

cannot outargue them. So I would ask you to read these documents when I hand them out, I believe they're being handed out now, and see if you agree with what Mr. Boehm was saying at that time. And it might be well for us to find out if Mr. Boehm still agrees with his testimony of February 8, 1989. Thank you very much.

PRESIDENT: Thank you. Senator Scofield, please.

SENATOR SCOFIELD: Mr. President, I just want to mention a handout that's also coming around with...Senator Schmit's passing one around and I think you already have one that I sent, which I think gets at the heart, to some extent, of how far we can really go here. And I know this is confusing for me as far as the whole valuation basis and I, frankly, don't think we do know where we stand for sure. There is a settlement process under way and I think there will be settlement language pretty quick and there will be money distributed before the end of the year to subdivisions as a result of the settlement for '87, '88. But you have before you a packet of material that I handed out. The first is a letter to me from the Multistate Tax Commission which may give you some useful background as we proceed through this debate on where we have already been as a Legislature on this issue. I took a resolution before the NCSL a year ago July and again last December and this packet has some background material that may be useful as we discuss this and to talk about how far we really can go in terms of settlement with the railroad and how much leverage the state might have. The relevant portions are the part called Appendix A, which is Section 306 of the 4-R Act and the piece subsection (d) is really the piece that gets us, as I understand it, and gets other states when they take us to court. When it says, "The imposition of any other tax which results in discriminatory treatment of a common carrier by railroad...", that has been very broadly interpreted by the courts. That may be useful material to you as we proceed through this debate. You also have a policy statement preemption of state taxing authority which the NCSL passed last December and, after much debate, I might add, and we tried it in July and didn't get anything passed, this has been characterized as wimpy language by the Congress because there was so much opposition to NCSL taking on this issue. There is a lot of division between urban states and rural states even. It kind of depends on whether you have a lot of track or whether you have corporate headquarters how you want this all to come out. Just this August in Tulsa that policy was