

SENATOR MOORE: Once again I'm amazed that this is an argument about LB 775 and not about the issue and I disagree with Senator Kristensen. I'm not trying to confuse the issue, I'm trying to point out the issue very clearly at what sticks in my craw, how you can tax in the name of fairness, reimpose the tax on farm machinery and livestock but in the name of fairness not tax 775 things that are exactly treat...they're exactly the same way, we'd appreciate those items out. And, Senator Kristensen, if you would, please, Senator Kristensen, there has been...though there's been very little, I think Wickersham maybe just hit on it, but one of the arguments is, well, you have a contract. And as Senator Warner answered by questions last week, obviously, if something was constitutional and the contract was signed, it would be protected. But engage with me, if you will, what if scenario, what if MAPCO had addressed 775 and thrown them out or what if the Jaksha case, the court would include 775 as something that is striking down those exemptions, what would happen with the contract in those situations, Senator Kristensen?

SPEAKER BAACK: Senator Kristensen, would you respond, please.

SENATOR KRISTENSEN: Sure. Senator Moore, if I understand your question right, and it's a what if, obviously MAPCO didn't do those sorts of things...

SENATOR MOORE: Yeah.

SENATOR KRISTENSEN: ...but the what if they would have declared it unconstitutional, then those contracts become void, I suppose, because they violate the Constitution. It's as if they had not occurred. The trouble is the state becomes liable from a contractual basis, I think, for doing those. So our cost would be there. The contracts would probably be void. Now if they do it in the future, I mean, the court doesn't necessarily have to find that unconstitutional. They can find a way around that. I don't know if they would or not. My preference is that they won't find those unconstitutional.

SENATOR MOORE: But I'm just trying to engage in a, I mean, obviously, that is certainly within the realm of possibility even though legal scholars can disagree on what they are going to do, but as far as if it was ruled unconstitutional, those contracts have to be honored by the state, correct? Even if though the exemption goes away, they would have to pay that