

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Representative Gerry Ray at 3:30 p.m. on March 26, 2002 in Room 519-S of the Capitol.

All members were present except:

Committee staff present: Theresa Kiernan, Revisor  
Mike Heim, Research Department  
Kay Dick, Committee Secretary

Conferees appearing before the committee:

Others attending: See Attached List

**Action on:**

**SB 550 - concerning certain libraries; relating to the powers and duties there of**

The Chair reminded the committee this was a library bill that is supported by representatives of the Independence.

**A motion to pass HB 550 was made by Rep. Showalter and seconded by Rep. Gilbert.**

Chair asked for discussion. Rep. Miller requested consideration of two amendments. (Attachment #1)

**A motion to add these amendments to SB 550 was made by Rep. Miller. It was seconded by Rep. Dahl.**

Rep. Miller answered question and attempted to clarify points of the amendments for Rep. Minor, Rep. Hayzlett, and Rep. Peterson.

At this point Rep. Campbell felt there was some conflict or misunderstanding regarding "Regional Liberties" verbiage. He asked the revisor, "so what does the technical amendment need to be?" Following Rep. Campbell's question, the Chair instructed the revisor to put the correct citation in place.

**Chair asked for vote on Rep. Miller amendment. It pass unanimously.**

**Rep. Gilbert moved that SB 550 as amended be passed out of committee. Rep. Dahl seconded the motion.**

**There was no opposition to the motion, SB 550 passed as amended.**

**Action on:**

**HB 2947 - concerning municipal bonds; relating to interest thereon**

**Rep. Campbell moved that the committee approve HB 2947 and Rep. Strom seconded.**

Committee asked for short explanation of the bill. It was given by Rep. Campbell. The revisor, Theresa Kiernan stated that Ln 27 needed to be amended changing the reference from a *30 year Treasury Bond to a 10 year Treasury Bond*.

**The committee voted to pass HB 2947 favorably as amended.**

**Action on:**

**HB 2760 - concerning historic property; relating to the listing of certain property on the state register of historic places**

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT on March 26, 2002 in Room 519-S of the Capitol.

**Rep. Campbell made a motion to approve HB 2760. Rep. Gilbert seconded.**

**Rep Campbell made a substitute motion to include all of current HB 2760, and to amend by adding "local control" in business matters. Rep. Gilbert seconded the substitute motion.**

Following a discussion and questions the **substitute amendment passed.** (Attachment #2)

Rep. Palmer asked the question "What is the cause and effect of the substitute amendment?" the staff answered. Rep. Palmer was not satisfied with the answer or did not understand. She again asked "What is the cause and effect of the substitute amendment?". Staff explained the whole bill as well as what statutory acts are included for Rep. Palmer.

More discussion and questions were asked and answered by the staff.

The Chair called the committees attention to some concerns that the Historical Society had on the original part of **HB 2670.** The Society was not at the public hearing to express their input. (Attachment #3)

**Rep. Peterson made a motion to remove Sec. 2 of HB 2670. Rep. Barnes seconded.**

Committee members asked question of Richard Pankratz, Kansas State Historical Society, which he answered to their satisfaction.

**A motion was made by Rep. Hayzlett to amend HB 2760 replacing Sec. 2 with all verbiage. Rep. Campbell seconded. The amendment passed.**

**Representative Campbell moved to pass HB 2760 as amended. Rep. Storm seconded the motion. HB 2670 passes out of committee as amended.**

Meeting was adjourned. There was no scheduled meeting.

# HOUSE LOCAL GOVERNMENT COMMITTEE GUEST LIST

DATE: 3/26/02

NAME	REPRESENTING
Mark Tomb	League of Kansas Municipalities
Judy Melin	KAC
David Haury	KSHS
Dick Penkatz	KSIYS
Bill Yuch	Kansas Assn of REALTORS
Mark Tallman	KASIB
Craig Grant	KNA
Anne Jiles	KCAR - K.C. Realtors

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 550**

As Amended by Senate Committee of the Whole

**Brief\***

SB 550 would enact the Independence Area Library District Act. The bill establishes a procedure for the expansion of the Independence City Library to include all the territory of USD 446 which is located in Montgomery County and would change procedures regarding a library district in Wyandotte County.

The bill provides for the question of the establishment of the library district to be placed before voters by the passage of a resolution by the Independence Public Library Board of Trustees. The library district, if approved, would be governed by a seven-member board of trustees – four members would be appointed by the governing body of the City of Independence, two members by the USD 446 board of education, and one member by the governing body of Elk City.

The library district could levy a tax of not to exceed 1.2 mills. Increases of not to exceed 0.25 mills per year could be authorized by the board of education. Tax increases would be subject to a 5 percent protest petition and election procedure. The bill also provides that 10 percent of the qualified electors could petition for an election on the issue of a tax reduction or the dissolution of the library district.

The Senate Committee of the Whole added provisions of HB 2781, which authorizes the Director of Revenue for the Unified Government of Wyandotte County/Kansas City, Kansas to maintain a separate library fund for library districts and to make payments on behalf of the libraries from the fund.

**Background**

The bill was supported by representatives of the Independence Public Library and the City of Independence.

The bill has no fiscal impact on the state.

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.accesskansas.org/legislature/>

**Amended as follows:**

Increase the board of Trustees from 7 to 9 members. The two additional members would be appointed by the County Commissioners. One member would be appointed by the County Commissioners from a list of at least two candidates nominated by the governing body of the Montgomery County Farm Bureau. One member would be appointed by the County Commissioners from a list of at least two candidates nominated by the governing body of the Montgomery County Conservation District.

The amount of the tax would be limited to the tax levied by the Regional Library Board. All mention of the 1.2 tax levy now stipulated in SB550, and the allowable increase of 0.25% per year would be deleted.

Rep Miller  
3-11-02 pa550t3

PROPOSED AMENDMENT TO SB 550  
(As Amended by Senate Committee of the Whole)

On page 3, in line 12, by striking "seven" and inserting "nine"; in line 19, following the period, by inserting "Two members shall be appointed by the board of county commissioners. Of the members appointed by the board of county commissioners one shall be selected from a list of at least two nominees submitted to the board by the Montgomery county farm bureau and one shall be selected from a list of at least two nominees submitted to the board by the Montgomery county conservation district.";

On page 6, in line 6, following "hearing" by inserting a comma; in line 9, by striking "at a rate"; in line 10, by striking all before "on"; in line 11, following the period, by inserting "Such levy shall not exceed the maximum amount which a regional library created pursuant to K.S.A. 12-1231, and amendments thereto, is authorized to levy."; in line 16, by striking all after the period, by striking all in lines 17 through 23;

On page 7, in line 27, by striking "1" and inserting "2"

----- Original Message -----

From: "Edna M. Janzen" <praise54@totalcsi.net>

To: "Frank Miller" <frank@frankmiller.org>

Sent: Monday, March 11, 2002 7:29 PM

Subject: Independence Public Library

> Dear Frank:

>

> I appreciate your work in fighting for fairness in the Independence Public  
> Library taxation. Rural residents of Montgomery County seem to have to  
> fight for a voice in every issue. I know that farmers pay a more than  
fair

> share of the real estate and property taxes already. If we are forced to  
> pay for renovation or expansion expenses without fair representation on  
> these decisions, it will drive a wider wedge between relations between  
rural

> and urban residents of this county. Residents of Montgomery County need  
to

> work together for the future of our economy. What has happened and is  
> continuing to be the case is that Independence city Dads want supreme  
> control. If Independence commerce wants rural residents to trade in  
> Independence, there needs to be respect of rural wishes.

>

> Farmers do not want county wide zoning. Farmers do not want increased  
taxes

> now or in the future without equal representation. Farmers do not want to  
> pay for Independence's new library. I have no idea of facts, but I would  
> suppose that less than ten per cent of rural landowners use the  
Independence

> Public Library regularly.

>

> Thank you for working for all of Montgomery County and not just  
> Independence.

>

> Roger D. Janzen

> 1925 C.R. 4050

> Independence, KS 67301

>

>

**From:** "Beryl & Phyllis Mills" <bpmills@comgen.com>  
**To:** <miller@house.state.ks.us>  
**Date:** Tue, Mar 12, 2002 7:54 AM  
**Subject:** Senate Bill 550

Dear Representative Miller,

Please do not support senate bill # 550 which would create the USD 446 Library District. I am a resident of USD 446 Library district and live on our farm within 3 miles boundry of the city of Independence. Because of its present make up SB 550 provides the cityof Independence the power to raise the taxes on my Real Estate 0.25 mill per Year to pay for the operation of an expansion to the Independence Library which I was not allowed to vote on.

Sincerely

Beryl & Phyllis Mills  
1700 West Oak St.  
Independence, KS

----- Original Message -----

From: "Russell & Jeannine Smith" <jnrsmith@hit.net>

To: <frank@frankmiller.org>

Sent: Monday, March 11, 2002 10:41 PM

Subject: Library tax

> Mr. Miller,

> I have read your comments regarding the proposed Library taxing district and

> I appreciate your even-handedness. While I live just outside the corporate

> confines of the city of Independence, I do not favor giving them one red

> cent for the library. My reasons for this posture are not motivated by a

> desire to serve constituents. I simply believe the library operation has not

> been a good steward of what they have had. Further, they don't even seem to

> realize who their real patrons are. The hours seem to be kept mostly in

> accordance with what appeals to students. Finally, why should rural

> residents be required to pay when they will derive almost no benefit?

> Neither, will the current bill provide them with much input into library

> operations.

>

> Sincerely,

> Russell Smith

> 2665 Whispering Hills Drive

> Independence, KS

>

>



Cindy print out and put in my basket. Frank ----- Original Message ----- **From:** Harold & Charlene Swearingen **To:** Frank Miller **Sent:** Tuesday, March 12, 2002 9:03 AM **Subject:** Senate Bill 550

Dear Representative Miller: Please do not support senate bill # 550, which would create the USD 446 Library District. I am a resident of USD 446 school district and live on our farm within the three mile boundary of the city of Independence. Because of its present make up SB 550 provides the City of Independence the power to raise the taxes on my Real Estate 0.25 mill per Year to pay for the operation of an expansion to the Independence Library which I was not allowed to vote on. For this reason and others I respectfully request that you DO NOT support this bill. Sincerely. Harold L. Swearingen School Board Member USD 446 R.R. 2 Box 240 Independence,KS

Representative Frank Miller  
431 N State Capitol  
Topeka, KS 66607

March 4, 2002

Dear Representative Miller,

I am writing concerning the library district in Independence-Montgomery County. I am surprised the members of the House or Senate would even consider voting a bill until they had all the facts instead of drummed up figures from Mr. Sasse. The entire bill is unfair as the rural people are already paying a tax to maintain a library that is of no use to anyone with a computer. A computer has more knowledge than the library and is easily accessible. The city residents voted to update the library and are hunting a way to pay for the update.

Another concern of mine is the use of animal by-products in animal feed. It is my understanding that animal by-products are not to be used in animal feed. I am enclosing a feed tag that lists animal fat in the product. Thanking you for your attention to these issues.

Sincerely,



Winston E. Williams  
Route 2, Box 236  
Independence, KS 67301-9411  
Phone 620-331-2279



Winston E. Williams  
RR 2 Box 236  
Independence, KS 67301-9411

Repr. Frank Miller  
State Capitol  
Topeka, Ks. 66612

3/18/2002

Dear Sir:

Concern about the taxing and limits as provided in SB 550.

Independence, Kansas city library (New) was totally voted in by city talks as a (Quality of Life) project, without any operating fund provision.

#1 I question the wisdom of a 1.2 mill levy, sought school district-wise, with a ratchet increase of .25 mills annually, and no limit.

Then to top that, a provision for protest petition.

I have handled and carried various official protest petitions, including the local School district USD 446.

From experience, petition carriers are becoming a part dedicated lot, and no one wants to be publicly chastised. Trying to rein<sup>in</sup> an authority with no final limits, as per SB 550.

As provided in SB 550, so to provide an outlet to control the final limits on authority to increase taxes, it could very quickly generate a steal off, City of Independence people and their counterpart in the rural area of USD 446.

Sincerely,  
AR# 4 Base 298  
Independence, Ks  
67301

PS. Those in rural USD 446 did not get to vote on the Library.

Proposed Substitute for HOUSE BILL NO. 2760

By Committee on Local Government

AN ACT concerning schools and school districts; relating to the powers and duties of the governing body thereof; amending K.S.A. 72-8205 and 72-8212 and repealing the existing sections.

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

Section 1. K.S.A. 72-8205 is hereby amended to read as follows: 72-8205. (a) The board of education shall meet at least once each month. At some time during the month of July of each year, the board shall adopt a resolution specifying a regular meeting time of the board and such resolution shall specify the regular hour of commencement of the meeting, as well as the day of the week and the week of the month. Such resolution shall also provide that if the regular meeting date occurs on a Sunday or on a legal holiday or on a holiday specified by the board, such regular meeting shall be held on the day following commencing at the same hour. Such resolution shall also specify the regular meeting place of the board and may specify that any regular meeting may be adjourned to another time and place. Special meetings may be called at any time by the president of the board or by joint action of any three members thereof. Written notice, stating the time and place of any special meeting and the purpose for which called, shall, unless waived, be given each member of the board at least two days in advance of the special meeting and no business other than that stated in the notice shall be transacted at such meeting. A majority of the full membership of the board shall constitute a quorum for the purpose of conducting any business of the school district, and the vote of a majority of the full membership of the board shall be required for the passage of any motion or resolution. Any member who abstains from voting shall be counted as having voted against the motion or resolution. If a member announces a conflict of interest with regard to the issue, the member may leave the meeting until the voting on the issue is concluded and the member who abstains from voting thereby shall not be counted as having voted.

(b) Except as otherwise provided in the unification acts,

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Attachment 2

the board of education shall have and may exercise the same powers and authorities as were immediately prior to this act conferred uniformly upon boards of education in cities of the first class, and, in addition thereto, the powers and authority expressly conferred by law.

(c) The board of education shall have authority to prescribe courses of study for each year of the school program and provide rules and regulations for teaching in the school district and general government thereof, and to approve and adopt suitable textbooks and study material for use therein subject to the plans, methods, rules and regulations formulated and recommended by the state board of education.

(d) The board of education may provide legal counsel at district expense to any members of the board of education, or school district officers or employees who are sued in situations relating to and arising out of the performance of their office or employment. No teacher or other employment contract shall make reference to or incorporate the provisions of this subsection, nor shall the provisions of this subsection be construed as any part of the consideration of employment of any teacher, officer or other employee of the board.

(e) (1) The board of education may transact all school district business and adopt policies that the board deems appropriate to perform its constitutional duty to maintain, develop and operate local public schools.

(2) The power and authority conferred on school districts by this subsection shall not be construed to relieve any other unit of government of its duties and responsibilities which are prescribed by law, nor to create any responsibility on the part of a school district to assume the duties or responsibilities which are required of another unit of government.

(3) School districts shall exercise the powers of local control conferred by this subsection by resolution of the board of education.

Sec. 2. K.S.A. 72-8212 is hereby amended to read as follows:

72-8212. (a) (1) Subject to provision (2) of this subsection, every unified school district shall maintain, offer and teach kindergarten and grades one through 12 and shall offer and teach at least 30 units of instruction for pupils enrolled in grades nine through 12 in each high school operated by the board of education. The units of instruction, to qualify for the purpose of this section, shall have the prior approval of the state board of education.

(2) Any unified school district which has discontinued kindergarten, any grade or unit of instruction under authority of K.S.A. 72-8233, and amendments thereto, and has entered into an agreement with another unified school district for the provision of kindergarten or any such grade or unit of instruction has complied with the kindergarten, grade and unit of instruction requirements of this section.

(b) The board of education shall adopt all necessary rules and regulations for the government and conduct of its schools, consistent with the laws of the state.

(c) The board of education may divide the district into subdistricts for purposes of attendance by pupils.

(d) The board of education shall have the title to and the care and keeping of all school buildings and other school property belonging to the district. The board may open any or all school buildings for community purposes and may adopt rules and regulations governing use of school buildings for those purposes. School buildings and other school properties no longer needed by the school district may be disposed of by the board upon the affirmative recorded vote of not less than a majority of the members of the board at a regular meeting. The board may dispose of the property in such manner and upon such terms and conditions as the board deems to be in the best interest of the school district. Conveyances of school buildings and other school properties shall be executed by the president of the board and attested by the clerk.

(e) The board shall have the power to acquire personal and

real property by purchase, gift or the exercise of the power of eminent domain in accordance with K.S.A. 72-8212a, and amendments thereto.

(f) The board of education shall have the power to contract for the efficient and effective use of district resources in a manner and upon such terms and conditions as the board deems to be in the best interest of the school district.

New Sec. 3. Property which is owned by a school district or property which a school district is required to manage or maintain shall not be placed on the state register of historic places without the written approval of the board of education of the school district owning, managing or maintaining such property.

Sec. 4. K.S.A. 72-8205 and 72-8212 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.



**KANSAS  
STATE  
HISTORICAL  
SOCIETY**

◆  
Richard Pankratz  
Director

Cultural Resources  
Division  
tel. ext. 217

◆  
6425 S.W. 6th Avenue  
Topeka, Kansas  
66615-1099  
PHONE# (785) 272-8681  
FAX# (785) 272-8682  
TTY# (785) 272-8683

◆  
**KANSAS HISTORY CENTER**

Administration  
Center for Historical Research  
Cultural Resources  
Education / Outreach  
Historic Sites  
Kansas Museum of History  
Library & Archives

**HISTORIC SITES**

Adair Cabin  
Constitution Hall  
Cottonwood Ranch  
First Territorial Capitol  
Fort Hays  
Goodnow House  
Grinter Place  
Hollenberg Station  
Kaw Mission  
Marais des Cygnes Massacre  
Mine Creek Battlefield  
Native American Heritage Museum  
Pawnee Indian Village  
Pawnee Rock  
Shawnee Mission

Concerns on HB 2760  
Kansas State Historical Society  
March 26, 2002

- **Potential conflict with federal laws and regulations.** Section 1 requires written permission from local government entities before their properties could be listed on the state register; however, it also affects nominations to the National Register of Historic Places since KSA 75-2721(a)(2) specifically states that all properties listed on the National Register shall be included on the state register. The amendment proposed by the Realtors also refers to the state register, but it too would have implications for national register nominations. In other words, the potential changes conflict with existing law. If a property is nominated to the National Register and approved without complying with the proposed law, then it could not be placed on the state register. However KSA 75-2721 automatically places it on the state register in this scenario.
- **Potential legal challenges.** The conflict with federal legislation and regulations could lead to court challenges from those who wish to nominate properties as well as from the federal funding agency, the National Park Service.
- **Potential loss of certification and funding.** The state historic preservation program is certified by the National Park Service as being eligible to receive federal historic preservation funds. If a state were to deviate from the required federal program, its certification could be reviewed and revoked. This year Kansas received more than \$700,000 and last year around \$840,000. The federal funds would be jeopardized if the state lost its certification.
- **Public policy.** Congress has provided that private property owners can block National Register listing of their properties by filing appropriate letters of objection. Congress did not provide that option for public entities, basically taking the position that public entities hold property in trust for the people.
- **Kansas philosophy.** In practice, the Kansas Historic Sites Board of Review has not recommended properties for nomination if the owner, private or public, objected.
- **Cost of implementing the amendment proposed by the Realtors.** The amendment proposed by the Realtors would carry a high cost for implementation. Identifying and then sending certified letters to all property owners within 500 feet of every property under consideration for state and national register has been estimated by agency fiscal staff at \$10,000, with an additional cost of \$5,000 for staff time and travel.
- **Legal research needed.** The agency needs time to work with its representative in the Attorney General's Office to research the potential conflicts with federal laws and regulations and to research how the intent of Section 1 and the Realtors proposal can be met.

**HOUSE LOCAL GOVERNMENT**

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Attachment 3