

whether we have this amendment or not because the court is going to look through this amendment and the court is going to say is there discriminatory tax treatment or is there not, and unless you make a different determination of taxing inventory or not taxing it, this amendment won't make a whole lot of difference to the court's analysis in my opinion.

SENATOR WICKERSHAM: Okay. Two things, one, this amendment would give a state court remedy where none is currently available and, secondly, we do not know how the federal district court will view the taxation or the nontaxation of inventories.

SENATOR KRISTENSEN: Exactly, but I mean we're not...we are not changing the system of tax so the court is going to look and if I look in trailer-train it talks about 306-1(d) prohibits the imposition of any other tax that results in discrimination. The key is results in discrimination. That's what you're really getting after with the amendment. You, with this amendment, you're trying to focus and funnel...

SPEAKER BAACK: One minute.

SENATOR KRISTENSEN: ...what that calculation by the court may be based on our state law.

SENATOR WICKERSHAM: Yes.

SENATOR KRISTENSEN: You're trying to tell the court, be it the federal court or the state court, here's the calculation you must use, when in fact, I suppose they're going to sit down and say well that's fine and nice, but here the bottom line is, does it result in discrimination or does it not?

SENATOR WICKERSHAM: Yeah. I simply don't want to give them an argument in the state courts, in part, and I do not wish to have us put anything in statute that even hints that we think that there was discrimination as I think that may give a leg up in any federal challenge.

SENATOR KRISTENSEN: And then that would bring me back to my consideration that it's not discriminatory at all to not include inventory in the taxation because there are really valid differences for taxing inventory or exempting inventory, excuse me, than taxing personal property because inventory is only held for resale. Inventory is not depreciable, not being use, it's