually at least, at least. Now this is an issue that I'm going to call "line drawing". Now in the whole tax field arena there are transactions that are going to be taxed and there are transactions that are not going to be taxed and when one uses the English language to describe which transactions are going to be taxed and which transactions are not going to be taxed, there are always created some ambiguities, some questions, some problems, et cetera, just simply inherent in the way drafting occurs. And we are now dealing with one of those ambiguous areas. Our tax department has taken the position for years and years and years that when some item is used by a manufacturer to assist in the manufacturing of goods and when that item itself does not become an integral part of the goods, when it is not a part of the goods like it doesn't become the door of a car or the spring of a seat or what have you, but it's simply used in the manufacture of the goods, then that manufacturer has to pay the sales tax on the item because that manufacturer is the final user of the goods. Well the problem arises, as in the NUCOR steel case, when the item being used by the manufacturer in part becomes a part of the ultimate manufactured product, and it is my understanding that what was at issue here was some kind of a welding rod or some kind of a part that was used by the manufacturer and little micro portions of that product became an integral part of the finished good. So the Tax Commissioner said to the manufacturer, look, by far the lion's share of this particular item is used directly by you, the manufacturer of the good, and only an infinitesimal part of it ends up in the finished product, therefore, you should pay the sales tax. NUCOR Steel said, no, we shouldn't pay the sales tax because we are not the final end user of the product, we shouldn't pay the sales tax. Well of course our Department of Revenue fought it out with NUCOR Steel and as is their custom, our Department of Revenue lost. Our Department of Revenue has yet to win a case. I think in the last eight or nine years it has proceeded to lose virtually every case that it has handled and I can't tell you whether that is a product of bad law or ineptness or what, but it lost this case. Now the Department of