

Approved On: _____

Minutes of the House Committee on Taxation. The meeting was called to order by E. C. Rolfs, Chairman, at 9:00 a.m. on January 22, 1988 in room 519 South at the Capitol of the State of Kansas.

The following members were absent (excused):

Representatives Wagnon, Leach, and Crowell

Committee staff present:

Tom Severn, Legislative Research
Chris Courtright, Legislative Research
Don Hayward, Reviser of Statutes
Millie Foose, Committee Secretary

Harland Priddle, Secretary of Commerce, spoke as a proponent for HB-2663 - AN ACT relating to sales and compensating use taxes; concerning the exemption of certain machinery and equipment. (Attachment 1)

Paul E. Fleenor, Director Public Affairs Division Kansas Farm Bureau, also spoke as a proponent of HB-2663. He asked that the state's No. 1 industry - AGRICULTURE - be included in the exemption from sales tax. (Attachment 2)

Mary Ellen Conlee spoke as a proponent for HB-2663 as she believes it would help small businesses be competitive with those in other states.

Richard Funk refuted some of the testimony that Sharon Olmstead gave on January 21. She said that teaching Kansas history is not compulsory and Mr. Funk brought a copy of the law covering school curriculum and accreditation which lists Kansas history as a required subject. (Attachment 3)

Roland Smith, representing Wichita Independent Business Association, spoke in support of removing the tax from business machines.

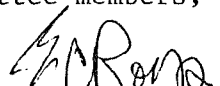
Jim Gartner, representing Southwestern Bell Telephone Company, testified concerning access charges -- explaining that sales tax applies only to intra-state services and is not applicable to interstate services. (Attachment 4)

Representative Robert Vancrum explained HCR-5036. which concerns retailers' sales tax and requests modification and revocation of certain laws. (Attachment 5)

Secretary Harley Duncan discussed changes in 92-19-18 pertaining to outdoor advertising and answered questions from committee members.

Russell Ross, General Manager Donrey Outdoor Advertising Co., Wichita, said that his firm believes that 92-19-18 exceeds the authority granted to the Department of Revenue by the Legislators. (Attachment 6) He believes that the Department cannot attempt to collect tax on outdoor advertising and not make the same efforts with regard to newspapers, radio, and TV. He said that a similar tax in Florida was repealed and the Governor of Florida admitted that the tax was ill-advised and counter-productive.

After further discussion by committee members, Chairman Rolfs adjourned the meeting.


E. C. Rolfs, Chairman

TESTIMONY

TO

HOUSE COMMITTEE ON TAXATION

BY

HARLAND E. PRIDDLE
SECRETARY OF COMMERCE

January 22, 1988

I am pleased to be here today, on behalf of the Kansas Department of Commerce, and present testimony regarding HB 2663, relating to the proposed exemption of sales/use tax on certain machinery and equipment for manufacturing and processing purposes.

According to the Directory of Incentives for Business Investment and Development in the United States, published by the National Association of State Development Agencies, "all states provide exemptions from at least one of their major taxes. For instance, many states exempt manufacturing machinery and equipment from the sales and use taxes. A manufacturer that purchases equipment to install in the company's facilities does not have to pay the sales or use taxes that are usually required on items of tangible personal property sold at retail value in that state. An exemption, therefore, reduces the firm's tax liability by excluding an item or activity from the base upon which the tax is computed."

The exemption of sales/use tax on machinery and equipment is one of the most used incentives by states to assist in the attracting and expansion of industry. The October, 1987, issue of Site Selection Handbook lists 44 states who currently offer this type of a tax incentive in their economic development efforts. Only Hawaii, Kansas, Nevada, Ohio, Rhode Island and Wyoming do not offer this incentive, or offer it only in very special cases. The more interesting thing to note on this issue is that every other state in our region, which are those states we compete with day-in and day-out, offer this incentive. This is a significant factor for Kansas to overcome in our regional competition for industry locations.

Although the impact of such a tax incentive is not as staggering as others, such as property tax incentives, it does provide a positive image of a state to business and industry who are considering plant locations. At the level of competition being faced by economic development professionals today, it is imperative that Kansas be able to participate in this competition on an even basis with our counterparts. We enthusiastically support the passage of HB 2663 as a tool to meet this competition.



PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON TAXATION

**Re: The Issue Of Sales Tax Exemptions
On Business Machinery and Equipment**

January 21, 1988
Topeka, Kansas

Presented by:
Paul E. Fleener, Director
Public Affairs Division
Kansas Farm Bureau

Mr. Chairman and Member of the Committee:

My name is Paul E. Fleener. I am the Director of Public Affairs for Kansas Farm Bureau. We appreciate the opportunity to address your Committee today on the issue of **sales tax exemptions** on business machinery and equipment.

For the past two Sessions of the Kansas Legislature, **Economic Development** has been upper most in the minds of Legislators. A package of bills passed this Legislature two years ago. Additional economic development measures were enacted in 1987. One of the planks of economic development sought by business and industry in Kansas is the sales tax exemption on business machinery and equipment. We have no quarrel with that. We have no problem with the exemption of business machinery and equipment. We simply come before you today to ask you as you consider this issue to remember the number one business ... the number one industry in the State of Kansas, **AGRICULTURE**.

On January 12, 1988 the Governor of the State of Kansas, Governor Mike Hayden, addressed a Joint Session of the Kansas Legislature to deliver a "State Of The State" Message. Before he

was very far along in his message to you, the Governor spoke of the need for "a balanced budget," followed by an admonition cautioning you on a "restraint on spending." The Governor then addressed what he called "significant income tax cuts."

Following his discussion on Tax Reform, the Governor then said this:

I am also recommending major reforms in our business tax code. We live in a highly competitive environment. Our tax laws must not place Kansas at a disadvantage.

Among these business tax reforms, I am recommending that the purchase of new manufacturing machinery and equipment be exempted from the sales tax. Most states already offer such an exemption. By taking this action, we send a strong signal to Kansas business that we want them to remain and expand in Kansas. Our goal is to create economic opportunities and jobs for our children and grandchildren.

The issue of sales tax exemption for business machinery and equipment was the topic of study by the Interim Committee on Assessment and Taxation in the summer and fall of 1987. At that same time, farmers and ranchers were looking at public policy issues and making a determination as to where they would stand ... or, more appropriately, the direction in which they would like to see this state move to create economic opportunity and economic development incentives.

Farmers and ranchers came together at our Kansas Farm Bureau Annual Meeting November 29-30, December 1, 1987 to discuss public

policy issues. Among the things discussed was the sales tax in the State of Kansas, and the sales tax imposed by the local units of government. Our policy position was amended and strengthened in the business sessions of that Annual Meeting. The full text of the policy on sales tax is attached. The portion of that resolution or policy position which relates to the subject of your hearings today says this:

If the public policy in Kansas is to promote economic development through sales tax exemptions for business and industrial machinery and equipment, we believe it is essential to grant that exemption to all machinery and equipment purchased for agriculture, the number one business and industry in the State.

Mr. Chairman, and Members of the Committee, if it is the intention of the Kansas Legislature, convened for its 1988 Session, to grant an exemption for business machinery and equipment we urge you to give **favorable** consideration to including in that exemption the machinery and equipment used in the number one industry of the State of Kansas ... agriculture.

It is our understanding the fiscal note on the exemption of manufacturing equipment, only, is \$16 million. The fiscal impact of providing an exemption for farm machinery ... **NEW** farm machinery and equipment ... would be \$5.5 million. We obtained these figures from the Legislative Research Department which, together with the Revenue Department on November 20, 1987 gave those exact same figures to the Interim Committee on Taxation as the cost of providing the exemptions under discussion.

Mr. Chairman, and Members of the Committee, let me give you brief additional quotations from the Governor's message of January 12, 1988. Near the end of his presentation to you, the Governor said:

The future of our rural communities is another major concern. Rural communities in Kansas are losing population at an alarming rate.

It is time that small towns and farm communities get the attention they deserve from state government.

We agree with the Governor. It is certainly time that small town Kansas, farm communities in Kansas, and the State's number one industry ... **AGRICULTURE** ... gets the attention deserved from state government. **We urge you.** We ask of you to include agriculture in your consideration of an exemption from the sales tax for machinery and equipment. Agriculture has been in the doldrums for the past seven years. Rural communities have been suffering in Kansas. Help the people of this state who provide the food and fiber, the farmers and ranchers in Kansas, by providing an exemption from the sales tax on purchases of new farm machinery and equipment.

We thank you for the opportunity to appear before your Committee today. I would be pleased to respond to any questions.

Sales Tax

State. All citizens are consumers of food and are uniformly taxed on the food they purchase. We oppose legislation to exempt food from the state sales tax.

Kansas should require out-of-state mail order companies to collect and remit to Kansas the sales or use taxes applicable within Kansas.

We support legislation which would permit Kansas to litigate in cooperation with other states to close a loophole created in the 20-year old Supreme Court decision, *National Bellas Hess v. Illinois Department of Revenue*.

If the public policy in Kansas is to promote economic development through sales tax exemptions for business and industrial machinery and equipment, we believe it is essential to grant that exemption to all machinery and equipment purchased for agriculture, the number one business and industry in the state.

We will support legislation to make it clear that grass seed used in agriculture, including the Conservation Reserve Program (CRP), is exempt from the Kansas sales tax.

Local. We support an amendment to the local retailer's sales tax statute as it relates to motor vehicles. The local sales tax on motor vehicles should be collected by the county treasurer at the time of registration of the vehicle, and situs for the local sales tax should be the residence or business location of the registrant.



KANSAS ASSOCIATION FOR SMALL BUSINESS

111 W. DOUGLAS, SUITE 820 • WICHITA, KANSAS 67202 • 316-267-9984

DON MCGINTY, President
Wichita
316-838-3304

• BOB HILL, Vice-President
Wichita
316-943-4328

• MARGARET FULTON, Secretary
Wichita
316-265-5268

• STEPHEN MARDIS, Treasurer
Wichita
316-688-5000

• MARY ELLEN CONLEE, Legislative
Wichita Representative
316-267-9984

• KEN BRISTOW
Coffeyville
316-251-8528

• DEWEY BRITTAIN
Wichita
316-942-8223

• BILL EASTON
Wichita
316-263-4914

• LINDA WEIR ENEGREN
Wichita
316-265-7997

• DON FERRELL
Holton
913-364-2186

• RICHARD GILLIES
Fredonia
316-378-4441

• NORRIS MADDEN
Wichita
316-263-7853

• JOHN NICHOLSEN
Salina
913-823-7281

• ALLEN OAKLEAF
Wichita
316-942-0432

• DOUG STEPHENS
Wichita
316-942-0679

• BOB WINKLER
Wichita
316-265-0603

TESTIMONY PRESENTED TO THE

HOUSE TAXATION COMMITTEE

JANUARY 21, 1988

Chairman Rolfs, Members of the Committee

I am Mary Ellen Conlee, Executive Director of the Kansas Association for Small Business, appearing before you in support of the complete elimination of the sales tax on machinery and equipment.

The number one priority of the Kansas Association for Small Business is the elimination of the sales tax on manufacturing machinery and equipment. Many of the companies that are members of this association compete regularly with small businesses in other states for aircraft parts orders. Many of these states do not charge a sales tax on their small businesses as they expand through the purchase of new equipment.

Several member companies of the Kansas Association for Small Business are users of the tax incentives created by this legislature over the past two years. Ten of our member companies have created approximately 100 new jobs in 1987 and project an additional 75 jobs in 1988 and 1989. The combination of sales tax and property tax incentives can create a 9 - 10% savings. With average planned investments of \$750,000, our members say "You bet these incentives have made a difference. Lower costs mean we can grow and still submit competitive bids."

The current sales tax incentive through the enterprise zone is much simpler now than it has been in the past. The application form is reasonable. The processing time in the Department of Revenue has been short. The process is working.

The problem is that all expanding companies are not in enterprise zones. Some companies don't even know about enterprise zones. In rural areas, new zones often have to be created.

For most small manufacturers, expansion begins when it is necessary because of outdated machinery or changing demand. Major expansions for small business are generally phased in over a two to three year period. For the real companies I represent, first year expansion has often been accomplished without full tax incentive benefits for the following reasons:

First, it takes time to learn about enterprise zones. Then, second, it takes time to figure out how to make application to the city or county. Third, one has to wait for a state review of the enterprise zone changes. Then a request for an enterprise zone expansion exemption must be submitted.

To increase employment a manufacturer must do two things:

First, he must have the equipment to do the job. Manufacturing processes are changing. New equipment is expensive. Many competitor states do not tax business machinery and equipment. Second, the company must submit highly competitive bids for the specified product. Capital expansion to state-of-the-art computerized manufacturing equipment is an expensive component of the cost structure for bidding work.

The business owners I represent have taken a risk to invest large amounts of money, often secured by personal guaranties, in Kansas business. The elimination of the sales tax on newly purchased machinery and equipment will provide proof of the Kansas commitment to economic development. The result is increased jobs for Kansas citizens.

Thank you for your consideration of our comments.



KANSAS ASSOCIATION FOR SMALL BUSINESS

111 W. DOUGLAS, SUITE 820 • WICHITA, KANSAS 67202 • 316-267-9984

DON MCGINTY, President
Wichita
316-838-3304

• BOB HILL, Vice-President
Wichita
316-943-4328

• MARGARET FULTON, Secretary
Wichita
316-265-5268

• STEPHEN MARDIS, Treasurer
Wichita
316-688-5000

• MARY ELLEN CONLEE, Legislative
Wichita Representative
316-267-9984

• KEN BRISTOW
Coffeyville
316-251-8528

• DEWEY BRITTAIN
Wichita
316-942-8223

• BILL EASTON
Wichita
316-263-4914

• LINDA WEIR ENEGREN
Wichita
316-265-7997

• DON FERRELL
Holton
913-364-2186

• RICHARD GILLIES
Fredonia
316-378-4441

• NORRIS MADDEN
Wichita
316-263-7853

• JOHN NICHOLSEN
Salina
913-823-7281

• ALLEN OAKLEAF
Wichita
316-942-0432

• DOUG STEPHENS
Wichita
316-942-0679

• BOB WINKLER
Wichita
316-265-0603

TESTIMONY PRESENTED TO THE

HOUSE TAXATION COMMITTEE

JANUARY 21, 1988

Chairman Rolfs, Members of the Committee

I am Mary Ellen Conlee, Executive Director of the Kansas Association for Small Business, appearing before you in support of the complete elimination of the sales tax on machinery and equipment.

The number one priority of the Kansas Association for Small Business is the elimination of the sales tax on manufacturing machinery and equipment. Many of the companies that are members of this association compete regularly with small businesses in other states for aircraft parts orders. Many of these states do not charge a sales tax on their small businesses as they expand through the purchase of new equipment.

Several member companies of the Kansas Association for Small Business are users of the tax incentives created by this legislature over the past two years. Ten of our member companies have created approximately 100 new jobs in 1987 and project an additional 75 jobs in 1988 and 1989. The combination of sales tax and property tax incentives can create a 9 - 10% savings. With average planned investments of \$750,000, our members say "You bet these incentives have made a difference. Lower costs mean we can grow and still submit competitive bids."

The current sales tax incentive through the enterprise zone is much simpler now than it has been in the past. The application form is reasonable. The processing time in the Department of Revenue has been short. The process is working.

The problem is that all expanding companies are not in enterprise zones. Some companies don't even know about enterprise zones. In rural areas, new zones often have to be created.

For most small manufacturers, expansion begins when it is necessary because of outdated machinery or changing demand. Major expansions for small business are generally phased in over a two to three year period. For the real companies I represent, first year expansion has often been accomplished without full tax incentive benefits for the following reasons:

First, it takes time to learn about enterprise zones. Then, second, it takes time to figure out how to make application to the city or county. Third, one has to wait for a state review of the enterprise zone changes. Then a request for an enterprise zone expansion exemption must be submitted.

To increase employment a manufacturer must do two things:

First, he must have the equipment to do the job. Manufacturing processes are changing. New equipment is expensive. Many competitor states do not tax business machinery and equipment. Second, the company must submit highly competitive bids for the specified product. Capital expansion to state-of-the-art computerized manufacturing equipment is an expensive component of the cost structure for bidding work.

The business owners I represent have taken a risk to invest large amounts of money, often secured by personal guaranties, in Kansas business. The elimination of the sales tax on newly purchased machinery and equipment will provide proof of the Kansas commitment to economic development. The result is increased jobs for Kansas citizens.

Thank you for your consideration of our comments.

72-1048a.

History: L. 1955, ch. 334, § 1; L. 1959, ch. 278, § 1; Repealed, L. 1969, ch. 353, § 13; May 1.

72-1048b.

History: L. 1955, ch. 312, § 1; Repealed, L. 1969, ch. 353, § 13; May 1.

72-1048c.

History: L. 1959, ch. 305, § 1; Repealed, L. 1961, ch. 322, § 2; June 30.

72-1048d.

History: L. 1961, ch. 322, § 1; Repealed, L. 1963, ch. 356, § 2; June 30.

72-1048e.

History: L. 1963, ch. 356, § 1; Repealed, L. 1965, ch. 403, § 2; May 10.

72-1048f.

History: L. 1963, ch. 375, § 1; Repealed, L. 1969, ch. 353, § 13; May 1.

72-1048g.

History: L. 1965, ch. 403, § 1; L. 1967, ch. 371, § 1; Repealed, L. 1969, ch. 353, § 13; May 1.

72-1048h.

History: L. 1965, ch. 425, § 1; Repealed, L. 1969, ch. 353, § 13; May 1.

72-1049.

History: L. 1945, ch. 294, § 3; L. 1947, ch. 361, § 3; L. 1955, ch. 313, § 1; Repealed, L. 1969, ch. 353, § 13; May 1.

72-1050.

History: L. 1945, ch. 294, § 4; L. 1947, ch. 361, § 4; L. 1949, ch. 363, § 1; L. 1965, ch. 404, § 1; Repealed, L. 1969, ch. 353, § 13; May 1.

72-1050a.

History: L. 1951, ch. 401, § 1; Repealed, L. 1969, ch. 353, § 13; May 1.

72-1050b.

History: L. 1951, ch. 400, § 1; Repealed, L. 1969, ch. 353, § 13; May 1.

72-1050c.

History: L. 1955, ch. 314, § 1; Repealed, L. 1969, ch. 353, § 13; May 1.

72-1050d.

History: L. 1955, ch. 334, § 2; Repealed, L. 1969, ch. 353, § 13; May 1.

72-1051 to 72-1053.

History: L. 1949, ch. 386, §§ 1 to 3; Repealed, L. 1969, ch. 353, § 13; May 1.

72-1054.

History: L. 1951, ch. 395, § 21; L. 1968, ch. 328, § 1; Repealed, L. 1970, ch. 279, § 1; July 1.

72-1055, 72-1056.

History: L. 1957, ch. 415, §§ 1, 2; Repealed, L. 1969, ch. 312, § 6; May 10.

72-1057, 72-1058.

History: L. 1957, ch. 415, §§ 3, 4; L. 1959, ch. 279, §§ 1, 2; Repealed, L. 1969, ch. 312, § 6; May 10.

72-1059 to 72-1061.

History: L. 1959, ch. 280, §§ 1 to 3; L. 1961, ch. 323, §§ 1 to 3; Repealed, L. 1969, ch. 312, § 6; May 10.

72-1062, 72-1063.

History: L. 1959, ch. 280, §§ 4, 5; Repealed, L. 1969, ch. 312, § 6; May 10.

72-1064 to 72-1070.

History: L. 1961, ch. 351, §§ 1 to 7; Repealed, L. 1969, ch. 312, § 6; May 10.

Article 11.—SCHOOL ATTENDANCE, CURRICULUM AND ACCREDITATION

72-1101. Required subjects in elementary schools. Every accredited elementary school shall teach reading, writing, arithmetic, geography, spelling, English grammar and composition, history of the United States and of the state of Kansas, civil government and the duties of citizenship, health and hygiene, together with such other subjects as the state board may determine. The state board shall be responsible for the selection of subject matter within the several fields of instruction and for its organization into courses of study and instruction for the guidance of teachers, principals and superintendents.

History: R.S. 1923, 72-1101; L. 1943, ch. 248, § 37; L. 1945, ch. 282, § 57; L. 1968, ch. 20, § 1; L. 1972, ch. 253, § 1; L. 1979, ch. 220, § 11; July 1.

Source or prior law:

L. 1861, ch. 76, art. 4, § 7; L. 1867, ch. 124, § 1; G.S. 1868, ch. 92, § 48; L. 1874, ch. 122, § 5; L. 1876, ch. 122, art. 5, § 1; L. 1877, ch. 170, § 1; L. 1903, ch. 435, § 1.

Richard Funk
testimony

74

TESTIMONY GIVEN BY JIM GARTNER, SOUTHWESTERN BELL TELEPHONE COMPANY CONCERNING ACCESS CHARGES.

SUMMARY

DEPARTMENT OF REVENUE INTERPRETS "ACCESS CHARGES" ARE ASSOCIATED WITH LOCAL EXCHANGE SERVICE AND THAT SALES TAX SHOULD BE APPLIED.

SOUTHWESTERN BELL CONTENDS THAT BY STATE STATUTE, SALES TAX ONLY APPLIES TO INTRA-STATE SERVICE.

ACCESS CHARGES ARE CLASSIFIED AS INTERSTATE NOT INTRASTATE IN WHICH CASE STATE SALES TAXES ARE NOT APPLICABLE.

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE.

MY NAME IS JIM GARTNER AND I REPRESENT SOUTHWESTERN BELL TELEPHONE COMPANY.

THE DEPARTMENT OF REVENUE INTERPRETS "ACCESS CHARGES" WHICH IS CONTAINED IN K.A.R. 92-19-19 AND K.A.R. 92-19-40 AS ASSOCIATED WITH LOCAL EXCHANGE SERVICE AND THAT SALES TAX SHOULD BE APPLIED. SOUTHWESTERN BELL FEELS THAT THESE CHARGES ARE INTERSTATE IN NATURE AND ARE EXCLUDED FROM SALES TAX PER KANSAS STATUTE 79-3603, PARAGRAPH (b) WHICH STATES: "A TAX AT THE RATE OF 4% UPON THE GROSS RECEIPTS FROM INTRASTATE TELEPHONE OR TELEGRAPH SERVICES, WHICH SALE IN NOT OTHERWISE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF THIS ACT";

ACCESS CHARGES AS THE DEPARTMENT INTERPRETS OR SUBSCRIBER LINE CHARGES, CAME INTO EXISTENCE JULY, 1984. THEY WERE MANDATED BY THE FEDERAL COMMUNICATIONS COMMISSION ON ALL RESIDENTIAL AND BUSINESS TELEPHONE CUSTOMERS ACROSS THE NATION TO SUBSIDIZE THE LOSS OF INTERSTATE REVENUES TO THE LOCAL EXCHANGE COMPANIES ATTRIBUTED TO THE LOSS OF LONG DISTANCE REVENUES

ASSOCIATED WITH DIVESTING A.T. & T. FROM THE LOCAL OPERATING COMPANIES WHICH OCCURRED JANUARY, 1984.

PRESENTLY THIS CHARGE AMOUNTS TO \$2.60 PER MONTH FOR RESIDENTIAL AND SINGLE LINE BUSINESS AND \$5.80 PER MONTH PER LINE FOR MULTIPLE LINE BUSINESS. THIS CHARGE APPEARS ON OUR CUSTOMERS' BILLS AS AN INTERSTATE ACCESS CHARGE AND DOES SO BECAUSE OF A RULING MADE BY THE KANSAS CORPORATION COMMISSION IN 1983.

THE RULING STEMS FROM THE FACT THAT THE KANSAS CORPORATION COMMISSION HAS JURISDICTION OVER ALL CALLS ORIGINATING AND TERMINATING WITHIN THE STATE (INTRASTATE) AND THE INTERSTATE ACCESS CHARGE WAS MANDATED BY THE FCC WHICH HAS JURISDICTION OUTSIDE THE STATE OF KANSAS, WHICH IS CLASSIFIED AS INTERSTATE.

IN SUMMARY, SOUTHWESTERN BELL TELEPHONE COMPANY DOES NOT FEEL THAT THESE ACCESS CHARGES ARE A PART OF LOCAL SERVICE AND STATE SALES TAXES ARE NOT APPLICABLE.

House Concurrent Resolution No. 5036

By Joint Committee on Administrative Rules and Regulations

1-14

0017 A CONCURRENT RESOLUTION concerning retailers' sales
0018 tax; requesting the modification of K.A.R. 92-19-8, 92-19-12,
0019 92-19-16, 92-19-19, 92-19-24, 92-19-30 and 92-19-40, as
0020 adopted by the secretary of the department of revenue and
0021 filed with the revisor of statutes on December 14, 1987;
0022 requesting the revocation of K.A.R. 92-19-54, 92-19-57, 92-19-
0023 67, 92-19-70 and 92-19-80, as adopted by the secretary of the
0024 department of revenue and filed with the revisor of statutes on
0025 December 14, 1987.

0026 *Be it resolved by the House of Representatives of the state of*
0027 *Kansas, the Senate concurring therein:* That the secretary of
0028 the department of revenue be requested to modify K.A.R. 92-19-
0029 8, as adopted by the secretary of the department of revenue and
0030 filed with the revisor of statutes on December 14, 1987, as
0031 follows:

0032 ~~92-19-8. Auctions, sales and consignments. (a) Each person~~
0033 ~~that receives and sells tangible personal property on consign-~~
0034 ~~ment from others or operates a sale or auction where personal~~
0035 ~~property is sold for their own account for others is deemed to be a~~
0036 ~~retailer regardless of how the retailer's fee is determined. Each~~
0037 ~~retailer shall collect sales tax on the total selling price of the~~
0038 ~~tangible personal property regardless of the location of the sale,~~
0039 ~~unless:~~

0040 (1) The purchaser is able to claim an exemption under the
0041 Kansas sales tax act;

0042 (2) the sale of tangible personal property by an auctioneer is
0043 on behalf of a single principal if the sale is nonrecurring and is
0044 made at the principal's place of residence; or

0045 (3) the sale is a liquidation of non inventory items held at the
0046 principal's place of business, and the principal is not engaged at

0047 the time of the sale in the business of selling tangible personal
0048 property.

0049 (b) "Consignment" shall mean to commit, entrust or other-
0050 wise give over control of tangible personal property either
0051 physically or constructively to:

0052 (1) A person for the purpose of selling tangible personal
0053 property; or

0054 (2) a consignee who is not an employee of the consignor but
0055 who has the authority to determine:

0056 (A) The selling price of the property;

0057 (B) the person to whom it is sold; and

0058 (C) that the offer to purchase from a buyer is accepted,
0059 regardless of the time of the sale or its location.

0060 This regulation shall not apply to the sale of motor vehicles
0061 and trailers as defined in K.S.A. 1986 Supp. 8-126 and amend-
0062 ments thereto, unless the auctioneer is a licensed vehicle dealer.

0063 *Sales of consigned merchandise. Where retailers receive articles*
0064 *of tangible personal property on consignment from others and*
0065 *sell the same, such retailers are held to be making retail sales. In*
0066 *these cases the returns shall be filed and the tax remitted by the*
0067 *consignees along with any returns and remittances for gross*
0068 *receipts from the sale of other merchandise.*

0069 *Be it further resolved:* That the secretary of the department
0070 of revenue be requested to modify K.A.R. 92-19-12, as adopted
0071 by the secretary of the department of revenue and filed with the
0072 revisor of statutes on December 14, 1987, as follows:

0073 **92-19-12. Newspapers, magazines, periodicals, trade jour-**
0074 **nals, publications and other printed matter.** (a) Newspapers,
0075 magazines, periodicals, trade journals, publications and other
0076 printed matter are tangible personal property and the receipts
0077 from the retail sale of these items are taxable.

0078 (b) When subscriptions for newspapers, magazines, periodi-
0079 cals, trade journals, publications and other printed matter are
0080 taken within the state of Kansas, sent to a printer or publishing
0081 house outside Kansas and the publication is thereafter mailed to
0082 the subscriber within Kansas, the receipts from the subscriptions
0083 are taxable.

0084 (c) When newspapers, trade publications, advertising
0085 pamphlets, circulars and other publications, are distributed free
0086 of charge, the person printing or publishing the publication for
0087 sale to the distributor is deemed to be the seller thereof and must
0088 collect the tax.

0089 (d) Each person who prints or produces and distributes pub-
0090 lications, free of charge, is regarded as the final user or consumer
0091 of all materials used to print or produce the publication. For tax
0092 purposes, the printer or publisher shall pay sales tax on all
0093 purchases of materials used to print or produce the publication.

0094 ~~If a person prints or publishes tangible personal property for~~
0095 ~~sale to consumers, and also prints or publishes publications~~
0096 ~~which are distributed free of charge, a person may purchase all~~
0097 ~~materials used in the printing and publishing process exempt~~
0098 ~~from sales tax. When a person prints or publishes the publication~~
0099 ~~for distribution free of charge, that person shall include the cost~~
0100 ~~of all exempt materials purchased for use in printing or produc-~~
0101 ~~ing that publication on the sales tax return and impose sales tax~~
0102 ~~on that amount.~~

0103 *Be it further resolved:* That the secretary of the department
0104 of revenue be requested to modify K.A.R. 92-19-16, as adopted
0105 by the secretary of the department of revenue and filed with the
0106 revisor of statutes on December 14, 1987, as follows:

0107 **92-19-16. Gifts, premiums, prizes, trading stamps, coupons.**
0108 Each person who gives away or donates tangible personal prop-
0109 erty or who renders or furnishes without charge services taxable
0110 under the sales tax act is deemed for tax purposes to be the final
0111 user or consumer.

0112 The taxing of tangible personal property used as prizes, pre-
0113 miums or gifts shall depend on the condition under which the
0114 property is given away.

0115 (a) When a retailer gives a prize, premium or gift while
0116 making a sale of tangible personal property which is taxable or
0117 renders or furnishes a service which is taxable, the transaction is
0118 regarded as a sale of both items to the purchaser if the attaining
0119 of the prize, premium, or gift by the purchaser is certain and does
0120 not depend on chance. The retailer shall collect sales tax on the

0121 total purchase price paid by the consumer.

0122 (b) Property to be awarded as a prize, premium or gift is
0123 taxable if:

0124 (1) The retailer purchases the property for the purpose of
0125 resale, but subsequently gives it away as a prize, premium or
0126 gift; or

0127 (2) winning the prize, premium, or gift depends on chance or
0128 skill. The retailer shall include the cost of the prize, premium, or
0129 gift on line 2 of the sales tax return.

0130 A deduction is not allowed for the value of trading stamps or
0131 coupons when a purchaser gives the retailer a trading stamp or
0132 coupon to use towards the stated price of any item of tangible
0133 personal property and the retailer is later reimbursed for the
0134 stated value from a third person.

0135 When the retailer is not reimbursed but only accepts the
0136 coupons or trading stamps as an inducement to increase sales,
0137 the tax shall not apply to the value thereof.

0138 Each person engaged in selling tangible personal property or
0139 taxable services shall not collect tax when selling meal tickets,
0140 coupon books, merchandise cards, or certificates. Sales tax shall
0141 apply when the meal tickets, coupon books, merchandise cards,
0142 or certificates are redeemed for taxable services or tangible
0143 personal property. ~~Any person engaged in selling meal tickets,
0144 coupon books, merchandise cards or certificates who does not
0145 sell tangible personal property or taxable services shall collect
0146 sales tax on the gross receipts received from the sale of the meal
0147 tickets, coupon books, merchandise cards or certificates.~~

0148 *Be it further resolved:* That the secretary of the department
0149 of revenue be requested to modify K.A.R. 92-19-19, as adopted
0150 by the secretary of the department of revenue and filed with the
0151 revisor of statutes on December 14, 1987, as follows:

0152 **92-19-19. Telephone and telegraph services.** (a) Telephone
0153 and telegraph services shall not be taxable if the services are
0154 rendered to those entities listed in K.S.A. 79-3606 and amend-
0155 ments thereto. Each telegraph or telephone company shall se-
0156 cure an exemption certificate from any person or institution
0157 claiming an exemption from the tax. Telephone and telegraph

0158 services shall be taxable when the purchaser of the service is
0159 engaged in a business specifically subject to the sales tax and the
0160 telegraph or telephone service is used in the business.

0161 (b) Taxable sales of service by telegraph companies include
0162 the transmission of all telegrams originating and terminating
0163 within the state of Kansas for which a charge is made.

0164 (c) Taxable telephone service shall include ordinary ex-
0165 change and toll service, extra listings, *and* joint-user service ~~and~~
0166 ~~telephone access charges. All amounts paid for telephone ser-~~
0167 ~~vices shall be taxable, whether or not telephone services are~~
0168 ~~actually used.~~

0169 Each sale, lease or rental of telephones, equipment, facilities
0170 or other tangible personal property furnished in connection with,
0171 as a supplement to, or in association with telephone usage shall
0172 be subject to sales tax. Revenues received from rentals of circuits
0173 and private lines used for telephone or telegraph services shall
0174 be taxable unless the circuits and lines are used by others in
0175 making retail sales of telephone or telegraph service to the
0176 public.

0177 Each sale of telephone directories or directory covers to Kan-
0178 sas customers by a telephone company who collects the purchase
0179 price shall be taxable.

0180 Each sale of switching service and toll service to service
0181 station customers shall be considered a sale of telephone service
0182 to consumers. The tax shall be billed by the telephone company
0183 furnishing the switching service.

0184 (d) Each toll call originating and terminating within the state
0185 of Kansas shall be deemed intrastate service and shall be taxable.
0186 When a charge is made to a resident of Kansas for both intrastate
0187 and interstate exchange service, through terminals located in or
0188 outside Kansas, the tax shall be billed on the total charge. Each
0189 telephone company shall have the burden of proving that any or
0190 all of the service is not taxable.

0191 (e) Gross receipts from a coin-operated telephone shall be
0192 taxable.

0193 (f) Each company furnishing telephone or telegraph services
0194 shall pass the tax on to the consumers. When taxable telephone

0195 service is furnished over the joint or combined lines of two or
0196 more companies, the company collecting the charge for the
0197 taxable service shall collect the total amount of the tax from the
0198 consumer. Each collecting company shall include in its tax
0199 return the total amount of the taxable service and the tax due,
0200 regardless of the fact that the receipts from the service may be
0201 shared with another company. Each charge made to a hotel by a
0202 telephone company for telephone service is taxable, except in-
0203 terstate long distance service.

0204 (g) Each telegram charged to the account of a telephone
0205 subscriber and billed by the telephone company shall include
0206 the tax as computed by the telegraph company and shall appear
0207 on the bill in an amount equal to the regular charge for the
0208 telegram plus the sales tax. Each telegraph company shall remit
0209 the tax on telegrams to the state.

0210 *Be it further resolved:* That the secretary of the department
0211 of revenue be requested to modify K.A.R. 92-19-24, as adopted
0212 by the secretary of the department of revenue and filed with the
0213 revisor of statutes on December 14, 1987, as follows:

0214 **92-19-24. Renting of rooms by hotels, taxable property and**
0215 **services.** (a) Sales tax is imposed on the total gross receipts
0216 received from the rental of rooms by hotels as defined in K.S.A.
0217 36-501 and amendments. Accommodations generally referred to
0218 as "sleeping rooms" are subject to sales tax. Sales tax shall not
0219 apply to accommodations in the nature of ballrooms, banquet
0220 rooms, reception rooms, meeting rooms and office space.

0221 (b) Each person renting a room in a hotel for a period of 28
0222 consecutive days or less is subject to tax. However, if the same
0223 person rents a room in a hotel for 29 or more consecutive days,
0224 the person is not subject to tax. Each person moving from one
0225 hotel to another hotel shall pay tax at each hotel unless the
0226 person rents a room in each hotel for more than 28 consecutive
0227 days.

0228 (c) Each hotel is deemed to be the consumer of all items
0229 which are not for resale and are used to conduct the hotel's
0230 business. Each hotel shall pay sales tax on each purchase of
0231 tangible personal property and taxable services, unless specifi-

0232 cally exempted by statute. Hotel purchases of beds, linens,
0233 towels, furniture, equipment, appliances, glass cups and ashtrays
0234 and cable television services are subject to sales tax. Items which
0235 are used in the hotel room by the customer and which are
0236 disposable in nature are considered an ingredient or component
0237 part of the service of hotel room rental, and are exempt from sales
0238 tax.

0239 (d) Services of installing, applying, repairing, servicing,
0240 maintaining or altering the hotel's physical plant, including the
0241 equipment, are taxable.

0242 (e) Each hotel may purchase exempt from sales tax, premium
0243 cable television service channels which are separately billed to
0244 the consumer. Each hotel shall collect sales tax for the cable
0245 television services billed by the hotel to the consumer.

0246 ~~(f) Electricity, gas, fuel and water actually used by a hotel in
0247 rented rooms are exempt from sales tax. The exemption shall not
0248 apply to electricity, gas, fuel and water consumed in a hotel's
0249 common areas, parking lots, offices, swimming pools and other
0250 areas which are not rented by the hotel. When electricity, gas,
0251 fuel or water is furnished through one meter, the hotel shall
0252 furnish the utility a statement showing the electricity, gas, fuel or
0253 water actually used in the rented rooms of the hotel so the utility
0254 can determine the percentage of electricity, gas, fuel or water
0255 which is taxable. Each hotel shall make available to the depart-
0256 ment of revenue the formula and computations used to deter-
0257 mine the exemption.~~

0258 ~~(g) (f)~~ Receipts received for the providing of laundry ser-
0259 vices, dry cleaning and valet services are taxable. When a hotel
0260 sends a consumer's clothing out to a third party cleaner, each
0261 hotel may purchase the cleaning exempt from sales tax for resale
0262 purposes, and shall include the charge and sales tax on the
0263 consumer's bill.

0264 ~~(h) (g)~~ Each hotel purchasing water, soap, solvents and other
0265 cleaning materials for the hotel's own use are subject to sales tax.

0266 *Be it further resolved:* That the secretary of the department
0267 of revenue be requested to modify K.A.R. 92-19-30, as adopted
0268 by the secretary of the department of revenue and filed with the

0269 revisor of statutes on December 14, 1987, as follows:

0270 **92-19-30. Motor vehicles or trailers; isolated or occasional**
0271 **sale.** (a) Sales tax shall be levied on isolated or occasional sales of
0272 motor vehicles or trailers. Tax on the isolated or occasional sale
0273 of a motor vehicle or trailer may be paid to the director of taxation
0274 by the purchaser or to the county treasurer upon application for
0275 certificate of registration or ownership. If payment is made to the
0276 director of taxation, the director shall issue a receipt. If the sales
0277 tax is not paid to the director of taxation, the county treasurer,
0278 upon application for certificate of registration or ownership shall:
0279 (1) Collect the sales tax payment from the applicant;
0280 (2) collect a service fee of 50 from the applicant; and
0281 (3) give the applicant a receipt showing the tax and fee paid
0282 in full.

0283 The director of taxation or county treasurer shall deny a certifi-
0284 cate of registration or ownership to the transferee until the
0285 transferee pays the tax or proves to the satisfaction of the director
0286 or county treasurer that the transfer is not taxable.

0287 (b) As a general rule, the base for computing the tax shall be
0288 the actual selling price of the vehicle. However, the director of
0289 taxation or the county treasurer shall compute the tax on the fair
0290 market value of the vehicle when:

0291 (1) The selling price of the vehicle is unknown or
0292 (2) the stated selling price is not indicative of, and bears no
0293 reasonable relationship to, the fair market value of the vehicle.
0294 The fair market value of the vehicle shall be determined by the
0295 average retail value as shown in the latest publication of the
0296 national automobile dealers' association official used car guide
0297 book.

0298 (c) The actual selling price shall be the base for computing
0299 the tax on wrecked or damaged vehicles.

0300 (d) "Sale" or "sales" includes the exchange of property, a
0301 sale for money, and every other transaction in which considera-
0302 tion is given whether conditional or otherwise.

0303 The term "vehicle" means motor vehicle or trailer.

0304 The term "transferor" means the seller, donor, or other person
0305 who sells, gives away, or otherwise parts with the vehicle.

0306 The term “transferee” means the purchaser, donee, or other
0307 person who purchases, receives by gift, or otherwise acquires the
0308 vehicle.

0309 (e) The taxable event is the sale. If a sale is not involved, the
0310 transaction is not taxable. In addition to the specific transfer
0311 exemption granted under K.S.A. 79-3603(o) as amended by L.
0312 1987, Ch. 182, Sec. 108 and amendments, the following are also
0313 exempted:

0314 (1) A gift is presumed when the transferee is the spouse,
0315 mother, father, brother, sister, child, grandmother or grandfather
0316 of the transferor and tax is not due if money is not exchanged for
0317 the vehicle. However, if money is exchanged for the vehicle, the
0318 transfer is taxable.

0319 The trading or exchanging of a motor vehicle between persons
0320 in a close family relationship is presumed to be a mutual ex-
0321 change of gifts and tax is not due if money is not exchanged.
0322 However, if money is given in addition to trading the vehicle,
0323 the transfer is regarded as a taxable sale.

0324 (2) The transfer by a donor to a donee shall not be taxable if
0325 given without any consideration and with an intention on the
0326 part of the donor that the transfer is a gift. When the parties are
0327 not in a close family relationship as set out above, the transferee
0328 claiming the transfer is a gift shall provide proof of this claim to
0329 the satisfaction of the county treasurer or director of taxation.

0330 (3) A transfer to effect a change of name on the title when
0331 there is no actual change in ownership is not a taxable transfer.
0332 ~~However, the transfer of a motor vehicle or trailer from a corpo-~~
0333 ~~ration to an individual is a taxable transfer.~~

0334 (4) A transfer to an heir or legatee by will or pursuant to the
0335 inheritance or intestacy laws of this state is not a taxable transfer.
0336 A certified copy of the probate court order making the distribu-
0337 tion shall be filed with the director of taxation or county trea-
0338 surer.

0339 (5) A transfer to a winner of a drawing or raffle is deemed to
0340 be a gift to the winner and is not a taxable transfer. However, the
0341 person who purchased the vehicle and transferred it to the
0342 winner is subject to the tax. When either the donor or recipient of

0343 the gift applies for the first registration in Kansas, sales tax shall
0344 be paid.

0345 (6) When a vehicle is transferred to the holder of an encum-
0346 brance as a result of repossession under the terms of a written
0347 agreement entered into at the time of the original purchase by
0348 the purchaser and encumbrance holder, the transfer is not tax-
0349 able. However, the subsequent sale of the vehicle by the en-
0350 cumbrance holder is taxable.

0351 (f) The following transfers are sales, and are subject to sales
0352 tax: (1) When one person pays cash or some other consideration
0353 in addition to the vehicle exchanged, that person shall pay sales
0354 tax on the cash fair market value of the other consideration. In
0355 such a trade, sales tax is not due from the person who traded
0356 vehicles but did not pay any cash or any other consideration.
0357 Each person claiming a sales tax deduction for trading a
0358 vehicle shall file an affidavit with the director of taxation or the
0359 county treasurer containing information the director of taxation
0360 may require.

0361 When the stated cash or other consideration is not indicative
0362 of, and bears no reasonable relationship to, the actual difference
0363 between the fair market value of the vehicle traded and the fair
0364 market value of the vehicle received by the purchaser, the
0365 director of taxation or the county treasurer shall compute the tax
0366 on the actual difference between the fair market value of the
0367 vehicles.

0368 (2) The purchase of a vehicle which the owner intends to
0369 give to another is taxable, even though tax is not due on the
0370 subsequent transfer from the donor to the donee.

0371 (3) A transfer of a vehicle from a partner to the partnership or
0372 from a partnership to a partner is a taxable transfer. This type of
0373 transfer is presumed to be made in consideration of an increased
0374 interest in the partnership or for services rendered the partner-
0375 ship or for other value passing between the parties.

0376 (4) If a donor gives a donee a gift of cash or other property for
0377 the purpose of purchasing a vehicle, the donee shall be liable for
0378 the tax upon purchasing the vehicle.

0379 (5) The transfer of a vehicle which is subject to an encum-

0380 brance in exchange for the assumption by the transferee of the
0381 obligation to pay all or any part of the encumbrance is a taxable
0382 transfer. When the parties deal at arms' length, the tax base is the
0383 amount actually paid to the transferor by the transferee plus the
0384 amount of the encumbrance assumed by the transferee. When
0385 the parties are not at arms' length and the amount of the encum-
0386 brance or the price paid does not truly reflect the value of the
0387 vehicle or the interest in the vehicle which has been transferred,
0388 the tax base shall be the fair market value of the vehicle or that
0389 portion which represents the interest transferred.

0390 (6) When a vehicle is purchased because a vehicle has been
0391 destroyed by accident, fire, theft or otherwise, the purchase of
0392 the replacement vehicle is not exempt from tax. Each purchase of
0393 a vehicle is taxable whether purchased by the owner of the
0394 destroyed vehicle or by an insurance company which is obli-
0395 gated to replace the destroyed vehicle.

0396 (7) A transfer of a vehicle from a corporation to an officer,
0397 shareholder, board member or employee is a taxable transfer and
0398 is presumed to be made in consideration for services rendered
0399 the corporation or for other value passing between the parties.

0400 (g) Each transferee claiming an exemption shall file an af-
0401 fidavit with the director of taxation or the county treasurer stating
0402 the name, address, and telephone number of the transferor; the
0403 name, address, and telephone number of the transferee; the
0404 make, year, and style of the motor vehicle or trailer; and other
0405 information as the director of taxation may require. The affidavit
0406 shall contain facts in detail sufficient to clearly bring the trans-
0407 feree within the exemption claimed.

0408 The director of taxation shall not accept affidavits of exemption
0409 which are not correct in both substance and form in lieu of the
0410 tax.

0411 The county treasurer shall collect the tax if any doubt exists as
0412 to the validity of the exemption claim. Any taxpayer may file a
0413 claim with the director of taxation for a refund if the taxpayer
0414 believes the tax has been erroneously collected.

0415 (h) Any person who makes a false affidavit under this regu-
0416 lation shall be subject to the penalties of perjury and shall be

0417 prosecuted to the full extent of the law. The director of taxation
0418 shall request the attorney general of the state of Kansas as well as
0419 any county attorney to assist in the prosecution.

0420 *Be it further resolved:* That the secretary of the department
0421 of revenue be requested to modify K.A.R. 92-19-40, as adopted
0422 by the secretary of the department of revenue and filed with the
0423 revisor of statutes on December 14, 1987, as follows:

0424 **92-19-40. Intrastate telephone and telegraph services; sales**
0425 **for noncommercial use.** (a) Each sale of a telephone or telegraph
0426 service which is classified and billed for commercial use by the
0427 retailer providing the service shall be taxed. Each sale of an
0428 intrastate telephone and telegraph service for noncommercial
0429 use, other than noncommercial intrastate long-distance tele-
0430 phone service, is not taxable. Exempt telephone service includes
0431 ordinary exchange services, extra listings, joint-user service,
0432 ~~telephone access charges,~~ installation and repair services. Each
0433 sale, lease or rental of telephones, equipment and facilities and
0434 tangible personal property furnished in connection with, sup-
0435 plemental to, or associated with telephone usage shall be subject
0436 to sales tax.

0437 (b) As used in this regulation, "residential premises" shall
0438 have the meaning ascribed to it in K.A.R. 92-19-38 and amend-
0439 ments, and "long distance service" means message toll services,
0440 but does not include private line or foreign exchange services.

0441 *Be it further resolved:* That the secretary of the department
0442 of revenue be requested to revoke K.A.R. 92-19-54, 92-19-57,
0443 92-19-67, 92-19-70 and 92-19-80, as adopted by the secretary of
0444 the department of revenue and filed with the revisor of statutes
0445 on December 14, 1987; and

0446 *Be it further resolved:* That the secretary of state be directed
0447 to transmit a copy of this resolution to the secretary of the
0448 department of revenue.

Members of the Committee, Ladies and Gentlemen:

My name is Russell Ross. I am the General Manager of Donrey Outdoor Advertising Company in Wichita. It has recently come to the attention of members of the outdoor advertising industry that the State Department of Revenue has issued a regulation (92-19-18) which we sincerely believe exceeds the authority granted to them by this legislature. Specifically, we believe the Department of Revenue will attempt to use this new regulation to impose a tax on advertising placed on signs and outdoor structures. Although this legislature has never made advertising a taxable event, we believe the Department will make such an effort even though there is no authority for them to do so.

There is little question that the Department cannot attempt to collect tax on outdoor advertising and not make the same efforts with regard to newspapers and radio and TV. We do not know why we have been singled out for their attention and, to paraphrase Abraham Lincoln, but for the honor of having been recognized, we would rather not be here.

We do not believe the Kansas Legislature wants to make the mistake which the State of Florida recently made in attempting to tax advertising. As many of you know, the attempt to impose such a tax was repealed less than a year after it became law. During that period, the State of Florida lost many millions of dollars in business. The move to repeal that tax was led by the governor of Florida who admitted that it was ill-advised and counter-productive.

We submit that Kansas should avoid the Florida mistake and would recommend to this committee that it recommend an amendment to Section 79-3603 by adding a new sub-paragraph T which would read as follows:

"The collection of a fee or charge for the right to convey information, whether commercial or non-commercial in nature, in any medium of communication, shall not be deemed the sale or lease of tangible personal property or the rendition of a service subject to taxation under this chapter."

The purpose of such an amendment would be to clarify the existing law of Kansas. It would not change the law. The amendment would, however, send a clear message to the Department of Revenue that while the sale of personal property may legitimately be taxed, that clearly protected First Amendment rights, both commercial and non-commercial, are not subject to tax.

We believe this amendment is necessary to avoid the expense of having to litigate the issue with the Department of Revenue, particularly since their position appears to be contrary to the position which this legislature has wisely taken for many, many years.

A copy of the proposed language has been provided to each of you, and we recommend your positive action.

Thank you for permitting me to appear before your committee. I would be happy to answer any questions which you may have.