

April 6, 1992

LB 719A, 1063

result will be. Thank you, Mr. Speaker.

SENATOR MORRISSEY: Thank you, Senator Coordsen. Senator Wickersham.

SENATOR WICKERSHAM: Thank you, Mr. President. I'll try to be brief because I think I've expressed my views on this amendment earlier and they remain the same, particularly I had to rise and say something after we failed to adopt my amendment. The proposal before you will result in a lower valuation of railroad property as opposed to any other property subject to tax under LB 1063, simply because we have chosen, for all the right reasons, not to tax inventories in the State of Nebraska. I don't believe that our failure to tax inventories will discriminate against the railroads and I think we can win that case in the Federal District Court. I think we should at least try. The amendment that you're going to be voting on here sometime today will preclude that effort. We may not ever really know the answer unless somehow the kind of a deal that is represented in the amendment breaks down and somebody sues. And it could break down for a number of reasons. The railroads might decide that they don't like the way the unitary tax is supposed to be computed under the amendment. They might decide that the wrong numbers are being used by the Department of Revenue for the actual value of all commercial and industrial property in the State of Nebraska. They might decide, for some reason, that the numbers used for the net book value across the State of Nebraska are wrong. There are all kinds of things that could go wrong and result in litigation. Certainly if they don't result in litigation they're going to result in a considerable strong-arming of the Department of Revenue and the Commissioner to resolve the issues in a way that is favorable to the railroads to once again avoid litigation, perpetually, perpetually being asked to make concessions to avoid litigation. We do not know where that process will end. I think we may as well have the litigation, be done with it. If we're not successful in the litigation, if, for some reason, railroads are discriminated against because we do not tax inventories in the State of Nebraska, we can come back and make the changes then. If we found out the answer for certain, I think we could create the system that would result in taxation of railroad property in conformance with whatever the Federal District Court would tell us we had to do. We don't know now. I want to know the answer and I'm willing to vote against this amendment so that we can find out the answer.