

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.**]