

MINUTES OF THE HOUSE COMMITTEE ON TAXATION

The meeting was called to order by Chairman Edmonds at 9:00 a.m. on January 23, 2002 in Room 519-S of the Capitol.

All members were present except: Representative Findley, excused

Committee staff present: Chris Courtwright, Legislative Research Department  
April Holman, Legislative Research Department  
Don Hayward, Revisor  
Winnie Crapson, Secretary

Conferrees appearing before the Committee:

Clint Riley, Department of Wildlife and Parks  
John K. Strickler, Manhattan  
Charles M. Benjamin, Kansas Chapter of the Sierra Club  
Loren "Mickey" McDonald, Fredonia  
Leslie Kaufman, Kansas Farm Bureau

Written testimony: Mike Beam, Kansas Livestock Association

Others Attending: See attached list.

By unanimous consent bill will be introduced at the request of Representative Jim Morrison to amend K.S.A. 79-1401 replacing the word "Assessor" with "Appraiser". [HB 2724 County appraiser meetings]

By unanimous consent bill will be introduced at the request of Representative Edmonds as the Taxpayer Fairness Act of 2002 [HB 2706 Taxpayer Fairness Act of 2002]

The Chairman announced appointment of a Sub-Committee to study the matter of tax policy on excavating equipment and make recommendation back to the Committee by March 16. Sub-Committee members are Representative Vickery, Chairman, and Representatives Gatewood, Larkin, Osborne and Pyle.

**Hearing was opened on**

**HB-2647 - Extending the date of nongame and endangered species expenditures tax credits.**

The Chairman reported that the Fiscal Note for **HB 2647** states that although it has the potential to decrease State General Fund revenues in fiscal 2003 through 2008, the fiscal effect is anticipated to be negligible. For the tax year 2002 it is estimated there will be a reduction in revenues between \$100 and \$5,000 based upon agreements approved or in the negotiation phase.

Clint Riley presented testimony on behalf of the Department of Wildlife and Parks (Attachment #1). He explained that this tax credit was initially recommended by a Task Force on Kansas Nongame and Endangered Species established by the 1996 Legislature. The 17-member Task Force represented a broad range of interests and was charged to review the relevant laws of Kansas and make recommendations emphasizing compliance with the Nongame and Endangered Species Conservation Act (Ch. 168, 1996 Session Laws). Recommendations of the Task Force passed by the Legislature in 1997 included creation of this tax credit with a five-year sunset provision (Ch. 113, 1997 Session Laws).

Although there are only two participants at the present time, based upon plans now in place the Department of Wildlife and Parks believes further participation will be encouraged and requests that the tax credit be extended for an additional five years.

In response to a question from Representative Edmonds as to why the Department did not request that the provisions be permanent, Mr. Riley stated the request was made for the five years because the original intent was to have a 5-year trial period and believed it would be disingenuous to claim this has been an effective trial period over the last five years.

## CONTINUATION SHEET

In response to a question about what would be different in the additional five years, Mr. Riley stated that the implementation plans were delayed while required discussions were taking place with the Property Tax Division of Department of Revenue to develop agreements and forms to be used and putting in place a better communication process.

Eligibility is determined by the Department of Wildlife and Parks and the law requires the included land must be identified as well as the species affected, which must be listed by the State as endangered, threatened or species in need of conservation--a species for which we have concern with a regulation that lists them.

In response to questions about the lists, Edwin Miller Nongame Biologist with the Department, said there are 24 endangered species listed in the State, 36 listed as threatened, and about 67 listed as species in need of conservation. Changes have been made based upon review every five years and one species has been added, three have moved up, and one has been removed.

Mr. Riley explained the tax credit applies in two different ways: the amount of property tax paid on land that is enrolled, and improvement costs incurred. For example, if the agreement is to create a buffer strip or put a fence along a stream, the cost could be an income tax credit for the landowner. It is very specific as to what property is involved and what its value is (if wasteland the credit is quite low). The credit is designed to avoid taking money away from the local government. The property tax is paid and there is a credit against the state income tax for that amount.

Mr. Riley stated there were two participants in the program during the five years. It is hoped, as to species registered, areas can be identified and plans developed on species which would be appropriate and in the interest of the landowner. Recovery plans coming out of recommendations of the Task Force will continue to be developed. Any species listed has had some documentation. There are two requirements for land being enrolled: (1) landowner wants to enroll it and (2) land being enrolled can qualify as habitat.

It is not possible to give a total of the hours spent in implementing the program during the past five years. There have been meetings between Department personnel and Department of Revenue staff and time has been spent drafting forms of agreements to be used and identifying priorities. In their jobs in the field Biology staff would be talking to landowners. This could be described as helping to develop this program but it is part of their regular job. No additional staff has been hired.

Mr. Riley explained that when an individual receives a tax credit, the Department has already identified a population of endangered species on their property and presumably what they have been doing is pretty good. For some species, farming practices may not have any negative impact. In another context it could be property that has not been farmed but has been grazed. Agreement might be to continue to graze the property but not cultivate it.

Responding to a question about federal laws, Mr. Riley said that it is potentially an advantage to someone to be enrolled in such a program. Both federal agencies and state agencies across the country have tried to develop agreements such as "safe harbor" where the landowners take steps to protect endangered species on their property.

Representative Howell requested references to federal laws and regulations concerned.

Mr. Riley said for the land to be eligible for the program the species must be on the state list. There are species on the state list that do not appear on the federal list. If listed federally, there is heavy pressure for it to be listed by the state also. As an example, the bald eagle is not threatened at the state level but is protected at the federal level.

In response to a question, Mr. Riley said prairie dogs are not listed at either the state or federal level but organizations have petitioned the federal government to list them. Discussion among the members of the Task Force was that if we agree endangered species have value, they have value for the State as a whole, which points to state income tax rather than local property tax.

## CONTINUATION SHEET

John K. Strickler presented testimony in support of **HB 2647** (Attachment #2). Mr. Strickler served on the Threatened and Endangered Species Task Force which recommended this legislation. He said the diverse organizations represented on the Task Force recognized the need for incentives for private landowners to work with the Department of Wildlife and Parks and the tax credit is a tool that protects the private landowner's interests while providing an incentive to that landowner to take positive steps to enhance and protect critical habitat. Mr. Strickler said he believes the issue of threatened and endangered species is going to be increasingly controversial. He thinks that the fact this tax credit has not been used much to date does not necessarily mean there isn't value in having this tool available for landowners in the future.

Mr. Strickler was asked if the Task Force discussed migratory species. He said it was discussed that the habitat used by the whooping crane was already under protection.

Charles M. Benjamin presented testimony on behalf of the Kansas Chapter of the Sierra Club (Attachment #3). Mr. Benjamin noted tax policy affects public policy in a variety of ways. He is an attorney and while he works for the Sierra Club, this issue comes up with other clients.

Mr. Benjamin said the major causes of species extinction are destruction, degradation and fragmentation of natural habitats and that while there has been only modest participation in the Kansas Management Credit program, the very existence of the program shows that Kansas is taking an innovative approach. This Kansas approach to protecting threatened and endangered species is not a punitive policy but rewards landowners for maintaining habitat on their land, seeking to encourage an outcome desired by all stakeholders.

Loren McDonald presented testimony in support of the bill as a participant in the program (Attachment #4). Mr. McDonald's land is the habitat of an endangered species, the American Burying Beetle, and he signed an agreement last year with the Department of Wildlife and Parks to protect its habitat. He described the life cycle of the beetle and its habitat on uncultivated land. He heard about the program through Wildlife and Parks and testified he would take care of the beetle whether or not there was a tax credit because it is something he enjoys doing.

Leslie Kaufman presented testimony in support of **HB 2647** on behalf of the Kansas Farm Bureau (Attachment #5). KFB members hold tightly to the philosophy that voluntary, incentive based programs are the best way to address many environmental concerns, including the management of habitat for threatened or endangered species needing protection. KFB believes the continuation of this tax credit program, which has a minimal fiscal impact, will be fairly narrow but it is important to reward efforts of those people who take part in the program. It sends a strong public policy message that the State of Kansas is committed to working with private landowners to meet environmental goals.

Written testimony in support of **HB 2647** was presented by Mike Beam on behalf of the Kansas Livestock Association (Attachment #6).

Representative Edmonds asked Mr. Riley if the Department of Wildlife and Parks would be agreeable to a cap, and Mr. Riley said recognizing the current budget difficulty he thought that would be a viable policy and that the real difficulty with the cap might be if it put the agency in the awkward position of picking and choosing between species.

**Hearing on HB 2647 was closed.**

**Consideration was opened on HB 2647.**

Representative Wilson moved, seconded by Representative Flora, to amend the bill to include language that would impose a \$20,000 cap and that if the tax credits exceed \$20,000 in any one year they would continue to pay for that year and the Department of Wildlife and Parks would have to come back the next year and request that the cap be raised.

Mr. Hayward said he was unaware of any provision for such a cap.

## CONTINUATION SHEET

Representative Vickrey suggested that instead of complicating the cap, a \$20,000 threshold be put on and it would be assumed if it was reached Wildlife & Parks would come back.

Representative Wilson said that he was trying to provide with the amendment that should there be \$30,000 in requests next year, Wildlife and Parks would come to us and say that they are being put in the position of picking and choosing.

Representative Larkin said a five-year sunset on the bill would take care of possibilities if the cap is reached.

Representative Wilson withdrew the motion to amend; Representative Flora concurred.

Representative Powers moved that in view of the five-year sunset that the bill be reported favorable for passage. The motion was not seconded.

Representative Larkin moved, seconded by Representative Vickrey, that the bill be amended to include cap of \$20,000.

Representative Sharp said that while everyone wants to help out with the environment and endangered species, the sunset for five years was to see if the economic situation would change and it changed.

Representative Owens said that while it is always difficult for anyone in an elected office to speak against a proposal that benefits society, he is not hearing a ground swell of need. There have been two people in five years who have participated, and Mr. McDonald said--to his credit--that he would be protecting this beetle whether there was a tax incentive or not. Considering participatory involvement there is not a demonstrated need for a tax incentive.

Representative Larkin withdrew the motion to amend. Representative Vickery concurred.

Consideration of **HB 2647** was closed.

Consideration was opened on

**HB 2089 - Sales tax treatment of automobile manufacturer rebates.**

Mr. Courtwright reported the Fiscal Note was about \$3.1 million (\$2.9 million State General Fund and \$200,000 State Highway Fund) Mr. Hayward noted need to change text from K.S.A. 2000 to "2001".

Motion by Representative Gatewood, seconded by Representative T. Powell, that **HB 2089** be amended to correct the date. Motion was adopted.

Representative Gatewood moved, seconded by Representative T. Powell, that **HB 2089** as amended be reported favorable for passage.

Representative Gatewood said the rebate was not taxable in Missouri.

Representative T. Powell said he believes the bill would ultimately be revenue neutral, that we understand that the purchase of big ticket items will continue to be important in this economy and that looking at a problem in the coming year in sales of big ticket items, he thinks it is well worth whatever fiscal note there is, and that the return would be higher sales of automobiles.

Representative Gatewood explained that the car dealer will consider the rebate as a discount on the car to avoid the need for the buyer to finance the entire cost and apply for the rebate but that under current law the sales tax would be charged on the price before allowance of the rebate as discount.

**Motion to report HB 2089 as amended favorable for passage was adopted.**

The meeting adjourned at 10:30 a.m.

The next meeting of the Committee will be January 30. **[N.B. January 30 meeting cancelled due to inclement weather. Next meeting scheduled for February 5.]**

GUEST LIST

DATE Jan 23, 2002

NAME	REPRESENTING
Dale Lambly	KIDA
Bobby Reams	Office of Governor
John Strickler	myself
Marlene Loren McDonald	Fred Loren Co.
Edwin Miller	KDWP
Clint Biley	KDWP
Todd Johnson	Kansas Livestock Assn.
Jessie Kaufman	KS Farm Bureau
Robin Jannison	Sport Harts, Assn
Helen Pedigo	Governors office
Richard Sam	KDOR
Tom Bruno	Farm Credit Council
Sarah Payne	Hein + Wein
Julie Sheerin	Intern
Wade Carpenter	KCEI
Michelle Peterson	KS Governmental Consulting
Charley Bryaman	Sierra Club -KS
Karl Pellegrini	KS Taxpayers Network
Whitney Samra	KS Automobile Dealers Assn
Cami Zahn	page
Katie Emery	page
Ivan Dubko	DOB



STATE OF KANSAS  
DEPARTMENT OF WILDLIFE & PARKS

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Topeka, KS 66612-1233  
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**HOUSE BILL NO. 2647**

**Testimony Provided to  
House Committee on Taxation  
January 23, 2002**

House Bill No. 2647 would extend until January 1, 2008 a tax credit that will otherwise expire on January 1, 2003. The income tax credit is available to landowners who agree to adopt management activities for the protection of a species listed by the Department of Wildlife and Parks as threatened, endangered, or a species in need of conservation. Participating landowners can obtain an income tax credit equal to the amount of property taxes paid on the enrolled property. They can also obtain an income tax credit equal to the costs incurred for specific habitat management projects or improvements undertaken as part of a recovery plan or conservation agreement.

This tax credit was initially recommended by the Kansas Nongame and Endangered Species Task Force established by the 1996 Kansas Legislature. The 17-member Task Force represented a broad range of interests, ranging from agricultural producers, to building industry representatives, to wildlife organizations. The Task Force was charged to review the threatened and endangered species laws of Kansas, and more specifically to make recommendations emphasizing voluntary compliance with the Nongame and Endangered Species Conservation Act (Chapter 168 of the 1996 Session Laws). Recommendations from the Task Force were passed by the 1997 Kansas Legislature, including creation of this tax credit with a five-year sunset provision (Chapter 113 of the 1997 Session Laws). Although participation in this program has been modest to this point, the Department of Wildlife and Parks believes it remains a viable option for landowners interested in protecting habitat on private lands, and believes that recovery plans are now in place to encourage further participation. Consequently, we respectfully request that the tax credit be extended for an additional five years.

**JOHN K. STRICKLER**  
*1523 University Drive*  
*Manhattan, KS 66502-3447*  
*Phone: 785/565-9731*  
*Fax: 785/532-3305*  
*jstrickl@oznet.ksu.edu*

January 23, 2002

TO: House Committee on Taxation, Representative John Edmonds, Chair

SUBJECT: House Bill No. 2647, Threatened or Endangered Species Tax Credit

Thank you for the opportunity to express my support for House Bill No. 2647. I am not representing any specific organization at this time, but I did serve as on the Threatened and Endangered Species Task Force at the time this legislation was originally recommended by the Task Force and passed by the Legislature.

The diverse organizations represented on the Task Force recognized the need for incentives for private landowners to work with the Kansas Department of Wildlife and Parks in a positive manner to achieve proper land management that enhances habitat for species threatened, endangered or in need of conservation. The provisions in this bill are the type of tool that protects the private landowner's interests while providing an incentive to that landowner to take positive steps to enhance and protect critical habitat. This incentive approach is the one I think will achieve the best and most acceptable results in protecting species that are threatened, endangered or in need of conservation, rather than the heavy hand of regulation. For this reason, I respectfully urge your support of HB 2647.

Date 1/23/02  
Att No. 2  
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**Charles M. Benjamin, Ph.D., J.D.**

Attorney at Law  
P.O. Box 1642  
Lawrence, Kansas 66044-8642  
(785) 841-5902  
(785) 841-5922 fax

**Testimony in favor of House Bill No. 2647**

On behalf of the Kansas Chapter of the Sierra Club  
Before the Kansas House Committee on Taxation  
January 22, 2002

Mr. Chairman, members of the Committee, thank-you for the opportunity to appear before you today, on behalf of the Kansas Chapter of the Sierra Club, to express support for H.B. 2647.

The Sierra Club is the world's largest grass roots environmental organization with over 700,000 members, including approximately 4,000 members in Kansas. The Sierra Club supports local, state, national and international policies that prevent species extinction. The major causes of species extinction are the destruction, degradation and fragmentation of natural habitats.

Here in Kansas, in 1996 and 1997, there was a very successful effort created by the legislature, known as the Kansas Nongame and Endangered Species Task Force, to bring together various stakeholders concerned about threatened and endangered species issues in Kansas. That task force recommended a public policy, adopted by the legislature, which not only prevents the destruction of habitat but also provides incentives to landowners to actually create habitat. That legislation, passed in 1997, provides incentives for stewardship of state-listed threatened and endangered species, state income tax credits for property tax paid on land that maintains or enhances threatened or endangered species habitat, and a state income tax credit for costs incurred. ]

There has been only modest participation in the Kansas Habitat Management Credit program. Nevertheless, the very existence of this program shows that Kansas is taking an innovative approach to preventing habitat destruction. The Kansas approach to protecting threatened and endangered species is not a punitive policy. Instead, it is a policy of rewarding landowners for maintaining habitat on their land that is necessary for the existence of threatened and endangered species in Kansas. This Kansas policy of using a "carrot rather than a stick" seeks to encourage an outcome desired by all stakeholders - the eventual removal of all Kansas' threatened and endangered species from the official lists of threatened and endangered species. X

On behalf of the Kansas Chapter of the Sierra Club, I respectfully urge you to lend your support to the passage of H.B. 2647 that would extend, for five years, state tax credits for the creation of habitats that protect Kansas' threatened and endangered species.

Thank you for your time, your attention and your service to the people of Kansas. I would be happy to stand for any questions.

Date 1/23/02  
AH No. 3  
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January 22, 2002

Chairman John Edmonds  
House Taxation Committee  
State Capitol Building  
Topeka, KS

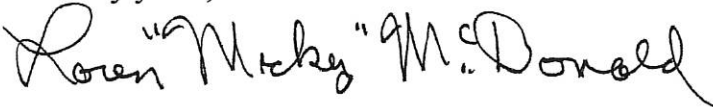
Dear Chairman Edmonds:

I am a small landowner in Wilson County. My land is unique because it is the home of an endangered species named the American Burying Beetle. I have had a strong interest in all wildlife living in Kansas. Each year I give several programs to school children using the butterflies and insects that I have put into displays. I was surprised in 1996 to rediscover the American Burying Beetle in Kansas about 100 feet from my back door. It was the first record since 1940.

Last year, I signed an agreement with Kansas Department of Wildlife and Parks to protect the habitat for this rare insect. In return, I get a tax incentive equal to the amount of property tax that I pay on the land identified as beetle habitat. I plan to claim tax credits for this agreement in 2002.

I support this type of agreement between landowners and Kansas Department of Wildlife and Parks to protect rare wildlife. The tax incentive gives the landowners a reward for having an endangered species on their land.

Sincerely yours,



Loren "Mickey" McDonald  
RR3, Box 137  
Fredonia, KS 66736

Date 1/23/02  
Att No. 4  
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## **Kansas Farm Bureau**

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### **POLICY STATEMENT**

#### **HOUSE COMMITTEE ON TAXATION**

**RE: HB 2647 – Extends the Income Tax Credit for Expenses Associated with Habitat Management for Threatened or Endangered Species.**

January 23, 2002  
Topeka, Kansas

Presented by:  
**Leslie Kaufman, Associate Director  
Public Policy Division**

Chairman Edmonds and members of the House Taxation Committee, thank you for the opportunity to present Farm Bureau's support for continuation of tax incentives for the management of threatened or endangered species habitat, as embodied in HB 2647.

Our members hold tightly to the philosophy that voluntary, incentive based programs are the best way to address many environmental concerns, including the management of habitat for threatened or endangered species. As an alternative to placing a species on the threatened or endangered species list, we support the development of voluntary management plans that will maintain or increase a species population, making listing unnecessary. The plans should include incentives to private landowner for protecting or enhancing g habitat for species needing protection.

HB 2647 extends a tax incentive program that is compatible with our policy positions. We believe the continuation of this program sends a strong public policy message that the State of Kansas is committed to working with private landowners to meet environmental goals. This message is extremely important, as individual landowners are faced with habitat issues of various species, including the Arkansas River Shiner and the Black-tailed Prairie Dog.

From the information we have been given, we do not believe the bill will have a tremendous fiscal impact on the state. It does provide a level of appropriate relief to individuals whom are providing the habitat for threatened or endangered species. Most importantly, we believe, is the policy message the state sends by maintaining these incentives. As such, we respectfully request the committee look favorably on the concepts contained in HB 2647. Thank you.

Date 1/23/02  
Att No. 5  
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*Since 1894*

To: House Taxation Committee  
Representative John Edmonds, Chairman

From: Mike Beam, KLA Staff

Re: Support for HB 2647, Income Tax Credit for Wildlife Habitat

Date: January 23, 2002

The Kansas Livestock Association supports HB 2647, but an out-of-town commitment this morning prohibits me from appearing before the House Taxation Committee to voice support for the legislation.

The provisions of KSA 79-32, 203 were adopted by the passage of HB 2361 during the 1997 legislative session. The impetus for the legislation was the recommendation of a task force that met during the summer and fall of 1996 to consider amendments to the state threatened and endangered species statutes to address the concerns of our members and other landowners across the state. The task force was a very diversified group that eventually agreed on several objectives.

One of the points the group agreed to was that the state should somehow reward or compensate private landowners who devote their own resources for maintaining or enhancing habitat for wildlife species that are threatened, endangered, in need of conservation, or are likely to be listed in the near future. Wildlife are the property of all Kansans; therefore all the state's citizens should somehow share at least a small part of the costs to help maintain species that merit state or federal protection.

The bill before you this morning, HB 2647, simply extends two income tax credits for private landowners that cooperate with the Kansas Department of Wildlife and Parks (KDWP) in harboring species whose future existence is in jeopardy.

One tax credit provided by KSA 79-32, 203 is a reimbursement to landowners for the property taxes paid on land that is managed in a manner prescribed by a KDWP recovery plan. The original intent of this provision was to obtain a property tax break without a loss in revenue to local units of government.

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Att No. 6  
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The second tax credit outlined in KSA 79-32, 203 is a state income tax credit for costs a landowner incurs for the construction and maintenance of improvements that enhance habitat. It is important to note, these costs must be incurred from specific management activities identified and approved in advance by KDWP.

We recognize that few landowners have entered into agreements with KDWP and taken advantage of the tax credits authorized by KSA 79-32, 203. It is quite likely, however, that KDWP will find more interest in the next few years as some landowners voluntarily participate in conservation agreements to keep certain species from being listed. At this time, the U.S. Fish and Wildlife Service is monitoring voluntary efforts to conserve the lesser prairie chicken and black-tailed prairie dog. In addition, KDWP is required by law to implement a designated number of recovery plans for species currently listed on the state's endangered and threatened species list. Once this occurs, there will be a need for incentives to convince landowners to participate.

The income tax provisions of KSA 79-32, 203 may help in this manner and we urge this committee to extend the sunset date or make the statute more permanent.

Please let me know if we can provide the House Taxation Committee with any additional information.

Thank you!

Date 1/23/02  
Att. No. 6  
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