Approved ____May 11, 2002____
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION

The meeting was called to order by Chairman Edmonds at 9:00 a.m. on March 21, 2002 in Room 519-S of the Capitol.

All members were present except: Representative Sharp, excused
Representative Wilson, 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:
Representative Williams
Eric Sartorious, City of Overland Park
Christy Davis, Kansas State Historical Society
Shawn Henessee, Greater Kansas City Chamber of Commerce
Ed O'Malley, Overland Park Chamber of Commerce

Others Attending: See attached list.

Representative L. Powell moved, Representative Larkin seconded, to approve Minutes for February 7, February 12, February 13, February 26, and February 27. Motion was adopted.

Hearing, continued from March 20, was opened on
HB 3025 - political subdivisions property tax limit.

Eric Sartorious presented testimony on behalf of the City of Overland Park in opposition to **HB 3025** (Attachment #1). He said Overland Park growth last year added the equivalent of the City of Abilene. Limiting budget growth could put the city in the position of not being able to meet the health and welfare needs of all its citizens.

Hearing on **HB 3025** was closed.

Hearing was opened on **HB 2948** - Income tax credit of historic structure rehabilitation expense.

Christy Davis presented testimony in support of the bill on behalf of the Kansas State Historical Society (Attachment #2). She presented proposed balloon amendment (Attachment #3) and reported that it was supported by the Kansas Equity Fund and the Kansas Bankers Association, entities that can invest in projects with the federal rehabilitation tax credit program. In response to questions Ms. Davis explained that a residential project being remodeled qualifies if on the state and national historic preservation lists.

Representative Hutchins provided copies of an article from the State Government News March 2002 concerning historic preservation in Missouri (Attachment #4).

The Chairman noted that the Fiscal Note last year was $300,000 actually spending was only $11,000.

Hearing on **HB 2948** was closed.

CONTINUATION SHEET

Hearing was opened on

HB 2783 - KS and MO metropolitan culture district compact; distribution of revenue between party states.

Representative Dan Williams provided testimony in support (Attachment #5). He said the legislature as protectors of the taxpayers should enact a law that if there is a bi-state tax the money should be spent relatively equally. In answer to questions he said it would probably not have a fiscal impact on the state of Kansas except for the fact it is Kansas tax money going to Missouri. He agreed that it would have to be voted on by the counties involved. During discussion of proposals being floated for Bi-state II, it was explained that projects would have to be specifically designated on the ballot for their approval.

Shawn Henessee presented comments in opposition to **HB 2783** on behalf of the Greater Kansas City Chamber of Commerce (Attachment #6). He said they believe this revision undermines the original intent of bi-state. The actual ballot language as it will be distributed to the voters has not been determined, but it give specific information and if the voters support it, that should be respected. In response to questions he said the tax is self-extinguishing. When the project approved for funding is completed and the specific funds spent, the tax ends automatically when the next quarter is reached.

Ed O'Malley presented testimony on behalf of the Overland Park Chamber of Commerce in opposition to **HB 2783** (Attachment #7) because they believe because residents of the Kansas counties have the opportunity to vote they can best decide the value of a potential project, program or effort, whether it is entirely in Kansas, Missouri, or split between the two states. They believe they are fully capable of deciding whether or not any future bi-state tax efforts should be enacted.

Hearing on **HB 2783** was closed.

The Committee considered action on **HB 3003** - Out-district tuition for community colleges and Washburn University continued through 2003-04 academic year.

Representative Cook moved, Representative Huff seconded, to recommend HB 3003 favorable for passage. Motion was adopted.

Meeting adjourned at 10:30 a.m. Next is scheduled March 22.

HOUSE TAXATION COMMITTEE

GUEST LIST

DATE Mar 21, 2002

NAME	REPRESENTING
Shawn Henessee	Greater KC Chamber
Christy Davis	Kansas State Historical Soc.
Katrina Klingaman	Kansas State Historical Soc.
Rick Kready	Pioneer Group, Inc.
Hal Hudson	NFIB/KS
Marlee Carpenter	KCCI
Bernie Koch	Wichita Area Wichita
Erik Sartorius	City of Overland Park
Larry R Baer	LKM
Bill Yanek	Kansas Assn of REALTORS
Barbara Butts	Accounts & Reports
Carolyn Brock	A + R
Doug Craig	A & R
George Petersen	KTN
Ed O'Malley	OP Chamber
Deann Williams	KMCA
Ann Durkes	DOB
Chuck Stones	KBA
Michelle Peterson	KS Governmental Consulting
Jack Glaves	Duke-P St + V.W.
Bob Vancrum	Johnson County Comm College
John Pinegar	Pinegar Smith & Associates.
Kevin Barone	Hein law Firm
Dave Holthaus	" " "

The City of
Overland
Park
KANSAS

8500 Santa Fe Drive
Overland Park, Kansas 66212
913-895-6100 • Fax: 913-895-5003
www.opkansas.org

Testimony
Before
The House Taxation Committee
Regarding
House Bill 3025

March 20, 2002

Mr. Chairman and members of the committee, the City of Overland Park appreciates the opportunity to appear before you in opposition to House Bill 3025. We believe that the bill threatens to hamstring growing communities.

The City of Overland Park has worked hard to keep our mill levy at an absolute minimum. We have an outstanding track record, having rolled back our mill levy in the six years preceding 2002. In fact, our mill levy remains the lowest of any First Class City in Kansas. Our dynamic, balanced growth and efficient use of resources has allowed this phenomenon.

At the same time, our growth has brought greatly increased demands for services. We have seen our budget grow due to our efforts to meet citizens' demands and expectations. Our high ratings in satisfaction surveys sent in by our citizens suggest we are budgeting in a manner that meets their expectations. We have great confidence that citizens support local budgeting decisions and would find no reason to challenge the budget. Still, we believe that the protest petition provision of House Bill 3025 could create further delay as the City works to meet statutorily imposed deadlines in crafting our budget.

Our growth may be difficult to comprehend. In concrete terms, *our population grew last year in an amount equivalent to the City of Abilene*. Our growth rate is averaging more than 3.6% over the past several years. Such growth is not accommodated without additional expense. Due to our historic population growth rates, the potential limiting of budget growth could put the City in the position of not meeting the public safety, health, and welfare needs of all Overland Park citizens.

The City of Overland Park asks that you do not recommend House Bill 3025 favorably for passage.

Written Testimony of Christy Davis
Assistant Division Director, Cultural Resources, Kansas State Historical Society
HB 2948 Hearing
House Taxation Committee
March 21, 2002

Good Morning. I am Christy Davis, Assistant Division Director of the Cultural Resources Division of the Kansas State Historical Society.

It is hard to believe a year has passed since I presented testimony to this committee on the rehabilitation tax credit. Since House Bill 2128 received overwhelming support and was signed into law by Governor Graves, my time, and the time of Katrina Klingaman, program coordinator, has been occupied drafting regulations for and educating the public about the program.

After the Rules and Regulations Committee passed temporary regulations in September, our office has been accepting applications for the tax credit program. Through conferences and workshops, we have discussed the program with over five hundred Kansans. Although our efforts have resulted in a number of residential applications, we have discovered some glitches in the program as it relates to income-producing buildings.

I had the opportunity in October to attend a conference for developers of historic buildings. It was at that time that I learned that developers were having problems with the program. An accountant for MetroPlains development, which has invested more than $30 million in rehabilitation in Kansas in the past ten years, informed me that it had chosen not to use the credit on its upcoming $2 million rehabilitation of Mundinger Hall in Winfield - because the law as it stood made structuring the deal non cost-effective. In November, in an effort to clarify the alleged limitations of the program, our office submitted a request for private letter ruling to the Kansas Department of Revenue.

When KDOR's response enumerated the limitations of the statute, we decided to seek technical amendments. The final result of the team's recommendations are the balloon amendments attached to my written testimony. The clean-up would allow a credit against not only income tax, but also privilege and premium taxes - paid by banks and insurance companies.

This change, supported by the Kansas Equity Fund and the Kansas Bankers Association, would greatly expand the pool of investors to include banks and insurance companies. In addition, the proposed clean-up would allow the credit to be bifurcated - that is, the investor who takes advantage of the federal credit would not have to be the same as the one who takes the state credit. The proposed clean-up would also allow developers to allocate the credit based not on ownership percentage, but rather on an agreement among partners. This would make the credit marketable to investors and developers.

I appreciate the opportunity to address the concerns of our office, developers and investors - and to express our agency's support for clean-up legislation. I would be happy to entertain any questions.

Proposed Amendments to HB No. 2948

House Tax 3-21-02
Attach. No. 3
Page 1 of 2

Session of 2002

House Bill No. 2948

By Committee on Taxation

2-14

AN ACT relating to income taxation; concerning the historic structure rehabilitation expenditure credit therefrom; amending K.S.A. 2001 Supp. 79-32,211 and repealing the existing section.

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

Section 1. K.S.A. 2001 Supp. 79-32,211 is hereby amended to read as follows: 79-32,211. (a) For all taxable years commencing after December 31, ~~2000~~ *2001*, there shall be allowed a tax credit against the income tax liability imposed upon a taxpayer pursuant to the Kansas income tax act, *the privilege tax imposed upon any national banking association, state bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, or the premiums tax and privilege fees imposed upon an insurance company pursuant to K.S.A. 40-252, and amendments thereto,* in an amount equal to 25% of qualified expenditures incurred in the restoration and preservation of a qualified historic structure pursuant to a qualified rehabilitation plan by a qualified taxpayer if the total amount of such expenditures equal $5,000 or more. If the amount of such tax credit exceeds the qualified taxpayer's income tax liability for the year in which such costs and expenses were incurred, such excess amount may be carried over for deduction from such taxpayer's income tax liability in the next succeeding year or years until the total amount of the credit has been deducted from tax liability, except that no such credit shall be carried over for deduction after the 10th taxable year succeeding the taxable year in which the qualified expenditures were incurred.

, privilege or premium

the qualified rehabilitation plan was placed in service, as defined by section 47(b)(1) of the federal internal revenue code and federal regulation section 1.48-12(f)(2)

qualified rehabilitation plan was placed in service

(b) As used in this section, unless the context clearly indicates otherwise:

(1) "Qualified expenditures" means the costs and expenses incurred by a qualified taxpayer in the restoration and preservation of a qualified historic structure pursuant to a qualified rehabilitation plan which are defined as a qualified rehabilitation expenditure by section 47 (c)(2) of the federal internal revenue code;

(2) "qualified historic structure" means any building, whether or not income producing, which is defined as a certified historic structure by section 47 (c)(3) of the federal internal revenue code, is individually listed

on the register of Kansas historic places, or is located and contributes to a district listed on the register ~~or~~ *of* Kansas historic places;

(3) "qualified rehabilitation plan" means a project which is approved by the cultural resources division of the state historical society, or by a local government certified by the division to so approve, as being consistent with the standards for rehabilitation and guidelines for rehabilitation of historic buildings as adopted by the federal secretary of interior and in effect on the effective date of this act. The society shall adopt rules and regulations providing application and approval procedures necessary to effectively and efficiently provide compliance with this act, and may collect fees in order to defray its approval costs in accordance with rules and regulations adopted therefor; and

(4) "qualified taxpayer" means the owner of the qualified historic structure or any other person who may qualify for the federal rehabilitation credit allowed by section 47 of the federal internal revenue code.

(c) Any person not subject to Kansas income, privilege or premiums tax, hereinafter designated the assignor, may sell, assign, convey or otherwise transfer tax credits allowed and earned pursuant to subsection (a), for an amount not less than 50% of the value of any such credit. Such credits shall be deemed to be allowed and earned by any such person which is only disqualified therefrom by reason of not being subject to such Kansas taxes. The taxpayer acquiring earned credits, hereinafter designated the assignee, may use the amount of the acquired credits to offset up to 100% of its income, privilege or premiums tax liability for the taxable year in which such acquisition was made. Only the full credit amount for any one contribution may be transferred and such credit may be transferred one time. Unused credit amounts claimed by the assignee may be carried forward for up to five years, except that all such amounts shall be claimed within 10 years following the tax year in which the contribution was made. The assignor shall enter into a written agreement with the assignee establishing the terms and conditions of the agreement and shall perfect such transfer by notifying the cultural resources division of the state historical society in writing within 30 calendar days following the effective date of the transfer and shall provide any information as may be required by such division to administer and carry out the provisions of this section. The amount received by the assignor of such tax credit shall be taxable as income of the assignor, and the excess of the value of such credit over the amount paid by the assignee for such credit shall be taxable as income of the assignee.

Sec. 2. K.S.A. 2001 Supp. 79-32,211 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

If the taxpayer is a corporation having an election in effect under subchapter S of the federal internal revenue code, a partnership or a limited liability company, the credit provided by this section shall be claimed by the shareholders of such corporation, the partners of such partnership or the members of such limited liability company in the same manner as such shareholders, partners or members account for their proportionate shares of the income or loss of the corporation, partnership or limited liability company, or as the corporation, partnership or limited liability company mutually agree as provided in the by-laws or other executed agreement. Credits granted to a partnership, a limited liability company taxed as a partnership or other multiple owners of property shall be passed through to the partners, members or owners respectively pro rata or pursuant to an executed agreement among the partners, members or owners documenting any alternate distribution method.

either the taxable year in which the qualified rehabilitation plan was first placed into service or

qualified rehabilitation plan was first placed into service

90

House Tax 3-21-02
Attach. No. 3
Page 2 of 2

BECKY HUTCHINS
REPRESENTATIVE, FIFTIETH DISTRICT
JACKSON AND SHAWNEE COUNTIES
700 WYOMING
HOLTON, KANSAS 66436
(785) 364-2612

ROOM 175-W
STATE CAPITOL
TOPEKA, KANSAS 66612-1504
(785) 296-7698

STATE OF KANSAS

TOPEKA

HOUSE OF REPRESENTATIVES

4

COMMITTEE ASSIGNMENTS
VICE-CHAIR: FEDERAL AND STATE AFFAIRS
MEMBER: AGRICULTURE
ENVIRONMENT
TAXATION

State Government News

A publication of the Council of State Governments

March, 2002

Preservation pays for Missouri

Historic preservation boosts Missouri's economy by a little more than $1 billion annually, according to a recent study done by Rutgers University. The estimated $346 million spent on renovating historic buildings in Missouri in 2000 resulted in 8,060 jobs; $249 million income; $332 million in gross state product; $70 million in taxes, including $30 million in state and local taxes; and $292 million in in-state wealth. "The state of Missouri offers one of the nation's most successful programs to foster historic rehabilitation through the state's Historic Preservation Tax Credit Program," said the Department of Natural Resources' Director Steve Mahfood. "[The] Historic Preservation Tax Credit Program has been very successful in stimulating investment in the rehabilitation of historic properties as well as contributing to the economic revitalization of some distressed areas in Missouri."

House Tax 3-21-02
Attach. No. 4
Page 1 of 1

5

STATE OF KANSAS

DURING SESSION:
STATE CAPITOL—427-S
TOPEKA, KANSAS 66612-1504
(785) 296-7699

HOTLINE—1-800-432-3924
TTY 785-296-8430

E-MAIL: williamsd@house.state.ks.us

TOPEKA

DAN WILLIAMS
REPRESENTATIVE, 14TH DISTRICT
OLATHE

COMMITTEE ASSIGNMENTS:
MEMBER: e-GOVERNMENT
FEDERAL & STATE AFFAIRS
K-12 EDUCATION

HOME ADDRESS:
1230 N. PRINCE EDWARD ISLAND
OLATHE, KS 66061
(913) 393-2651

March 21, 2002

Chairman Edmonds and members of the House Taxation Committee, thank you for allowing me the opportunity to address you today.

I am appearing today to speak in favor of House Bill 2783. This bill is simple, it is common sense, and it is necessary to protect the taxpayers of Kansas.

The primary requirement of HB 2783 is a mandate that requires at least 45% of all bi-state tax revenues be distributed in each state. The bi-state tax is a metropolitan area "cultural" tax levied upon the citizens of counties in Kansas and Missouri that are considered part of the Kansas City metropolitan area.

The bi-state tax that was just completed (Bi-State 1) allocated all revenues to the Union Station renovation project in Kansas City, Missouri. Today, Union Station is host to Science City and traveling exhibits such as Titanic.

After the proceeds of Bi-State 1 were allocated completely to a Missouri-based project, it seemed logical that the next bi-state tax would be allocated, at least mostly, to a Kansas-based project. However, current proposals for a second bi-state tax would send nearly $400 million to Missouri-based projects and $50 million to Kansas-based projects. This is wrong.

Opponents of this bill believe that the Kansas City metropolitan area is one big "happy family" and all parts of the area share in the success of any other part. While some elements of this claim are true, reality suggests a far different reality.

When Kansas City sports stadiums are full, Kansas City hotels, restaurants, and stores benefit. Thus, Missouri taxes receive a boost. Kansas entities receive little to no boost, and accordingly, Kansas taxes remain unchanged.

In addition, Kansas residents are not allowed the same access to sporting event tickets as are Jackson County residents, yet Missouri lawmakers want Kansas residents to pay more than 50% of the share of renovating the stadiums. Perhaps we missed the boat when we didn't demand that Missourians pay for a large share of the Kansas Speedway. That benefits both Kansas and Missouri, doesn't it?

HB 2783 is about fairness and common sense. As legislators in Kansas, it is our job to protect the taxpayers of Kansas. If Kansans pay taxes, Kansans should directly benefit from the services provided.

I urge your support for this bill.

I will be glad to stand for questions.

Sincerely,

Dan Williams

(HB 2783)

Testimony to the Kansas House Taxation Committee
on behalf of:
The Greater Kansas City Chamber of Commerce

Thursday, March 21, 2002

Presented By: Shawn Henessee on behalf of the Greater Kansas City Chamber of Commerce

Testimony

Thank you, members of the Committee, for allowing me to appear before you in opposition to HB No. 2783. The Greater Kansas City Chamber is opposed to this bill because we believe that the requirement that 45% of all money expended under the legislation must occur in each state undermines the original intent of the Kansas and Missouri metropolitan culture district compact. Additionally, it creates a rigid and inflexible framework that unduly constrains the development of the greater Kansas City region.

The people of both Kansas and Missouri will be given the opportunity to approve or disapprove in an election any new expenditure of additional funds under the currently existing legislation. We believe that the current legislation provides an opportunity for the voters to decide based on the merits of a proposal, rather than creating an additional restriction that would constrain how any additional projects were formulated.

The proposed legislation will add an additional constraint that would fundamentally undermine the original intent of the legislation. We believe that flexibility in formulating projects under the current legislation is important to ensure the best possible economic return. The legislation under consideration today removes that flexibility and would reduce the economic advantages to any new proposals under the compact.

The Kansas City region is unique for a number of reasons. As one of the largest contiguous cities with a population located in two states and divided by a river, we believe that cooperation and integration between the two states is critical. The continuation of the Kansas and Missouri metropolitan cultural district in its original form is crucial in our efforts to encourage closer integration.

For all of these reasons the Greater Kansas City Chamber of Commerce cannot support this legislation.

House Tax 3-21-02
Attach No. 6
Page 1 of 1

OVERLAND PARK
CHAMBER OF COMMERCE

Opposition to HB 2783

The Overland Park Chamber of Commerce opposes HB 2783 and supports current law regarding the Bi-State cultural tax. The Chamber opposes changes to mandate 45% of the money collected from future bi-state tax efforts to be spent in Kansas.

The Overland Park Chamber of Commerce supports current law because:

- The process provides Johnson and Wyandotte County residents the opportunity to vote on the bi-state tax. Voters can best decide the value of a potential project, program or effort, whether or not it is entirely in Kansas, Missouri or split between the two states.

- The viability of Johnson and Wyandotte counties is closely tied to the viability of the greater Kansas City area. Bi-State was established to help address issues that are truly regional in scope and have significant impact on the cultural or economic needs of the region.

The Overland Park Chamber of Commerce believes the Kansans in Johnson and Wyandotte County are fully capable of deciding whether or not any future bi-state tax efforts should be enacted.

Please call Ed O'Malley, Government Relations Manager, at (913) 706-0684 with any questions.

9001 WEST 110TH ST. • SUITE 150 • OVERLAND PARK, KANSAS 66210
913.491.3600 • FAX 913.491.0393 • www.opks.org

House Tax 3-21-02
Attach. No. 7
Page 1 of 1