

Approved On:

3/5/87

Minutes of the House Committee on Taxation. The meeting was called to order by E. C. Rolfs, Chairman, at 9:00 a.m. on March 4, 1987 in room 519 South at the Capitol of the State of Kansas.

The following members were absent (excused):

Representatives Adam and Vancrum

Committee staff present:

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

Representative Mike O'Neal spoke as a proponent of HB-2295 -AN ACT relating to county-wide retailers' sales taxes; concerning the apportionment of the proceeds received therefrom. Because the City of Hutchinson passed an ordinance providing that a portion of the city sales tax proceeds would be used to reduce the property tax levy, the city lost some \$300,000 of sales tax allocations. The bill as it currently stands would create an exception in Reno County and would provide that the formula look at population and assessed valuation instead of actual levies. (Attachment 1)

Representative O'Neal introduced Mr. Michael S. Knecht, Executive Director Reno County Historical Society, who testified as a proponent of HB-2117 - AN ACT relating to sales taxation; exempting purchases of non-profit historical and museums therefrom. He said the loss of money through sales tax programming has made it necessary to cut back programming at the Reno County Museum and have had to terminate the Curator of Education position. (Attachment 2) This concluded the public hearing on HB-2117. The committee discussed the many sales tax exemptions and will request the fiscal effect of the bills. Representative Rolfs suggested that they request a Hodge Commission report and the reasons for the exemptions.

Chairman Rolfs appointed a sub-committee to study the sales tax exemptions further, consisting of Representatives Wagon, Fuller, Leach, Gatlin, and Rolfs.

There was further discussion on HB-2283 - particularly line 72 which adds a 50% penalty for failure to file a full and complete statement. Representative Leach moved, second by Representative Rolfs, that the penalties be cut in half. After further discussion and questioning Carol Bonebrake, it was decided to defer the matter for further study.

Minutes of the March 3 meeting were approved.

There being no further business, the chairman adjourned the meeting.



E. C. Rolfs, Chairman

MICHAEL R. (MIKE) O'NEAL  
 REPRESENTATIVE, FOURTH DISTRICT, HOUSE OF REPRESENTATIVES  
 RENO COUNTY  
 P.O. BOX 1868  
 HUTCHINSON, KANSAS 67501-1868



TOPEKA

HOUSE OF  
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS:  
 VICE CHAIRMAN - JUDICIARY  
 MEMBER - LABOR AND INDUSTRY  
 MEMBER - PUBLIC HEALTH AND WELFARE

March 4, 1987

H.B. 2295

Mr. Chairman, members of the committee:

Thank you for taking the time to hear a "local bill". H.B. 2295 was drafted to correct a situation that has occurred in Hutchinson and Reno County as a result of Hutchinson's decision last spring to support a city and county-wide sales tax. In consideration of the passage of the sales tax, the City of Hutchinson passed an ordinance providing that a portion of the city sales tax proceeds would be used to reduce the property tax levy, and accordingly, the city has reduced property taxes by some 18 mils. A wholly unintended result of this replacement of property taxes with sales taxes was the loss of some \$390,000 of sales tax allocations under the formula set out at K.S.A. 12-192. Under that formula, revenues from a county-wide sales tax are allocated among the county and cities on the basis of (1) population, and (2) actual property tax levies. The formula, as it now stands, serves to discourage cities or counties from electing to reduce their reliance on the property tax by replacing property tax levies with sales tax revenues.

The City of Hutchinson could simply raise their property tax mil levy to compensate for the loss under the allocation formula but believe that by doing so, would be breaking its promise to the citizens. One of the main reasons for passing a county-wide sales tax was to provide property tax breaks in the city and additional operating revenue for the county. The city

has suffered an unintended shortfall and the county has received an unintended windfall.

The bill as it currently stands would create an exception in Reno County and would provide that the formula would look at population and assessed valuation instead of actual levies. In an informal meeting with representatives of the city and county, it was decided that the proposed formula in the bill may not be ideal, either. Instead, the members present at the meeting struck upon the language attached to this memo. This is a compromise between the city and county positions and gives a balanced measure of relief, without completely upsetting the nature of the statutory formula.

As you discuss this bill in committee, I am sure that Rep. Wunsch can explain the background and the relative positions of the City of Hutchinson and Reno County as he has been involved with this issue as well. Reno County has been reluctant to "give up" the windfall, while acknowledging that the city was not aware of the consequences of replacing property tax levies with sales tax revenues. Thank you for your consideration.

(d)

IN LIEU OF THE APPORTIONMENT FORMULA PROVIDED IN SUBSECTION (a), ALL REVENUE RECEIVED BY THE DIRECTOR OF TAXATION FROM COUNTYWIDE RETAILERS' SALE TAXES LEVIED IN RENO COUNTY IN ANY YEAR SHALL BE APPORTIONED AMONG THE COUNTY AND EACH CITY LOCATED IN SUCH COUNTY IN THE FOLLOWING MANNER:

ONE FOURTH

(1) ~~One-half~~ of all revenue received by the director of taxation shall be apportioned among the county and each city located in such county in the proportion that the total tangible property tax levies made in such county in the preceding year for all funds of each such governmental unit bear to the total of all such levies made in the preceding year,

AND (2)

ONE FOURTH

~~One-half~~ of all revenue received by the director of taxation shall be apportioned among the county and each city located in such county in the proportion that the total tangible property tax levies made

in such county in the ~~preceding year~~ <sup>YEAR 1985</sup> for all funds of each such governmental unit bear to the total of all such levies made in the ~~preceding year~~, <sup>YEAR 1985</sup>.

AND (3)

1/2 of all revenue received by the director of taxation from such countywide retailers' sales tax shall be apportioned among the county and each city located in such county, first to the county that portion of the revenue equal to the proportion that the population of the county residing in the unincorporated area of the county bears to the total population of the county, and second to the cities in the proportion that the population of each city bears to the total population of the county,



## Reno County Historical Society

P.O. Box 664 • Hutchinson, Kansas 67504-0664  
316 662-1184

February 28, 1987

Representative Mike O'Neal  
Room 175-W  
Kansas State House  
Topeka, KS 66612

Dear Representative O'Neal:

This letter is in reference to Bill #2117. The Reno County Historical Society and the Kansas Museum Association are very concerned with this bill. Its passage could have a very positive effect for museums and historical societies in the state of Kansas.

In July of 1986 I wrote to the Kansas Department of Revenue requesting that the Reno County Historical Society be exempt from paying Kansas sales tax as a non-profit educational institution. The answer which I received from the department was not the favorable one which I had expected. Their ruling, 19-86-2, narrowly defined what an educational institution was and removed institutions such as ours from that classification. Enclosed you will find a copy of the letter which I received to that effect.

The impact on my institution has been great. During 1986 the Reno County Historical Society was undergoing a one million dollar renovation project. During the course of the year a large amount of money went to pay the state sales tax. This money could have been used to develop better educational programs here at the museum. In 1987, the RCHS will pay between \$2,000 to \$4,000 on sales tax.

Due to this loss of money through sales tax programming here at the Reno County Museum has been cut back. We have had to terminate our Curator of Education position. This curator was responsible for preparing and implementing school and public programs.

If this bill is passed, historical societies and museums throughout the state will be able to use their "extra" money to better preserve and interpret the rich heritage of the state of Kansas. In our case, the addition of \$2,000 to \$4,000 would mean better temporary exhibits and an expansion of our school programs. The winners, in the end, are the schoolchildren, general public, and visitors to Kansas. I strongly recommend that the legislature pass Bill #2117.

Sincerely,

*Michael S. Knecht*

Michael S. Knecht  
Executive Director



KANSAS DEPARTMENT OF REVENUE

DIVISION OF TAXATION

State Office Building . Topeka, Kansas 66625-0001

August 5, 1986

Reno County Historical Society  
Attn: Michael S. Knecht, Executive Director  
P.O. Box 664  
Hutchinson, KS 67504-0664

Dear Mr. Knecht:

Your inquiry dated July 31, 1986, has been referred to my attention.

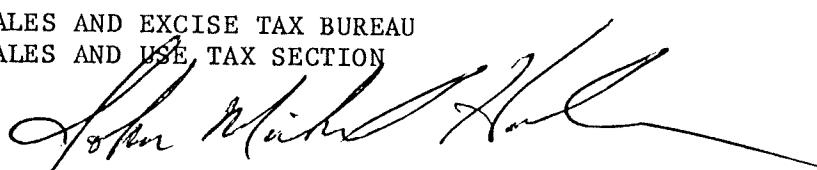
Enclosed, please find the Department of Revenue's Ruling 19-86-2. This ruling defines the term educational institution as that phrase is used in K.S.A. 79-3606(c).

Applying the department's definition to your society, it is the Department of Revenue's determination that the Reno County Historical Society is not exempt from Kansas sales tax as a non-profit public or private educational institution. Therefore, the Reno County Historical Society is required to pay Kansas sales and/or compensating (use) on all purchases or tangible personal property and taxable labor services purchased or leased for its own use.

Should you have additional questions in regard to this matter, please feel free to contact me.

Sincerely,

SALES AND EXCISE TAX BUREAU  
SALES AND USE TAX SECTION

  
BY: John Michael Hale, Attorney/Tax Specialist

FOR THE DIRECTOR OF TAXATION

JMH:g/3103

cc: Cleo Murphy  
Legal Services  
Audit Services



## KANSAS DEPARTMENT OF REVENUE

DIVISION OF TAXATION

Robert B. Docking State Office Building  
Topeka, Kansas 66625-0001

January 2, 1987

The Honorable Michael R. O'Neal  
Representative, 104th District  
P.O. Box 1868  
Hutchinson, KS 67504-1868

RE: Revenue Ruling 19-86-2  
Kansas Cosmosphere & Discovery  
Center

Dear Representative O'Neal:

Your inquiry dated November 26, 1986, has been referred to my attention. Please excuse the delay in my response.

You had requested copies of previous department rulings, letters, opinions, grants of exemptions, etc. issued to the Kansas Cosmosphere and Discovery Center. I have personally searched our files, and can find no document specifically exempting the Kansas Cosmosphere and Discovery Center. Rather, their name appears on a master list of organizations which had been granted exemption previously. Apparently, the exemption was granted some time ago, and the letter verifying such has been lost. You had also requested that you be informed as to why the decision was made to not exempt the Kansas Cosmosphere and Discovery Center from Kansas sales tax as a nonprofit educational institution.

After reviewing the information submitted by the Kansas Cosmosphere and Discovery Center, it is the department's position that, while the Cosmosphere and Discovery Center is informative, it is not an educational institution within the meaning of K.S.A. 79-3606(c). This decision is based primarily on two (2) facts.

First, the Cosmosphere and Discovery Center does inform, in a general sense, groups and individuals who patronize the Cosmosphere and Discovery Center. It appears that this is done primarily through four (4) avenues:

- 1) Tours of the Center;
- 2) Historical retrospectives of space exploration;
- 3) Limited summer mini-camps;
- 4) Occasional one (1) day workshops.

The tours, workshops, and mini-camps are similar to those which would be conducted by zoos, museums and historical societies. Given the background of the exemption for educational institutions, it is the department's position that something more than tours, one day work shops and limited mini-camps is needed to qualify as an educational institution. In addition, the Cosmosphere and Discovery Center offers a rather limited scope of information, dealing exclusively with space exploration and history and a cursory view of astronomy. It is the department's position that in order to qualify as an educational



## KANSAS DEPARTMENT OF REVENUE

institution multiple fields of learning should be covered, such as mathematics, physical education, language, arts, etc. pertaining to all of the faculties of learning—moral, physical, and mental. Clearly, the Cosmosphere and Discovery Center does not achieve this.

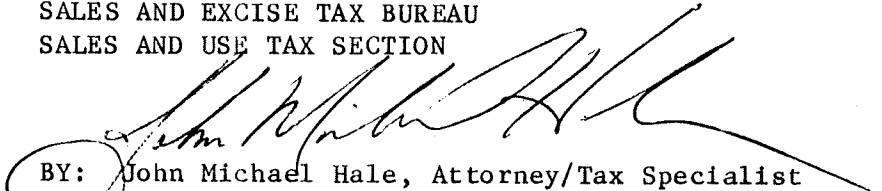
The second reason that the department denied the Cosmosphere and Discovery Center exemption from Kansas sales tax revolves around the language contained within K.S.A. 79-3606(c): "...use primarily by such ... institution for programs and activities provided or sponsored by such ... institution ...".

While it is true that one (1) night class is taught for the benefit of Hutchinson Community College students which receive college credit, most purchases made by the Cosmosphere and Discovery Center would not be used primarily for this class. It is the department's position that the Kansas Cosmosphere and Discovery Center provides general enlightenment, much like one would obtain while strolling through a public museum, library or zoo. Finally, the Kansas Cosmosphere and Discovery Center is a tourist attraction, and its primary purpose appears to be entertaining individuals and groups, as well as giving them a cursory introduction to space and space exploration.

For these reasons, the department issued the denial of exemption dated October 10, 1986. I trust this letter helps clarify the department's reasoning behind its decision. Should you have additional questions, please feel free to contact me.

Sincerely,

SALES AND EXCISE TAX BUREAU  
SALES AND USE TAX SECTION

  
BY: John Michael Hale, Attorney/Tax Specialist

FOR THE DIRECTOR OF TAXATION

JMH:k/5409