

March 11, 1992

LB 1063

LR 219

PRESIDENT MOUL: Thank you, Senator Schmit. Senator Morrissey.

SENATOR MORRISSEY: Thank you, Madam President and members, again, rise to support concepts contained in Senator Moore's amendment of giving a choice. I don't believe we need to tell the public, or I won't tell the public that we have to change the Constitution, that we have to repeal the uniformity clause to solve this problem. And I'm not a lawyer and I again got out of bed this morning and thanked myself for that, or whoever. But I did earn a bit of a common sense degree in my life experiences and in reading MAPCO it is as clear to me that they're not saying, they're not making that link for uniformity between real and personal as it is to Senator Warner that they are. And read the whole decision, read the whole decision. The Legislature has broad power to define property for tax purposes. It's power to define is limited since the Legislature cannot abrogate or contradict an expressed constitutional provision and the legislative definition must be reasonable and cannot be arbitrary or unfounded. Personal property as it applied to business machinery and what we did with LB 1 and LB 7 was arbitrary. It was not founded in reason. That's their problem in my humble opinion. And I think if you read the entire opinion it says it over and over. Now I'll agree with Senator Withem, I voted for this type of proposal earlier, the difference now not being the difference in the LBs accompanying the proposal, the difference now being the difference in time. Two weeks ago, two weeks ago I was still saying the worst thing we can do is nothing and I sat down and thought about it and thought about it and thought about it and read this decision and read this decision and I've come to the conclusion that that's not necessarily so. I changed my mind not because of the contents of LB 1063, I don't like the contents of 1063, but I do not think we should carry on as a fact that if we do not change the uniformity clause, change the special legislation clause that we can't solve this problem. The will in the body is not to do it through incumbent sales. The will of the body is not to do the one thing that I believe is guaranteed to eliminate us from 4-R provisions and that's removal of all personal property from taxation. That's the will of the body to do that. The will of the body will probably be to pass the CA whether they get 30 votes or 39 or 40. That will be the will of the body, but it's not necessarily the will of the people and I'm willing to let the people make a decision because I clearly hear in my district that the will of my people is to remove personal property from taxation, not a fair system, move away from it.