

March 11, 1992

LB 1063
LR 219

that I think Senator Kristensen made yesterday with regard to the date for purposes of having two separate classes. Although they're not as clearly distinguished because there is not a date certain at which you cut one off and start the other, the same argument holds true that one is treated differently as it relates to LB 1063 and the passage of this constitutional amendment. And the second class is the class that through the adoption of this amendment that are enacted after the passage of LB 1063 and LR 219 that have a reasonable standard which they must meet. That reasonable test was in place when the court decided MAPCO, or one similar to it. And that's why I was interested in what Senator Kristensen's interpretation or definition of reasonableness is as the author of this amendment because the court will have their own, as Senator Will correctly pointed out, none of us necessarily agree on what is reasonable from issue to issue. And I clearly think that based on what we've seen in the court decisions there, there are differences amongst the members of the court itself in terms of how far to go on different issues. My point is this, the exemptions that we currently lay out in LB 1063 and through the constitutional amendment to allow for net book value and its approach represent about 35 to 40 percent of personal property. They are less than 50 percent, far less than 50 percent. The courts in other states, most recent decision again, October of '91, out in Oregon, there was a case that said even the issue of inventory, if you exempt just inventory, you're going to be violative of the 4-R Act with regard to the federal legislation, that it isn't going to meet the test. We're going below that standard and we acknowledge that in the constitutional amendment when we separate out a special class for federally protected areas, such as the railroads because we know that this provision that we're putting in place is not going to meet that test. It's not going to meet that standard.

PRESIDENT MOUL: One minute.

SENATOR HALL: We know when we pass LB 1063, we know when we offer LR 219 to the voters that the railroads are going to be exempted from it. They are going to escape it and that's why we built provisions into the Constitution, to say, well, we recognize that this is going to happen. Anyone else who is going to try to piggyback on that, we hope that we are going to prevent that through other provisions in LR 219. Ladies and gentlemen, that is not going to happen. MAPCO was decided based on the Fourteenth Amendment to the U.S. Constitution. It was