

SENATOR KRISTENSEN: Yes.

SENATOR WICKERSHAM: That's what I'm concerned about.

SENATOR KRISTENSEN: I've got it in my head, your calculation though would take inventory out of the...

SENATOR WICKERSHAM: Bottom part of number one.

SENATOR KRISTENSEN: Of number one which would be the denominator I assume of that calculation.

SENATOR WICKERSHAM: That's correct.

SENATOR KRISTENSEN: And the reason that you do that is so that when the court goes to look at this they don't take that into consideration, you don't have 29 percent and in fact you'd have a higher percentage on that form.

SENATOR WICKERSHAM: Probably real close to 100 percent.

SENATOR KRISTENSEN: And thus, it would not look as discriminatory, at least on its face.

SENATOR WICKERSHAM: Well, Senator, I don't want to be argumentative but when you say look discriminatory, I don't think it is discriminatory. It would not only no look discriminatory, it would not be discriminatory.

SENATOR KRISTENSEN: But we're not going to tax inventory in any event, correct?

SENATOR WICKERSHAM: I hope not.

SENATOR KRISTENSEN: Okay, I agree, and so what I think that we're doing here, as I read the 4-R Act and Section D says any tax that results in it, they're not going to look at the face of it, they're going to look at the actual tax consequences that occur of taxing inventory or not taxing inventory. Would that be accurate?

SENATOR WICKERSHAM: Yes. I believe that the court will do that.

SENATOR KRISTENSEN: And so in effect it really doesn't matter