

They're at least in negotiation and if they don't agree...if they can't agree during negotiations, they will be in litigation. Is that true, Senator Hall?

SENATOR HALL: Senator Schmit, without the language that the committee adopted, if you adopt Senator Warner's amendment, you would put the bill back, it's my understanding, in the green copy form which would have no provision for the book value formula and they would go to war on an annual basis. And I would guess that if the railroads didn't like the valuation they got, they would basically be back in court. I can't promise that, maybe they would just settle for whatever the department gave them in the form of valuation but, under the committee amendments, they are locked in.

SENATOR SCHMIT: Thank you. One of my concerns has been that the Department of Revenue seems to have wide discretion as to how they adjust these numbers. I recall just last year, we passed a bill, Senator Ashford and I introduced it, because there was an opinion by the Department of Revenue that access charges to the telephone companies should be subjected to the sales tax. Me being a good friend of the telephone companies, they came to me and discussed it with me a little and I said we do not, to my knowledge, tax wholesale charges, therefore, notwithstanding the fact that we sometimes...I sometimes disagree with the telephone companies, I would support the bill which would specify that telephone companies would not be taxed on access charges. The Department of Revenue nonetheless had insisted that those charges be taxed and it seems to me that, based upon that, I am not sure that we can determine how we want to approach the issue. But it would seem to me that we ought to be able to determine, statutorily, what formula to use, what value to use, and place it in the statute, because, otherwise, you are going to have the Department of Revenue back in court with the railroads every year. Now if you enjoy that, that's fine. I don't. The lawyers like it. It means continued annual employment for a substantial number of friends of mine and they can justify their substantial fees much more readily if they have to litigate on an annual basis. But if we are here to minimize the opportunity for litigation, then we ought to take a look at this and, I guess, maybe Senator Warner might have some ideas as to where it ought to be. Maybe they can't agree upon what we should put in the statute, but I can guarantee you that if you do not keep it in the statute that there will be litigation. I guess, Senator Warner, do you have any suggestion