

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Vice Chairman Huff at 9:00 A.M. on February 16, 2005 in Room 519-S of the Capitol.

All members were present except:

Representative Kenny Wilk- excused
Representative Nancy Kirk- excused

Committee staff present:

Chris Courtwright, Legislative Research Department
Martha Dorsey, Legislative Research Department
Gordon Self, Revisor of Statutes
Mark & Steve Department of Revenue
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Representative Goico
Representative Davis
Representative Thull
Pat Gallagher, West Sedgewick County Sunrise Rotary Club
Michael D. Pepon, Director, Government Relations, Sedgewick County (no written testimony)
Sue Blechl, Emporia Public Library & Friends of Kansas Library (FOKL)
Carolyn Little, Vice President, FOKL
Bill Hampel, Hampel Oil, Wichita
Marvin Spees, Capital City Oil, Topeka

Others attending:

See attached list.

HB 2219 - Sales tax exemption for project of West Sedgewick County Sunrise Rotary Club

Mr. Courtwright stated that the bill would add a new sales tax exemption for sales on the purchase of material and labor by the West Sedgewick County Sunrise Rotary Club in Wichita for the purpose of constructing a boundless playground and integrated barrier free and developmentally advantageous play environment for children of all abilities and disabilities. The fiscal note indicates the amount of revenue lost would be minor.

The Vice Chairman opened the public hearing on **HB 2219**.

Representative Goico rose in support on **HB 2219** stating that the project is a community effort that would construct this unique playground on 27,000 square feet of land within Sedgewick County Park, immediately adjacent to the Sedgewick County Zoo. This tax exemption would reduce the amount of money that would have to be raised (Attachment 1). At the present there is an old unsafe playground on the site that the county would have to demolish.

Pat Gallagher, Centennial Project Chair for the West Sedgewick County Sunrise Rotary Club, testified to the benefits of the proposed playground that has been developed by the National Center for Boundless Playgrounds that specialize in the design of fully integrated, universally accessible play environment for children of all abilities, with special emphasis on children with cognitive, developmental and physical disabilities (Attachment 2). The scope of the project is \$1.3 million and if the playground were being built with county tax dollars, the equipment and materials would already be exempt.

Michael D. Pepon, Director, Government Relations - Sedgewick County appeared in support of **HB 2219**. He stated that this was a great cooperative effort between the county and city and he urged favorable consideration of the bill (no written testimony).

There being no other conferees Vice Chairman Huff closed the hearing on **HB 2219**.

HB 2221- Sales tax exemption for sales by public libraries and support organizations

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on February 16, 2005 in Room 519-S of the Capitol.

Mr. Courtwright stated that bill would allow property sold by libraries and their support organizations, i.e., Friends of the Library, to be exempt from sales tax. The fiscal note would be less than \$50,000 annually.

The Vice Chairman opened the public hearing on **HB 2221**.

Carolyn Little, Vice President, Friends of Kansas Library (FOKL) testified that removing taxation on funds generated from activities of support groups would allow public support of library activities to remain in the local library, perhaps for purchase of additional reference materials, a computer, or a microfilm reader/printer (Attachment 3). The requirement to collect and file taxes are an administrative hardship in many of the smaller libraries and may impinge on the groups' ability to recruit willing volunteers.

Sue Blechl, Emporia Public Library & Friends of Kansas Library (FOKL) stated volunteer groups of Friends of the Library support libraries in several ways; Advocacy and marketing, programming, volunteers, and fund-raising. i.e., used books sales, bake sales (Attachment 4).

Discussions followed regarding the tax status of libraries, process of collection of sales, and the definition of an isolated event means that there is no more than one sale a year for non-profit organization.

There being no other conferees Vice Chairman Huff closed the hearing on **HB 2221**.

HB 2220 - Sales tax exemption for cleaning and reconditioning storage and transport petroleum drums.

Mr. Courtwright would propose to add a sales tax exemption for all sales of tangible personal property and services used or consumed relative to the cleaning and reconditioning of petroleum industry drums used to store, transport and sell liquid petroleum products or lubricants. The fiscal note indicates a loss in sales tax receipts of \$100,000 FY 2006.

The Vice Chairman opened the public hearing on **HB 2220**.

Bill Hampel, Hampel Oil, Wichita rose in support of HB 2220. He explained the reconditioning process of 55 gallon drums that is an essential part of the process of delivering their products (Attachment 5). They determined the price based on their cost. He described four components that are used to figure that cost. They add a percent for profit to arrive at the consumer's cost. The sales tax is figured on that price, and paid by the consumer. Of all the four components that go into the finished product, i.e., product, freight, labels and reconditioning charge the only one that is taxed in Kansas is the reconditioning charge. He believed that is a case of double taxation and the amount of \$.53 is added for each barrel sold.

Marvin Spees, Capital City Oil, Topeka testified that **HB 2220** would rectify what they believe to be an unfair collection of a double tax (Attachment 6). He appeared stating that there are two issues involved regarding the core of the drum as well as the reconditioning charge. At Secretary Wagon's recommendation they appeared before the Committee to request a specific exemption. Mr. Spees recalled that Secretary Wagon stated that her office would not oppose the exemption.

Discussion followed regarding the current laws in Oklahoma, the accuracy of the fiscal note, and the process of taxation when the ownership of product changes.

There being no other conferees, Vice Chairman Huff closed the hearing on **HB 2220**.

The meeting adjourned at 10:30 a.m. The next meeting is February 17, 2005.

HOUSE TAXATION COMMITTEE GUEST LIST

DATE: February 16, 2005

NAME	REPRESENTING
David Corbin	KDOR
Jeanne Goodwin	City of Wichita
Pat Gallagher	Sunrise Rotary Club
Sue Blechl	Emporia Public Library
Carolyn Little	Friends of Kansas Libraries
Bruce Flanders	Lawrence Public Library
Rosanne Siemens	Kansas Library Association
Maui Galbraith	Platte Library
Amber Shaver	PMCA
Charles Hiscory	Capital City Oil Co
Bill Hampel	Hampel Oil Distr. Inc
MARVIN SPEOS	CAPITAL CITY OIL, INC.
Sharon Little	Ks Taxpayers Network
Erik Sartorius	City of Overland Park
Mike Pepoon	Sedwick County



TOPEKA

HOUSE OF
REPRESENTATIVES

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COMMITTEE ASSIGNMENTS
MEMBER: FINANCIAL INSTITUTIONS
GOVERNMENTAL ORGANIZATION
AND ELECTIONS
HEALTH AND HUMAN SERVICES
TAXATION
KANSAS SECURITY

**Testimony on HB 2219
House Taxation Committee
February 16, 2005
Presented by Representative Mario Goico**

Chairman Wilk and Members of the Committee.

The Sunrise Rotary Club playground is designed so it is accessible to children with disabilities. The Sedgwick County Commission has made 27,000 square feet available at the Sedgwick County Park, which is adjacent to the zoo.

This bill request sales tax exception on the purchase of material and labor for this project. This is a community effort and this tax exception would reduce the amount of money that would have to be raised. At the present there is an old unsafe playground on this site, that the county would have to demolish. If the county had to start on this playground project from the beginning this could be as much as \$1,300,000. The estimate for material and labor is \$500,000. This sales tax exception would be approximately \$30,000.

I request your support for this project.

Hs Taxation Committee
February 16, 2005
Attachment 1

**TESTIMONY HB 2219
HOUSE TAXATION COMMITTEE
FEBRUARY 16, 2005**

Chairman Wilk and members of the committee, my name is Patricia Gallagher. I am the Centennial Project Chair for the West Sedgwick County Sunrise Rotary Club. I appreciate the opportunity to speak to you today in support of House Bill 2219, which would exempt the sales tax on the tangible personal property and services purchased by the Sunrise Rotary Club and Sunrise Charitable Fund for the construction of a Boundless Playground® in Sedgwick County Park, in Wichita, KS.

The National Center for Boundless Playgrounds is a national nonprofit organization that specializes in the design of fully integrated, universally accessible play environments for children of all abilities, with special emphasis on children with cognitive, developmental and physical disabilities. Within these uniquely designed playgrounds, children learn to play together without the stereotypical barriers that so often appear when physical or other limitations prohibit them from sharing the same play environment.

A Boundless Playground® surpasses the ADA requirement of 50% accessibility by an additional 20 to 30 percent. The equipment within the Sunrise Rotary Playground will fully engage children of diverse abilities in the exploration of play, but the real *magic*, is that the very play activities included for children with special needs are also, often the most popular with the children who have the ability to play anywhere! Climbing areas are ramped for wheelchair access; swings are specially designed to support the physically disabled; sand play is elevated to welcome wheelchairs and walkers; surfacing is rubberized throughout (no mulching); sensory gardens incorporate sound, touch and color; and the permanent Puppet Theatre/Playhouse will give birth to endless hours of creativity and make-believe.

The Wichita/Sedgwick County community has already embraced this project. The Sedgwick County Commission has made available 27,000 square feet of land within Sedgwick County Park, immediately adjacent to one of our state's most popular attractions, The Sedgwick County Zoo. Steve Perry, a principal with the architecture firm of McCluggage Van Sickle and Perry has stepped forward to serve as our resident architect; Tom Dondlinger, Dondlinger & Sons Construction will donate general contracting work; Tom Ruggles of Ruggles & Bohm is providing engineering services; Wichita State University's Elliott School of Communications has been our source for public relations expertise; and Stu Lungwitz, The Print Source, has donated print material and printing.

The scope of our project is anticipated to be \$1.3 million; approximately \$500,000 of that amount will be materials and equipment. Development efforts are underway to raise funds through the filing of grant applications with numerous foundations, plus presentations to personal, private and corporate entities.

The Sunrise Rotary Boundless Playground will be the first of its type in the state of Kansas. If this playground were being built with county tax dollars, the equipment and materials would already be exempt from sales tax. Sunrise Rotary is simply the conduit that will provide the dollars and the people power to create an extraordinary play opportunity for the children and families of Sedgwick County and the surrounding area.

I ask that you support House Bill 2219. Thank you.

Hs Taxation Committee
February 16, 2005
Attachment 2

To: House Committee on Taxation
From: Carolyn Little, Vice-President, Friends of Kansas Libraries
Re: House Bill No. 2221

Dear Chairman Kenny Wilk and Members of the Committee:

My name is Carolyn Little, and I am here today to ask for your positive consideration of House Bill No. 2221.

Friends of the Library organizations seek to preserve and strengthen libraries. They are volunteer not-for-profit groups whose primary interest is in promoting use of their library and its services. This is accomplished largely through raising monies for programs and services outside the library's budget.

Many Friends groups conduct sales of donated books, conduct membership drives, and volunteer in a variety of ways. In smaller communities, the Friends of the Library may host other community activities such as a health fair or sponsor a city-wide garage sale. These efforts all generate awareness of the library, provide additional revenue or broaden the membership support for the Friends of the Library.

Libraries have also found that Friends donations allow them to purchase additional reference materials, a computer, or a microfilm reader/printer. In some cases, Friends groups have been instrumental in raising monies to expand the library facility as well as its services.

The impact of setting aside the sales tax on items sold by Friends of the Library would be beneficial to the library community. Monies collected by these organizations are given directly to the libraries they seek to support. Since these groups are comprised of volunteers, the requirement to collect tax and file reports may impinge on the groups' ability to recruit willing volunteers.

There can be no doubt that the efforts of Friends of the Library are producing results that benefit the public. Friends of Kansas Libraries (FoKL) includes as its members fifty-seven Friends of the Library organizations. The metropolitan libraries all enjoy support from active groups, but many groups assist libraries in rural areas as well.

Removing taxation on funds generated from activities of Friends of the Library would be a positive step in allowing public support of library activities to remain with the local library. Additionally, the cost saved in administration will, in the majority of cases, exceed the revenue generated by tax collection. As a representative of Friends of Kansas Libraries, I respectfully ask your consideration of this proposal.

Thank you for your kind attention to this important issue. If I may be of service to the committee on this matter, I would be pleased to do so.

Hs Taxation Committee
February 16, 2005
Attachment 3

To: House Committee on Taxation

From: Sue Blechl, Director of the Emporia Public Library and member of the Friends of Kansas Libraries (FoKL) Board

Re: House Bill 2221

Date: February 16, 2005

I wish to support the passage of HB 2221.

Friends of the Library groups support public libraries in several ways:

- Advocacy & marketing
- Programming
- Volunteers
- Fundraising – most often through used book sales

While there are over 300 public libraries in Kansas, less than 100 have formal Friends groups. Many are in small communities.

Book sales are popular and effective events because:

- They raise needed funds to support library services and programs.
- Most of the items in the sales are donated.
- They involve members of the community.
- They are a wonderful way to recycle – to keep paper and other items out of the landfills.
- They promote reading.

Parent-teacher organizations are exempt from paying sales tax. Their mission is very similar to Friends groups: to support a public institution.

The Emporia Public Library is the 13th largest public library in Kansas. Our sales tax expense last year was about \$800. There are over 300 libraries smaller than Emporia, many of them with no Friends organizations. The amount of tax generated is likely to be very small.

Exempting libraries and Friends groups from paying sales tax on book sales and other fundraising projects would be a tremendous goodwill gesture, with minimal impact on the total revenue picture in Kansas. It would bolster the fine work being done by volunteers to make our libraries the best they can be.

Great libraries need great Friends. Great libraries also need your support.

Thank you.

Hs Taxation Committee
February 16, 2005
Attachment 4



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GARDEN CITY

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PRATT

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IOLA

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Good morning Ladies & Gentlemen of the Taxation Committee.

I am here this morning to hopefully point out a shortcoming in the way the tax rules have been misinterpreted on the subject of charging a sales tax on drum reconditioning fees, resulting in a case of double taxation.

We are requesting a change in the tax statutes to exclude the taxation on the cleaning fees of recycled 55 gallon oil drums.

The storage of lubricants and other chemicals in 55 gallon drums has been customary in the oil distribution industry for nearly 100 years. Drums are convenient containers because they are easy to handle and transport, safe and recyclable.

I would like to focus on recyclable. The steel drum core is durable, such that it is reusable up to 10 times before its appearance and leak tightness have degraded to the point where it ceases to serve a useful function.

The process is as follows. A packager will fill the clean, and freshly painted, reconditioned drum with the product to be sold to the customer. The product-filled drum is often times sold with a separate core charge, which is paid back to the consumer when it is returned. This incentivizes the consumer to return the drum. The returned empty drum is oily and dirty on the outside, and has clingage on the inside of the drum of unknown origin.

In order to recycle the drum for further use, the dirt, grime and oil need to be removed. This is accomplished through what is called the reconditioning process.

We send the dirty drums to a reconditioner.

Each drum is tested at this point for its ability to safely contain the product by a simple pressurization test. Any drums not able to hold pressure are rejected and sold as scrap metal. All good drums are then cleaned on the inside and outside and repainted. They are returned to us, and the process of reusing them starts over.

There are several reasons reconditioning drums make sense. First, by putting a refundable core charge on the drum there is an incentive to get the drum back into our hands so it can be recycled, so there aren't thousands of rusting, empty drums laying around the country as eyesores. Secondly, the cost of a new drum is in excess of \$30, whereas the cost to recondition a used drum is between \$7-8.00. This lowers the cost to the consumer considerably. Lastly, it conserves natural resources.

In order to reuse the drum it is absolutely essential that it go through the reconditioning process to assure the consumer that the product he is buying has not

Hs Taxation Committee
February 16, 2005
Attachment 5



been contaminated by any foreign material in the filling process. This process also insures that it is in a safe and leak proof container, and that the exterior is clean and properly labeled. None of this would be possible without the drum being reconditioned.

WICHITA

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The reconditioning process is essential because it provides a safe container, and assures the integrity of the product being sold by removing all foreign material that was in it when the drum was returned from the original consumer.

The drum reconditioning charge must be viewed as a component of the finished product because without it we would not be able to recycle the drum.

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Like most resellers of products, we determine the price based on our cost. In this case the components that are used to figure the cost are the cost of the product, plus the cost of the freight to get it into our warehouse, plus the cost of the labels to identify the product and plus the drum reconditioning cost. These four components are added together to arrive at our cost. We put a margin on top of this and this is the price we sell it to our customer. The state sales tax is figured on this price, and paid by the consumer.

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Of all the four components that go into the finished product, i.e., product, freight, labels and reconditioning charge the only one that is taxed in Kansas is the reconditioning charge.

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It seems to me, as plain as day, that this is a case of double taxation. Currently we are paying a sales tax on this reconditioning charge to the reconditioner. The reconditioning charge and its corresponding sales tax are combined together as a component charge in the calculation of the cost of the product as are the product, freight, and labels. The consumer then is charged a sales tax on the product he purchases.

PRATT

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A typical drum reconditioning fee is \$8.00 / drum, with a 6.3% sales tax added to this the total cost of the reconditioning fee that is added to the products cost is:

\$8.00
.50
\$8.50

IOLA

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Assume the following cost of putting a typical lubricant put into a 55 gallon drum.

<u>Component</u>	<u>Cost</u>
Lubricant	\$200.00 / drum
Freight	5.00 / drum
Labels	1.00 / drum
Drum reconditioning (<u>Incl'd Sales Tax</u>)	8.50 / drum

\$214.50



Assume for the purpose of this example that there is 0% markup and that the distributor sells the product at its cost of \$214.50. The sales tax assessed on this is:

$$\$214.50 \times .063 = \$13.50$$

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The total cost to the consumer including sales tax is:

$$\begin{array}{r} \$214.50 \text{ price} \\ \quad 13.50 \text{ tax} \\ \hline \$228.00 \end{array}$$

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Looking at it another way if the sales tax was assessed on each component separately we'd have the same outcome. Instead of four components we are showing the drum fee (\$8.00) and the sales tax (\$0.50) as five separate components.

OKLAHOMA CITY

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Lubricant	\$200.00 x .063 = 12.60
Freight	5.00 x .063 = .31
Labels	1.00 x .063 = .06
Drum reconditioning	8.00 x .063 = .50
Drum reconditioning <u>sales tax</u>	.50 x .063 = <u>.03</u>
Total Tax	13.50

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The tax is the same either way it is calculated. So it is evident that the tax is taxed.
The \$0.50 is a tax and the \$0.03 is a tax.

In my opinion, this is an obvious example of double taxation.

We request that you approve this change to the tax statutes.

PRATT

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Respectfully submitted,

William J. Hampel
President
Hampel Oil Distributors, Inc.

IOLA

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MEMORANDIUM

TO: House Taxation Committee

FROM: Marvin Spees, Capital City Oil

RE: HB 2220

My name is Marvin Spees. I am the President of Capital City Oil here in Topeka. We are a full-line oil jobbership that delivers gasoline, diesel fuel and lubricants to commercial, industrial, agricultural, and governmental entities. We do not have a retail gasoline focus, but instead focus on the "blue-collar" market. We are not a huge company, but we did collect and pay the state \$3,932,404.55 in taxes collected in 2004.

The reason we are here today is because of a sales tax audit my company had last fall. We have had several audits in the past, but this time, because of meticulous records kept by our office staff, it was noticed that we did not pay sales tax for drums that were reconditioned.

We consider drums to be a "cost of goods sold" along with the virgin oil that goes into the drum. Accordingly we were not paying sales tax on the reconditioned drums. The audit required us to pay sales tax on these drums for the last three years.

In addition, because there is a possibility we will get these drums back, we are not allowed to charge tax on the drums when they go out to the customer. This just sounded totally wrong and defied the logic behind resale and tax exempt sales. A good portion of the oil we sell is for resale to car dealerships, small garages and tax-exempt governmental entities.

Knowing that paying sales tax with no way of passing it on was wrong, I arranged for a meeting with the Secretary of Revenue, Joan Wagnon. I explained the situation, but she stated that her "hands were tied." Her recommendation was that we take it to the legislature and ask for a specific exemption. She also stated that her office would not oppose the exemption.

We would ask you to give favorable consideration to this exemption to rectify what we believe to be an unfair collection of tax without the opportunity to pass it on the end user.

Hs Taxation Committee
February 16, 2005
Attachment 6