

don't know what the new tax commissioner is going to feel about having the power to say to the railroads, you are being taxed unfairly. Who knows, he might be an ex-railroad man, or he might be an ex-agriculture man, and he says, hey, wait a minute, folks, I am going to substitute the word agriculture or farmer for railroad. We don't know that. We don't know that. So I would say this, that we are playing with fire. You know, Senator Schmit said maybe we should go to the courts. Well, the courts haven't been too friendly towards us on these matters. However, I would almost be willing to go to the courts rather than leave it up to one political man to make the decision, are we taxing railroads not fairly. That's a lot of weight to carry. That's a lot of track to carry if you want to make it personal property. So I would support the Moore amendment. I oppose the Warner amendment, and I would like to, as I have in the past, go on the record as opposing the constitutional amendment. Thank you, Madam President.

PRESIDENT MOUL: Thank you, Senator Haberman. Senator Warner.

SENATOR WARNER: Madam President and members of the Legislature, I just want to repeat a couple of things. The amendment that deals with the railroad is not special treatment. What it is is compliance with the 4-R Act and the federal supremacy of that act over what we can do. It is not another provision. It is not a case of negotiation by the tax commissioner. There is a spelled-out method which reflects the method required by the 4-R Act, and under that provision, if applying those factors, come out with a 5 percent differential with the tax that they would pay compared to what the 4-R Act would permit, then the tax commissioner is authorized to make that adjustment, not required. That is all it does. If the 4-R Act didn't exist, the issue wouldn't be here. There isn't any question that we could take the position that some of you would like to do, as I don't know if they will file a case without this or not. But if they do, or did, then the issue is do you want to put local governments in jeopardy depending on when the case was filed. That the revenue that was anticipated because of the valuation of railroads in that governmental subdivision, if you want to put that in jeopardy, then a lawsuit can accomplish that. Maybe the state will win, maybe they won't. I don't know. What I do understand is that if we adopt this amendment, the likelihood is virtually zero, at least it is as slim as I can make a judgment on. And we are not putting the local governments in the position of looking at refunds again. We won't be looking at