

Approved: MARCH 16, 1994  
Date

## MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Chairman Lana Oleen at 11:05 a.m. on February 16, 1994 in Room 254-E of the Capitol.

All members were present

Committee staff present: Lynne Holt, Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes  
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:  
See attached agenda

Others attending: See attached list

Sen. Oleen called attention to committee Minutes for February 1 and 2, 1994, and asked the committee to review them. Sen. Parkinson made a motion the Minutes for February 1 and 2 be approved, and it was seconded by Sen. Vidricksen; the motion passed.

Sen. Oleen announced SB 468, regarding purchases of domestic beer and wine by credit card, has been referred back to the committee. She stated she would rather have the committee make a policy decision as to whether or not to amend the bill to include credit card purchases of other alcoholic beverages than initiate a new bill dealing solely with the issue of credit cards for other alcoholic beverages.

Sen. Vidricksen explained a proposal (Attachment 1) which would establish a travel and tourism development supplemental revenue fund and asked its introduction. Sen. Vidricksen made a motion the committee introduce it as a bill, and it was seconded by Sen. Jones; the motion passed.

Sen. Vidricksen introduced a proposal (Attachment 2) which would exempt sales tax on all-terrain vehicles when used as a farm vehicle. Sen. Vidricksen made a motion the proposal be introduced as a bill, and it was seconded by Sen. Jones; the motion passed.

Sen. Oleen announced several members of the committee have expressed a desire for more time to review HB 2560, an act concerning crimes and punishments; relating to gambling devices, so it will be held until next week.

Sen. Oleen announced a hearing for SCR 1620 and stated written testimony (Attachment 3) from Rep. Kenneth King has been distributed to the committee. She introduced Sen. Bill Wisdom, who appeared as a proponent for the Resolution. He referred to a letter to Gov. Finney from Chief Justice Richard Holmes (Attachment 4) and explained he was disgruntled with unfunded mandates from the federal government, as he knows other legislators are. Sen. Parkinson asked how many states have to approve calling a convention. Sen. Wisdom was unsure, and after discussion, it was determined that 2/3 of the Legislatures would have to call for a convention. Sen. Parkinson also questioned if a convention were called for a specific purpose, and if the convention would be closed for consideration of other subjects. Sen. Vidricksen stated calling a convention is a volatile subject, as there is no way a convention could be limited to only one subject. He recommended another way be found to force the federal government to pay costs incurred when mandating programs and services to the states. He stated support for the concept and recommended Sen. Wisdom look to the ratification process, similar to that used in the ERA ratification. Sen. Wisdom admitted having concerns about a convention and stated he would be happy to pursue another avenue. Sen. Oleen stated if the ratification process is used, 3/4 of the states are needed to accomplish the ratification. Sen. Wisdom stated he would leave the decision to the committee as to the best way to pursue the subject. Sen. Oleen introduced Harry Herington, who spoke in favor of the Resolution. He stated the League of Municipalities is committed to doing away with unfunded mandates for local governments and offered an amendment (Attachment 5) to include cities, along with states, requiring the federal government to pay costs incurred by providing programs

CONTINUATION SHEET

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Statehouse, at 11:05 a.m. on February 16, 1994.

and services which they mandate. He commended Sen. Wisdom and asked the committee to support the Resolution. Sen. Oleen introduced Orville Johnson, who gave testimony (Attachment 6) opposing the Resolution. He stated there are two ways to amend the Constitution: 1. Call Constitutional convention; 2. To request Congress to pass Resolution, which must be ratified by 3/4 of the states. He asked the committee to vote against the Resolution. Sen. Oleen stated the committee will hold SCR 1620 until the staff gathers information answering questions raised by the committee.

Sen. Oleen directed the committees' attention to SB 544 and asked staff to brief the committee on the bill, since it has been some time since the hearing for the bill. The following was distributed to committee members:

Table showing when, where and how liquor is sold to public, (Attachment 7);  
List of neighboring states showing Sunday and Election Day sales and if credit cards are permitted---  
from ABC, (Attachment 8).

Sen. Oleen outlined the three options for consideration of the committee: 1. Address only elections involving persons, open all/close all; 2. Allow all alcoholic beverages to be sold on Election day; 3. Allow no alcoholic beverages to be sold on Election day. Sen. Parkinson made a motion the bill as introduced be recommended favorably, and it was seconded by Sen. Jones. Sen. Oleen recalled testimony from law enforcement officials regarding confusion as to which establishment may remain open, and which are to close. There is no record-keeping mechanism to determine where elections are being held and whether package sales of alcoholic beverage are permitted and whether drinking establishments are allowed to remain open. Sen. Tillotson asked for clarification of the motion, and Sen. Oleen stated the bill will allow alcoholic beverages to be sold on Election day. Sen. Tillotson stated the need to be consistent, but feels this is a major departure in allowing liquor to be sold on Election day. Sen. Praeger stated the present law is a vestige of the past and feels it appropriate to make a change in the Election day law. Sen. Tillotson made a substitute motion to close all liquor sales from 7 a.m. to 7 p.m. on Election day, and it was seconded by Sen. Papay. Sen. Gooch asked for clarification - all establishments selling liquor would be closed on Election day; for example, all restaurants, bars, quick shops, etc. Sen. Tillotson answered that no liquor could be sold where elections are being held. Ms. Torrence asked if that would be a statewide prohibition against selling liquor. Sen. Jones stated that means if a school board election were being held that an establishment could sell liquor on one side of the street, while the establishment on the other side of the street would be closed. Sen. Oleen stated the committee should clarify whether it would apply to all elections, statewide or local, and Sen. Tillotson stated she did not include school board elections in her motion. Sen. Oleen asked for action on Sen. Tillotson's motion, and stated the nos have it, the motion fails.

Sen. Parkinson clarified the intent of the original motion - that liquor would be sold on Election day, and all establishments would remain open. Sen. Parkinson's original motion passed. Sen. Walker made a substitute motion that liquor could not be sold, and all establishments closed, when national and state elections were held. Sen. Oleen ruled the motion was out of order due to the passage of the original motion.

Sen. Oleen introduced pages from her district, including her daughter, who have assisted the committee today.

Meeting adjourned at 11:50.



*Introduce*

Attach. *A*  
3 RS 1409

SENATE BILL NO. \_\_\_\_\_

AN ACT relating to travel and tourism; establishing the division of travel and tourism development supplemental revenue fund, the transfer of moneys to such fund and the use and making of expenditures from such fund; and providing for the administration of the act.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) There is hereby created the division of travel and tourism development supplemental revenue fund. All moneys credited to such fund shall be expended or transferred only for the purposes and in the manner provided by this act and all expenditures from such fund shall be made in accordance with appropriation acts.

(b) On August 1, 1994, and on August 1, of each year thereafter, the director of accounts and reports shall make transfers from the state general fund to the division of travel and tourism development supplemental revenue fund in an amount determined in the following manner. The secretary of revenue shall compute the total retail sales taxes credited to the state general fund pursuant to article 36 of chapter 79 of the Kansas Statutes Annotated and amendments thereto, which were derived from the retail sale of tourist-oriented goods and services, as defined by subsection (c), in the second and third fiscal years prior to the fiscal year in which each transfer is made under this section and shall certify such amounts to the director of accounts and reports. If the sales taxes derived from the retail sale of tourist-oriented goods and services credited in the fiscal year two years prior to the fiscal year in which the transfer is to be made is more than 3% in excess of the sales taxes derived from the retail sales of tourist-oriented goods and services credited in the fiscal year three years prior to the

*Senate Desk + State*  
*Feb. 16, 1994*  
*Attachment #1*

fiscal year in which the transfer is to be made, then the director of accounts and reports shall transfer an amount equal to 1/2 of the sales tax revenues from the second fiscal year prior to such transfer, which is more than 3% in excess of the sales tax revenues from the third fiscal year prior to such transfer, to the division of travel and tourism development supplemental revenue fund. Transfers shall not exceed \$1,000,000 in any one fiscal year. All transfers made in accordance with the provisions of this section shall be considered to be demand transfers from the state general fund.

(c) As used in this act, "sales of tourist-oriented goods and services" shall mean and include all sales of the following:

(1) Meals and drinks furnished at any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel or other place where meals or drinks are regularly sold to the public;

(2) room rentals at hotels, as defined by K.S.A. 36-501, and amendments thereto; and

(3) sale of admissions to places providing amusement, entertainment or recreation services.

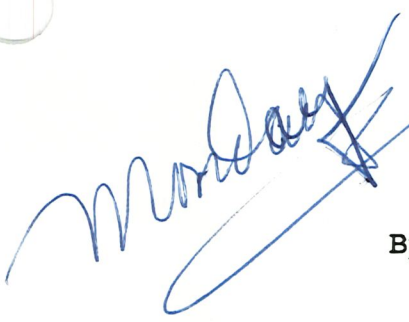
Sec. 2. Moneys in the division of travel and tourism development supplemental revenue fund shall be used by the division of travel and tourism development only for the performance of powers and duties of the division as prescribed by law and shall be in addition to the budget base of such division in each fiscal year. The budget base of the division for a fiscal year shall be the amount budgeted and appropriated for the operation of the division from all other sources for the preceding fiscal year plus an amount equal to 90% of any moneys transferred to the division of travel and tourism development supplemental revenue fund in such preceding fiscal year.

Sec. 3. Prior to each appropriation from the division of travel and tourism development supplemental revenue fund, the division of travel and tourism development shall present to the committee on economic development of the house of representatives

and to the commerce committee of the senate, a targeted promotional marketing strategy within the state's tourism marketing and business development program to be financed from the refund including, but not limited to, targeted markets, duration of market plans, ensuing market strategies, and the actual and estimated investment return, if any, resulting therefrom.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

2-10-94  
3 RS 2383  
ATTACH. *A*



SENATE BILL NO. 805

By

AN ACT relating to sales taxation; exempting certain sales of all-terrain vehicles therefrom; amending K.S.A. 1993 Supp. 79-3606, as amended by section 4 of 1994 House Bill No. 2004, and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1993 Supp. 79-3606, as amended by section 4 of 1994 House Bill No. 2004, is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301 and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817 and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02 and amendments thereto, and motor vehicles as defined by K.S.A. 79-1017 and amendments thereto;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital or nonprofit blood, tissue or organ bank and used exclusively for state, political subdivision, hospital or nonprofit blood, tissue or organ bank purposes, except when: (1) Such state or hospital is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business, or (2) such political

*Senate Fed. State*  
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*Attachment #2*

subdivision is engaged or proposes to engage in the business of furnishing gas, water, electricity or heat to others and such items of personal property or service are used or proposed to be used in such business;

(c) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes. The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation;

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital, public or private elementary or secondary school or a public or private nonprofit educational institution, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital, school or educational institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state, the total cost of which is paid from funds of such political subdivision and which would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision. Nothing in this subsection or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing,



enlarging, furnishing or remodeling facilities for any political subdivision of the state. As used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities which are to be leased to the donor. When any political subdivision of the state, public or private nonprofit hospital, public or private elementary or secondary school or public or private nonprofit educational institution shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, hospital, school or educational institution concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the

purpose for which such certificate was issued, the political subdivision, hospital, school or educational institution concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(e) all sales of tangible personal property or services purchased by a contractor for the erection, repair or enlargement of buildings or other projects for the government of the United States, its agencies or instrumentalities, which would be exempt from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the government of the United States, its agencies or instrumentalities shall contract for the erection, repair, or enlargement of any building or other project, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the government of the United States, its agencies or instrumentalities concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the

director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto;

(f) tangible personal property purchased by a railroad or public utility for consumption or movement directly and immediately in interstate commerce;

(g) sales of aircraft including remanufactured and modified aircraft, sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft sold to persons using such aircraft and aircraft repair, modification and replacement parts as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft, aircraft parts, replacement parts and services employed in the remanufacture, modification and repair of aircraft for use outside of the United States;

(h) all rentals of nonsectarian textbooks by public or private elementary or secondary schools;

(i) the lease or rental of all films, records, tapes, or any type of sound or picture transcriptions used by motion picture exhibitors;

(j) meals served without charge or food used in the preparation of such meals to employees of any restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public if such employees' duties are related to the furnishing or sale of such meals or drinks;

(k) any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto, or

aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days;

(l) all isolated or occasional sales of tangible personal property, services, substances or things, except isolated or occasional sale of motor vehicles specifically taxed under the provisions of subsection (o) of K.S.A. 79-3603 and amendments thereto;

(m) all sales of tangible personal property which become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas; and any such producer, manufacturer or compounder may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for use as an ingredient or component part of the property or services produced, manufactured or compounded;

(n) all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, irrigation and in providing such services;

(o) all sales of animals, fowl and aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-1901, and amendments thereto, the production of food for human consumption, the production of animal, dairy, poultry or aquatic plant and animal products, fiber or fur, or the production of offspring for use

for any such purpose or purposes;

(p) all sales of drugs, as defined by K.S.A. 65-1626 and amendments thereto, dispensed pursuant to a prescription order, as defined by K.S.A. 65-1626 and amendments thereto, by a licensed practitioner;

(q) all sales of insulin dispensed by a person licensed by the state board of pharmacy to a person for treatment of diabetes at the direction of a person licensed to practice medicine by the board of healing arts;

(r) all sales of prosthetic and orthopedic appliances prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry. For the purposes of this subsection, the term prosthetic and orthopedic appliances means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body; used to alleviate the malfunction of any part of the body; or used to assist any disabled person in leading a normal life by facilitating such person's mobility; but such term shall not include motor vehicles, accessories to be attached to motor vehicles or personal property which when installed becomes a fixture to real property;

(s) all sales of tangible personal property or services purchased directly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 et seq. and amendments thereto, which property or services are used in the operation or maintenance of the district;

(t) all sales of farm machinery and equipment or aquaculture machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such machinery and equipment. For the purposes of this subsection the term "farm machinery and equipment or aquaculture machinery and equipment" shall include machinery and equipment used in the operation of Christmas tree farming but shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer or an all-terrain

vehicle, as such terms are defined by K.S.A. 8-126 and amendments thereto. Each purchaser of farm machinery and equipment or aquaculture machinery and equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery and equipment or aquaculture machinery and equipment purchased will be used only in farming, ranching or aquaculture production. Farming or ranching shall include the operation of a feedlot and farm and ranch work for hire;

(u) all leases or rentals of tangible personal property used as a dwelling if such tangible personal property is leased or rented for a period of more than 28 consecutive days;

(v) all sales of food products to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization, and all sales of food products for use in preparing meals for consumption by indigent or homeless individuals whether or not such meals are consumed at a place designated for such purpose;

(w) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises and all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes for agricultural use;

(x) all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises;

(y) all sales of materials and services used in the repairing, servicing, altering, maintaining, manufacturing,

remanufacturing, or modification of railroad rolling stock for use in interstate or foreign commerce under authority of the laws of the United States;

(z) all sales of tangible personal property and services purchased directly by a port authority or by a contractor therefor as provided by the provisions of K.S.A. 12-3418 and amendments thereto;

(aa) all sales of materials and services applied to equipment which is transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification and which is subsequently transported outside the state for use in the transmission of liquids or natural gas by means of pipeline in interstate or foreign commerce under authority of the laws of the United States;

(bb) all sales of used mobile homes or manufactured homes. As used in this subsection: (1) "Mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 1993 Supp. 58-4202 and amendments thereto; and (2) "sales of used mobile homes or manufactured homes" means sales other than the original retail sale thereof;

(cc) all sales of tangible personal property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business or retail business which meets the requirements established in K.S.A. 74-50,115 and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business or retail business. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such business or retail business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall

execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the owner of the business or retail business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto. As used in this subsection, "business" and "retail business" have the meanings respectively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

(dd) all sales of tangible personal property purchased with food stamps issued by the United States department of agriculture;

(ee) all sales of lottery tickets and shares made as part of a lottery operated by the state of Kansas;

(ff) on and after July 1, 1988, all sales of new mobile homes or manufactured homes to the extent of 40% of the gross receipts, determined without regard to any trade-in allowance, received from such sale. As used in this subsection, "mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 1993 Supp. 58-4202 and amendments thereto;

(gg) all sales of tangible personal property purchased in accordance with vouchers issued pursuant to the federal special supplemental food program for women, infants and children;

(hh) all sales of medical supplies and equipment purchased directly by a nonprofit skilled nursing home or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923, and



amendments thereto, for the purpose of providing medical services to residents thereof. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(ii) all sales of tangible personal property purchased directly by a nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities provided or sponsored by such organization. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(jj) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based mental retardation facility or mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(kk) on and after January 1, 1989, all sales of machinery and equipment used directly and primarily for the purposes of manufacturing, assembling, processing, finishing, storing, warehousing or distributing articles of tangible personal property in this state intended for resale by a manufacturing or processing plant or facility or a storage, warehousing or distribution facility:

(1) For purposes of this subsection, machinery and equipment shall be deemed to be used directly and primarily in the manufacture, assemblage, processing, finishing, storing, warehousing or distributing of tangible personal property where such machinery and equipment is used during a manufacturing, assembling, processing or finishing, storing, warehousing or distributing operation:

(A) To effect a direct and immediate physical change upon the tangible personal property;

(B) to guide or measure a direct and immediate physical change upon such property where such function is an integral and

essential part of tuning, verifying or aligning the component parts of such property;

(C) to test or measure such property where such function is an integral part of the production flow or function;

(D) to transport, convey or handle such property during the manufacturing, processing, storing, warehousing or distribution operation at the plant or facility; or

(E) to place such property in the container, package or wrapping in which such property is normally sold or transported.

(2) For purposes of this subsection "machinery and equipment used directly and primarily" shall include, but not be limited to:

(A) Mechanical machines or major components thereof contributing to a manufacturing, assembling or finishing process;

(B) molds and dies that determine the physical characteristics of the finished product or its packaging material;

(C) testing equipment to determine the quality of the finished product;

(D) computers and related peripheral equipment that directly control or measure the manufacturing process or which are utilized for engineering of the finished product; and

(E) computers and related peripheral equipment utilized for research and development and product design.

(3) "Machinery and equipment used directly and primarily" shall not include:

(A) Hand tools;

(B) machinery, equipment and tools used in maintaining and repairing any type of machinery and equipment;

(C) transportation equipment not used in the manufacturing, assembling, processing, furnishing, storing, warehousing or distributing process at the plant or facility;

(D) office machines and equipment including computers and related peripheral equipment not directly and primarily used in controlling or measuring the manufacturing process;

(E) furniture and buildings; and

(F) machinery and equipment used in administrative, accounting, sales or other such activities of the business;

(ll) all sales of educational materials purchased for distribution to the public at no charge by a nonprofit corporation organized for the purpose of encouraging, fostering and conducting programs for the improvement of public health;

(mm) all sales of seeds and tree seedlings; fertilizers, insecticides, herbicides, germicides, pesticides and fungicides; and services, purchased and used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use;

(nn) except as otherwise provided in this act, all sales of services rendered by an advertising agency or licensed broadcast station or any member, agent or employee thereof;

(oo) all sales of tangible personal property purchased by a community action group or agency for the exclusive purpose of repairing or weatherizing housing occupied by low income individuals;

(pp) all sales of drill bits and explosives actually utilized in the exploration and production of oil or gas;

(qq) all sales of tangible personal property and services purchased by a nonprofit museum or historical society or any combination thereof, including a nonprofit organization which is organized for the purpose of stimulating public interest in the exploration of space by providing educational information, exhibits and experiences, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(rr) all sales of tangible personal property which will admit the purchaser thereof to any annual event sponsored by a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986; and

(ss) all sales of tangible personal property and services

purchased by a public broadcasting station licensed by the federal communications commission as a noncommercial educational television or radio station.

Sec. 2. K.S.A. 1993 Supp. 79-3606, as amended by section 4 of 1994 House Bill No. 2004, is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

*Attach. #*

STATE OF KANSAS

KENNETH R. KING  
REPRESENTATIVE, SEVENTY-SEVENTH DISTRICT  
BUTLER COUNTY  
ROUTE 1  
LEON, KANSAS 67074-9803  
(316) 775-5340  
  
STATE CAPITOL BUILDING—112-S  
TOPEKA, KANSAS 66612-1504  
(913) 296-7644



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
CHAIRMAN: JOINT COMMITTEE ON PENSIONS  
INVESTMENT & BENEFITS  
-----  
VICE-CHAIRMAN: TRANSPORTATION  
-----  
MEMBER: FINANCIAL INSTITUTIONS & INSURANCE  
-----  
MEMBER: AMERICAN LEGISLATIVE EXCHANGE  
COUNCIL

SCR 1620

February 16, 1994

Testimony Before the  
Senate Federal and State Affairs Committee  
by

Kenneth R. King  
Representative, 77th District

Chair Oleen and members of the Committee.

The federal government has a long history of requiring state and local governments to establish new services and programs but never finance these programs.

A large number of us think that when they require expanded services and new programs they should also appropriate the money to fund these programs. One of the reasons that state and local governments have trouble funding their budget is because of federal mandates. I believe that unfunded mandates are not acceptable and should be stopped. I strongly support SCR 1620 which would make constitutional changes that would end this practice by the federal government.

*Senate Fed + State  
Feb. 16, 1994  
Attachment 3*

Attach 5

Governor Joan Finney  
Sen. Jerry Moran  
Rep. Mike O'Neal  
January 28, 1994  
Page 11

**Federal Mandates**

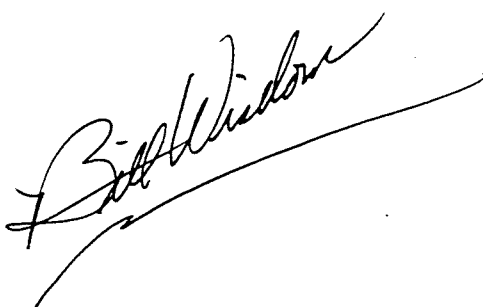
One final issue that must be of serious concern to all levels of local and state government is the continued unwarranted intrusion of the federal government into strictly local governmental functions. The Tenth Amendment to the United States Constitution reads:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

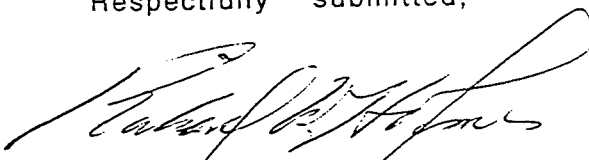
When was the last time you heard or read of the Tenth Amendment?

The federal government in recent years with its ever increasing role as "big brother" has, in effect, made a mockery and a nullity of the Tenth Amendment. We are constantly being flooded with new mandates and edicts from the federal government which not only encroach on the traditional roles of local government but on the rights of every citizen. If the federal government is to have the power to intrude upon local governments and their citizens with ever increasing mandates and directives, then the federal government must provide the financing to carry out these mandates. It is time for all three branches of government in every state to band together through their respective national organizations to fight the continued federal intrusion upon traditional states rights guaranteed to the states by the Tenth Amendment.

In closing, I want to personally thank the executive and legislative branches of government for their cooperation in the past. I look forward to working with you throughout 1994 and the years ahead.



Respectfully submitted,



Richard W. Holmes  
Chief Justice

RWH/slg

Senate Fed + State  
Feb. 16, 1994  
Attachment # 4

Attach. X

**Senate Concurrent Resolution No. 1620**

By Committee on Federal and State Affairs

2-2

8 A CONCURRENT RESOLUTION requesting the Congress of the  
9 United States to call a convention for the purpose of proposing  
10 an amendment to the Constitution of the United States requiring  
11 the federal government to pay costs incurred by states in providing \_\_\_\_\_ and cities  
12 programs and services mandated or required by the federal  
13 government.

14  
15 WHEREAS, States are finding it increasingly difficult to provide \_\_\_\_\_ and cities  
16 for the financing of costs of basic programs and services required  
17 under the constitutions and laws of such states; and

18 WHEREAS, Each year states are required to establish additional \_\_\_\_\_ and cities  
19 programs and services or to expand existing programs and services  
20 in accordance with standards prescribed by the federal government;

21 WHEREAS, Revenue sources available to states are not expanding \_\_\_\_\_ and cities  
22 in such a manner as to permit the financing of both basic state  
23 programs and services and programs and services mandated by the  
24 federal government; and

25 WHEREAS, Under Article V of the constitution of the United  
26 States, on the application of the legislatures of two-thirds of the  
27 several states, congress shall call a convention for proposing amend-  
28 ments to such constitution: Now therefore,

29 *Be it resolved by the Senate of the State of Kansas, the House of*  
30 *Representatives concurring therein:* That the Legislature of the  
31 State of Kansas hereby makes application to the congress of the  
32 United States to call a convention for the sole and exclusive purpose  
33 of proposing an amendment to the constitution of the United States,  
34 in accordance with Article V of the Constitution of the United States,  
35 requiring the federal government to pay all costs incurred by states \_\_\_\_\_ and cities  
36 in establishing new programs and services or expanding existing  
37 programs and services mandated by the federal government;

38 *Be it further resolved:* That the legislature of each of the other  
39 states in the union is hereby urged to make application to the con-  
40 gress of the United States to call a convention for the sole and  
41 exclusive purpose of proposing an amendment to the constitution of  
42 the United States, for such purpose; and

43 *Be it further resolved:* That the Secretary of State be directed

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1 to send enrolled copies of this resolution to the Secretary of the  
2 United States Senate, the Clerk of the United States House of Rep-  
3 resentatives, each member of the Kansas delegation in the Congress  
4 of the United States and the Secretary of State and to the secretary  
5 of state and the presiding officers of each house of the Legislature  
6 of each of the several states of the United States.

5-2



#B.  
2560

Attach. #

TESTIMONY OPPOSING

KANSAS STATE SENATE

SCR 1620

FEDERAL & STATE AFFAIRS

A CONCURRENT RESOLUTION REQUESTING  
THE U. S. CONGRESS TO CALL A CONSTITUTIONAL CONVENTION. (The correct  
title for this resolution.)

THIS RESOLUTION IS THE BEST KEPT SECRET IN THE 1994  
LEGISLATURE.

Neither the Senate Calendar or the Bill Index suggests  
the true subject of SCR 1620, a Constitutional Convention.

Obviously, everyone is against federal unfunded mandates, or  
state unfunded mandates. (See SCR 1616 requested by the Kansas  
Chamber of Commerce and Industry.) But SCR 1620 is nothing  
more than a bait and hook scheme dreamed up by supporters of  
Pres. Bill Clinton.

Pres. Clinton wants to re-invent government, but no one I  
know wants him touching the U.S. Constitution.

I for one do not want anyone tampering with the Second Amend-  
ment of the Constitution, nor anyone inserting an Amendment  
that would give homosexuals protected class status.

IN HOW MANY STATES DO YOU SUPPOSE THIS SLIGHT OF HAND MOVE-  
MENT IS AT WORK??

Let's amend the U.S. Constitution the Grass Roots way, by  
having the Congress pass a Resolution that has to be ratified  
by three fourths of the states.

Crville E. Johnson  
2401 Bradbury  
Topeka, Kansas 66611

913-233-0212

Feb. 16, 1994

*Senate Fed + State*  
*Feb. 16, 1994*  
*Attachment # 6*

Attach. 8

TABLE 5

WHERE, WHEN, AND HOW IS LIQUOR SOLD TO THE PUBLIC?

TYPE OF SALES	PRODUCTS	DAYS	HOURS	DISCOUNTS	CREDIT SALES	ADVERTISING	EMPLOYEE AGE
<b>PACKAGE SALES</b>							
Retail Liquor Stores	Beer <sup>1</sup> , wine, spirits, non-alcohol beer (NAB) <sup>2</sup>	No sales on: Sunday, election days <sup>3</sup> , certain holidays <sup>4</sup> .	No sales between 11 p.m. and 9 a.m. <sup>5</sup>	No sales at less than cost. <sup>6</sup>	No	No handbills, billboards <sup>7</sup> , or window displays of liquor.	Must be 21 or older.
CMB Retailers (off-premise)	CMB, NAB	No sales on Sunday or election days.	No sales between midnight and 6 a.m. <sup>8</sup>	May sell at less than cost and may receive quantity discounts from wholesalers.	No	No restrictions.	Must be 18 or older to sell CMB.
Farm Wineries, outlets, and Microbreweries	Domestic wine (farm wineries) Domestic beer (microbreweries)	Any days. Limited Sunday hours.	No sales between midnight and 6 a.m. Sunday sales permitted between noon and 6 p.m.	NA	No	Any advertising is subject to approval by the Director of Alcoholic Beverage Control.	Persons employed in manufacture, sale, or serving must be 18 or older. Those under 21 must be supervised by someone 21 or older.
<b>BY THE DRINK</b>							
Clubs & Drinking Establishments Microbreweries and Farm Wineries <sup>9</sup>	Beer, wine, spirits, NAB, CMB <sup>10</sup>	Any days.	No sales between 2 and 9 a.m.	No free drinks, no sales at less than cost. No public "all you can drink" for one price promotions. No sales at price less than that charged the general public. Cannot offer drinks as prizes. No "happy hour" promotions. Increased alcohol content in drink must result in proportional increase in price. Free food and entertainment permitted at any time.	Permitted	No advertising of prohibited promotions (see "Discounts").	Must be 21 or older to mix and dispense drinks. Must be 18 or older to serve drinks.
CMB retailers (on-premise)	CMB, NAB	No sales on Sunday in bars. Restaurants may sell on Sunday if authorized by local governing body. No election day sales.	No sales between midnight and 6 a.m. except in clubs and drinking establishments.		No <sup>11</sup>		Must be 18 or older to serve and dispense CMB.

Amend 7-11-94  
 Amend 16, 1994  
 Attachment # 7

1. Malt beverage containing more than 3.2 percent alcohol by weight.
2. Malt beverage containing not more than .5 percent alcohol by weight.
3. "Election days" include any national, state, county, or municipal general or primary election. The prohibition against liquor sales on election days applies to the time when polls are open within the jurisdiction where the election is being held.
4. Holidays on which liquor stores must be closed: Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas.
5. By ordinance, a city may require liquor stores to close prior to 11:00 p.m., but not before 8:00 p.m.
6. Wholesalers cannot grant retailers quantity discounts (by regulation). Sales at less than cost are permitted when a retailer is closing out stock, selling damaged or deteriorated stock, or selling under court order.
7. In a 1992 opinion (92-14) the Attorney General stated that the statute that attempts to prohibit liquor retailers from advertising by means of billboards (K.S.A. 1992 Supp. 41-714) is so vague as to be unenforceable.
8. City or county governing bodies may, by ordinance or resolution, prescribe hours of closing, standards of conduct and rules and regulations concerning the moral, sanitary, and health conditions of CMB licensees and may establish zones within which CMB retailers may not be located.
9. Microbreweries and farm wineries located in counties that permit liquor by the drink may offer free samples of their product. In order to sell liquor by the drink, microbreweries and farm wineries must be licensed as clubs or drinking establishments, in which case they must adhere to requirements for those licenses. Microbreweries also may be licensed as caterers and, if so, would follow those statutes.
10. Clubs and drinking establishments may also have a locally issued license to sell CMB.
11. CMB may be sold on credit in clubs and drinking establishments. In restaurants and bars that only sell CMB, no sales may be made on credit.

As of 2/94

COLORADO — *Package Sales*

- Credit cards permitted
- Sunday sales prohibited
- Election day sales permitted

MISSOURI

- Credit cards permitted
- Sunday sales permitted
- Election day sales permitted

NEBRASKA

- Credit cards permitted
- Sunday sales permitted
- Election day sales permitted

OKLAHOMA

- Credit cards permitted
- Sunday sales of CMB permitted/alcoholic liquor prohibited
- Election day sales prohibited

*Senate Fed + State*  
*Feb. 16, 1994*  
*Attachment # 8*