

property. Politically, we've reached the right answer. Politically, this body has said we're going to go after and we're going to get the guys that caused us all the problems. But that isn't the correct answer and that's not the legally correct answer. And, with that, I want to read to you what got us into this problem and you tell me whether we just violated it or not. It says here...and this is quoting from the Natural Gas Pipeline Company of America versus our state board of equalization, March 1st of this year. "A legislative classification must operate uniformly in all within a class, a class which is reasonable." The key issue here, is this a reasonable class? The court is going to tell this body it is not. In fact, the court went on and they have already told us once, here is what they said. The Legislature's stated justification is illusory. We fail to see any real and substantial difference between personal property used for income production by one type of business and the same type of income producing personal property used by another type of business. It cannot be any plainer. That's as plain as it gets. It isn't going to fly. And the court goes on. "The Legislature's effort to exempt railroads is not based on a reasonable classification and violates both the proportionality and special legislation." If it doesn't violate that, what it does violate is the federal 4-R Act. The 4-R Act, I don't like that. You don't like that but the 4-R Act tells you that you cannot discriminate against the railroads. And in our zeal to go get a political answer, we're going to shoot ourselves in the foot just like we did before. We're going to be back in court because we're treating them differently. We don't want to treat them differently. I don't...I do, I want to go after them. I want them to pay their fair share, in fact, I would like them to pay a little more but you can't do it. And I don't have a good answer back on the amount of 2.3 percent depreciation surcharge. Perhaps those entities can't do it. But I tell the body this is not going to solve the problems. This is not going to go away and you're going to be back in because you're going to be in federal court because you violated the federal 4-R Act. And we're going to be back here in two more years and you're going to be blaming the courts again and it is not the courts' problem, it's our problem because we continue to do this. With that, out of...with no other solution, I would support the Horgan amendment. Thank you.

PRESIDENT MOUL: Thank you, Senator Kristensen. Senator Hartnett.