Approved: March 10, 2010
Date

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Richard Carlson at 9:12 a.m. on February 8, 2010, in Room 783 of the Docking State Office Building.

All members were present except:
Representative Mario Goico- excused

Committee staff present:
Gordon Self, Office of the Revisor of Statutes
Scott Wells, Office of the Revisor of Statutes
Chris Courtwright, Kansas Legislative Research Department
Brandon Riffel, Kansas Legislative Research Department
Marla Morris, Committee Assistant

Conferees appearing before the Committee:
Joan Wagnon, Chairperson, Kansas Advisory Council on Intergovernmental Relations (KACIR)
Allyn Lockner, KACIR
Shannon Jones, Statewide Independent Living Council of Kansas (SILCK)
Missy Taylor, Kansas Families for Education
Mark Desetti, Kansas NEA
Gary Brunk, Kansas Action for Children
Tom Laing, InterHab
Bernie Koch, Kansas Economic Progress Council
Ashley Sherard,Vice President, Lenexa Chamber of Commerce
Lavern Squier, Kansas Economic Development Alliance

Others attending:
See attached list.

Introduction of Bills:

Representative Lukert informed the Committee the bill he introduced last week had been introduced in another committee, therefore, he moved to withdraw the bill concerning consolidations. Representative Menghini seconded the motion. The motion carried, the bill was withdrawn.

2/8/10

Chairman Carlson opened the hearing on:

HCR 5028 - A concurrent resolution establishing a three-year moratorium on the granting of new tax exemptions, tax credits or economic development incentive programs involving employer withholding taxes

Staff Gordon Self gave a brief summary on **HCR 5028**, which is the first of three proposals requested by the Kansas Department of Revenue on behalf of the Kansas Advisory Council on Intergovernmental Relations (KACIR). **HB 2621** involving income tax credits, and **HB 2549** addressing sales tax exemptions, are the other two parts of their proposal. Revisor Self explained **HCR 5028** establishes a moratorium on any new property tax exemption, sales tax exemption, income tax credit or incentive program involving the diversion of employer withholding taxes from the state general fund for the tax years of 2010, 2011 and 2012. Any new exemptions granted after the three year moratorium would have a three year sunset. He stood for questions.

Proponents testifying on **HCR 5058**:

Joan Wagnon, Chairperson, KACIR, testified in support of **HCR 5028.** She displayed a chart showing the growth of sales tax exemptions, tax credits and property tax exemptions in recent years (Attachment 1). She reiterated the KACIR is asking for a moratorium, not a repeal. She stood for questions.

Allyn Lockner, retired economist and certified public manager, represented the public as a member of KACIR. Mr. Lockner presented a chart displaying ten levels of the Kansas State and Local Budget-Appropriation Expenditures Process (Attachment 2). He supports the recommendation of KACIR to enact **HCR 5028**.

Minutes of the House Taxation Committee at 9:00 a.m. on February 8, 2010, in Room 783 of the Docking State Office Building.

Shannon Jones, State Wide Independent Living Council of Kansas, supports **HCR 5028** and the moratorium on tax exemptions, tax credits or other incentives during this period of state revenue shortfalls (Attachment 3).

Missy Taylor, Kansas Families for Education testified in favor of **HCR 5028**. The Kansas Families for Children believes that **HCR 5028** is a step in the right direction to insure a tax policy that is fair to all Kansas citizens (Attachment 4).

Mark Desetti, Kansas NEA supports **HCR 5028** and directed his testimony to specific parts of the resolution (Attachment 5).

Gary Brunk, Kansas Action for Children testified in favor of **HCR 5028** and called for the creation of a bi-partisan commission charged with a top to bottom review of our current tax system and with presenting to the citizens, the legislature and the governor a proposal for bringing the tax structure into the 21st century (Attachment 6).

Tom Laing, InterHab supports **HCR 5028** as a needed step to address the budget challenges facing the State (Attachment 7).

Oponents testifying on **HCR 5028**:

Bernie Koch, Executive Director of the Kansas Economic Progress Council spoke in opposition to **HCR 5028**. He urged the Committee to be extremely careful when considering limitations on what the state can and cannot do (Attachment 8).

Ashley Sherard, Lenexa Chamber of Commerce testified the Chamber believes **HCR 5028** would be a significant step away from ensuring that Kansas incentives remain globally competitive, from supporting job creation, and from maintaining a healthy and growing statewide economy for the years ahead (Attachment 9). The Lenexa Chamber of Commerce strongly urges the Committee to not recommend **HCR 5028** for passage.

Lavern Squier, Overland Park Economic Development Council spoke in opposition to **HCR 5028** (Attachment 10). The Overland Park Economic Development Council believes the Resolution will hurt Kansas in competition for new economic development projects.

Chairman Carlson directed the Committee to the written only testimony in opposition to **HCR 5028**:

Janis Hellard, Sumner County Economic Development Commission (Attachment 11); Jennifer Bruning, Overland Park Chamber of Commerce (Attachment 12); Dan Hartman, Dighton/Lane County Economic Development (Attachment 13); Kevin Jeffries, Leawood Chamber of Commerce (Attachment 14); Thomas Riederer, Southwest Johnson County Economic Development Corporation (Attachment 15); Robert L. Cole, Pottawatomie County Economic Development Corporation (Attachment 16); James A. Martin, Shawnee Chamber of Commerce (Attachment 17); Mike Michaelis, Ellis County Coalition for Economic Development (Attachment 18); Kent Eckles, The Kansas Chamber (Attachment 19); Christy Caldwell, Greater Topeka Chamber of Commerce (Attachment 20).

Chairman Carlson closed the hearing on **HCR 5028**.

The next meeting is scheduled for February 9, 2010.

The meeting was adjourned at 10:42 a.m.

HOUSE TAXATION COMMITTEE

DATE: Monday, February 8, 2010

NAME	REPRESENTING
Ashley Sherard	Lenexa Chamber
Gary Brunk	KAC
Mark Desetti	KNEA
Missy Taylor	KFE
Jen Bruning	OP Chamber
Kent Eckles	KS Chamber.
Larry R Baer	LKM
Bernie Koch	KFPC
Kent Cornish	KAB
Michelle Butler	Cap. Strategies
Tom Laing	InterHab
Allyn O. Lockner	KACIR
Joe Mosimann	PMCA
Jackson Lindsey	Hein Law
Mark Tallman	KASB
Peter Brodie	Emporia State University
Marjorie Werly	Emporia State University
Ron Seeber	KGFA
Sandy Braden	Gaches, Braden & Ass

HOUSE TAXATION COMMITTEE

DATE: 1/8/10

NAME	REPRESENTING
Robin Clements	Youthville / DCCCA
Nelson Krueger	PAR Electric
Levi Henry	Sandstone Group LLC
Dan Murray	NFIB
Gene Meyer	Kansas Reporter

KACIR

Kansas Advisory Council on Intergovernmental Relations

Joan Wagnon, Chairperson

Mark Parkinson, Governor

TO: Representative Richard Carlson and Members of the House Taxation Committee

FROM: Joan Wagnon, Chairperson

DATE: February 8, 2010

SUBJECT: Testimony in Support of House Concurrent Resolution 5028

The relative burden of taxes borne by state and local property tax is now high compared to state and local sales taxes and state income taxes. Policy choices as well as the economy and taxpayer behavior have contributed to this shift. Generally, Kansas strives to keep these three sources at about one-third each.

State and Local Tax Receipts	FY 1995	FY 2008	
Sales and Use (state and local)	33.2%	$3.027B	29%
Income (Individual and Corp.) and Privilege	29.0%	$3.580B	32%
Property, real and personal	37.8%	$3.770B	39%

Sales Tax Exemptions

There has literally been an explosion of new sales tax exemptions in recent decades--some of them very significant in size, such as the expansion of the manufacturing machinery & equipment exemption, the addition of exemptions for churches and a host of other non-profits, custom software, aircraft repair, to name a few. Between 1985 and 2009, the number of sales tax exemptions has more than tripled, growing from 30 to 96. Sales tax exemptions shrink the tax base. Since 2003, the estimated value of foregone sales and use tax revenue from exemptions has grown from $3 billion to $4.2 billion in 2009. This is more than double the consensus revenue estimate for FY 10 state sales and use tax receipts, $1.88 billion.

Income Tax Credits

Income tax revenues increase in times of strong economic growth--and the late 90's and the years between the 2002 recession and the current one have produced phenomenal growth in income tax receipts. Incomes of the very wealthy have skyrocketed during these boom years, and the state's income tax coffers have benefited from that. Corporate income tax receipts have echoed that effect. As we are seeing now, income tax receipts can rapidly decline during a recession, and the revenue picture can change drastically in a hurry.

Like sales tax exemptions, tax credits also shrink the tax base. Since 1985, the number of tax credits has increased from 6 to 43. The State's lost revenue from tax credits has increased from $410.2 million in tax year 2003 to $594.2 million in 2007.

DOCKING STATE OFFICE BUILDING, 915 SW HARRISON ST., TOPEKA, KS 66612-1588
Voice 785-296-3082 Fax 785-296-7928

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Property Tax Exemptions

Between 1985 and 2009, the number of state property tax exemptions has increased from 43 to 102. The estimated appraised value of real estate exempt from property tax has increased from $19.4 billion in 2003 to $24.4 billion in 2008.

During the 90's, the reduced state mill levy and funding for schools forced increased reliance on the local option budgets, causing property taxes to rise. Although a court challenge caused funding to increase dramatically for schools, the recent recession is trimming that level of funding back. The state should ensure that its actions in funding schools and other funding allocations to local government do not widen this gap further.

Attached is a chart containing bar graphs illustrating the dramatic increase in sales tax exemptions, tax credits and property tax exemptions in recent years.

Employer Withholding Taxes

Employer withholding tax is a vital component of the State's individual income tax base and currently makes up about 70% of individual income tax receipts. About 50% of State General Fund tax receipts consist of individual income tax. Six years ago, employer withholding tax made up about 72% of individual income tax receipts, and as a result of the legislative trend to divert more and more employer withholding tax revenue for specific projects, that percentage has been shrinking. During an economic downturn, the loss of employer withholding tax revenue can be devastating. To balance the FY 09 and FY 10 budgets, transfers of employer withholding tax revenues dedicated to the Bioscience Fund under the Bioscience Act (the annual growth in withholding from 2003 for Bioscience companies and university employees involved in Bioscience) had to be reduced, and transfers for FY 11 will also need to be reduced. Since FY 06, over $132.5 million in employer withholding tax revenues have been transferred to the Bioscience Fund. These types of revenue diversions shrink the tax base to the point where necessary State funding can be jeopardized.

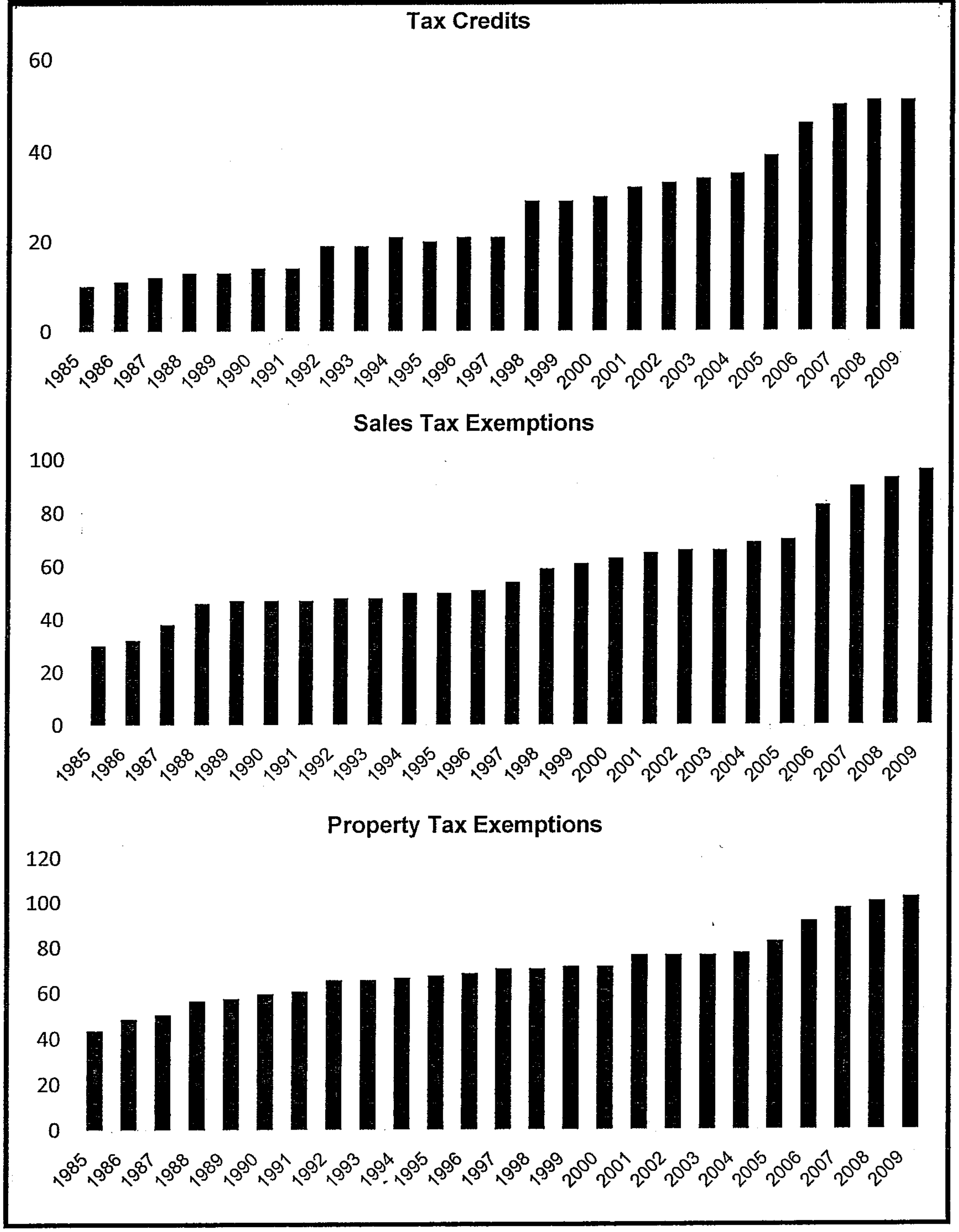
Presently the IMPACT Fund and the PEAK program are using these funds, as well as several special authorizations for manufacturers (Cessna, Spirit, Siemens, Goodyear.) IMPACT is a well-funded mechanism for economic development and should be the only dedicated use of the withholding tax.

Requests from business to retain the withholding tax as an incentive to development in addition to other tax incentives continue to proliferate. Income taxes are still the most elastic tax source (grow as the economy grows) but without some protection, this most important of tax sources will soon erode significantly in the same manner as the property and sales tax bases have.

Knowing that the state budget resources are limited and there is no legislative appetite for tax increases, the KACIR is recommending HCR 5028 to help address the erosion of the tax base and the imbalance in the state's three major funding sources. HCR 5028 provides that the legislature resolve to establish a moratorium on granting any new property tax exemption, sales tax exemption, income tax credit or incentive program involving the diversion of employer withholding taxes from the state general fund for the tax years 2010, 2011, and 2012. Any new exemption or credit that is granted should automatically sunset in 3 years to ensure a review of its effectiveness.

Such a moratorium will provide the Legislature a much needed opportunity for a thorough examination of its tax policies and priorities, in order to preserve the State's tax base so that it can provide sound, consistent funding for the government services the State's citizens need.

Number of Tax Credits, Sales Tax Exemptions, and Property Tax Exemptions Enacted in Kansas Law (1985-2009)



TESTIMONY OF ALLYN O. LOCKNER ON HOUSE CONCURRENT RESOLUTION NO. 5028 BEFORE THE HOUSE TAXATION COMMITTEE AT 9:00 AM ON FEBRUARY 8, 2010, IN ROOM 783 OF THE DOCKING STATE OFFICE BUILDING

The Honorable Richard Carlson, Chairperson, and other members of the committee: My name is Allyn O. Lockner. I reside in Topeka, Kansas. My e-mail address is alockner@cox.net. I thank you for the opportunity to testify on HCR 5028.

I am a retired economist and certified public manager. I represent the public on the Kansas Advisory Council on Intergovernmental Relations (KACIR). It recommends enactment of HCR 5028. I support the recommendation.

Placing HCR 5028 in context highlights its significance. To discuss the context, please refer to the following exhibit. It shows ten levels of the Kansas State and Local General Fund Finance System. The system contains two parts: the Kansas State and Local Tax System and the Kansas State and Local Budget-Appropriation Expenditures Process. We begin at Level 1 at the bottom of the exhibit and proceed upward in the exhibit, discussing each level one at a time, <u>with each level building on the preceding level</u>, until we reach Level 10.

KANSAS STATE AND LOCAL GENERAL FUND FINANCE SYSTEM

10.	All state and local general fund services are received by or are available to Kansans. Many of these services strengthen the resources at Level 1.		
9.	State and Local General Fund Budget-Appropriation Expenditures Process (BAE) These expenditures do not include the tax expenditures (TE) explained at Level 8.		
8.	**Total State and Local General Fund Tax Collections (TTC)** **These collections are minus the tax collections lost due to the tax exemptions at Level 4 and tax credits (including economic development incentive programs involving the use of employer withholding taxes). (Tax credits are not shown in the exhibit.) Lost collections are equal to the taxes not paid by holders of numerous tax exemptions and tax credits for a variety of purposes. The lost tax collections are called "tax expenditures" (TE) because holders of exemptions and credits receive financial assistance from government by <u>not</u> paying taxes on exempt property, income or sales, or by receiving tax credits. They bypass the standard State and Local General Fund Budget-Appropriation Expenditures Process (BAE) at Level 9. Level 4 is a key weakness of the Kansas State and Local General Fund Finance System. HCR 5028 shows how the House, with Senate concurrence, resolves to control growth of new property and sales tax exemptions, and new tax credits, thereby controlling the further weakening of the Kansas State and Local Tax System. Also under HCR 5028, the House and Senate control new tax expenditures, thereby controlling the further bypassing of the Kansas State and Local General Fund Budget-Appropriation Expenditures Process.**		
7.	Property Tax Collections from Kansans (Level 6 times Level 5)	Income Tax Collections from Kansans (Level 6 times Level 5)	Sales Tax Collections from Kansans (Level 6 times Level 5)
6.	Property Tax Rates (PTR) (Mill Levies)	Income Tax Rates (ITR)	Sales Tax Rates (STR)
5.	Taxable Property Values: Property Tax Base (PTB) (Level 3 minus Level 4)	Taxable Incomes: Income Tax Base (ITB) (Level 3 minus Level 4)	Taxable Sales: Sales Tax Base (STB) (Level 3 minus Level 4)
4.	**Property Tax Exemptions (PTE) Statutorily, they are nontaxable properties, erode the property tax base, and weaken the system. Level 8 describes briefly how HCR 5028 controls new exemptions.**	**Income Tax Exemptions (ITE) Statutorily, they are nontaxable incomes, erode the income tax base, and weaken the system.**	**Sales Tax Exemptions (STE) Statutorily, they are nontaxable sales, erode the sales tax base, and weaken the system. Level 8 describes briefly how HCR 5028 controls new exemptions.**
3.	All Property (Assets)	All Incomes	All Sales
2.	Performance of Kansas State and Local Economies		
1.	Foundation of the Kansas State and Local Economies: Kansas Risk-Takers Develop or Obtain and Mobilize Private and Public Natural, Human, Capital, Technology, Information and Financial Resources in their Communities to Produce and Sell Kansas Goods and Services in Competitive Local, National and International Markets		

Over

House Taxation
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The **bolded** Level 4 and Level 8 highlight those parts of the Kansas State and Local General Fund Finance System that are affected by the tax exemptions and tax credits. HCR 5028 has implications for state and local governments because of their heavy reliance on property, income and sales tax revenues to fund their general fund BAE.

- For the General Fund of Kansas state government, BAE must equal TTC, in accordance with the Kansas Constitution. Kansas state government collects income taxes which are computed by multiplying the state income tax rate times the state income tax base, minus tax credits to finance its general fund BAE. It also collects sales taxes which are computed by multiplying the state sales tax rate times the state income tax rates to also finance its general fund BAE. Therefore, tax credits reduce income tax collections and sales tax exemptions erode the state sales tax base, increase state tax expenditures, and weaken the state financial system.
- City, county and school district governments collect property taxes, which are computed by multiplying local property tax rate times the local property tax base, to finance their general fund BAE. Therefore, property tax exemptions erode the property tax bases and increase the local tax expenditures of these local governments.
- Many city and county governments collect sales taxes, which are based on the local sales tax base times the local sales tax rate, to finance their general fund BAE. Therefore, sales tax exemptions erode their sales tax base, increase local tax expenditures and weaken their local financial systems.
- Although no local governments collect income taxes, they may be affected by state income tax exemptions and tax credits. This would occur when they receive through state financial assistance reduced revenue from state general fund BAE to help finance their local general fund BAE.

In summary, when the Legislature approves new tax exemptions it not only affects the tax base of state government; it also affects the tax bases of local governments. New tax credits affect state government, and may affect local governments.

By enacting HCR 5028, the House resolves, with Senate concurrence, to place a three-year moratorium on enacting new property tax exemptions (PTE) and sales tax exemptions (STE) and tax credits. It also resolves that any new PTE, STE and tax credits will be sunset within three years. If the House enacts HCR 5028 and the Senate concurs, both bodies resolve to achieve at least the following objectives.

- To control new PTE and STE at **Level 4** so as not to further reduce the capacity of the Kansas state and local tax system to generate tax collections so that TTC = BAE, without an increase in PTR, ITR and/or STR on Level 6, and while at the same time maintaining BAE. The House and Senate also control new tax credits.
- To bring the Kansas state and local tax system into better alignment with the principles of state and local taxation, particularly the principle of tax equity, and with the modern and changing attributes and challenges of the Kansas state and local economies.
- To control new PTE and STE at **Level 4** as a way for holders of the exemptions to obtain state and local financial assistance by avoiding the Legislature's annual scrutiny and justification of the assistance required by the conventional state and local BAE. The House and Senate also control new tax credits as a way to avoid BAE.
- To enhance the role and integrity of the annual state and local BAE as the way to allocate limited TTC among alternative competing purposes and functions at the state and local levels of Kansas government.

To assist legislators in making these choices, KACIR has prepared and shared with all legislators a document entitled Tax-Base Policy Evaluation Guide, September 2009. It aims to assist legislators in answering key questions before they vote on any new tax exemptions at Level 4 and any new tax credit.

In summary, under HCR 5028, the House, with the Senate's concurrence, resolves to control, through a three-year moratorium and a sunset provision, new property tax exemptions, sales tax exemptions, and tax credits. These controls will hopefully prevent or at least reduce new statutory tax exemptions that weaken the Kansas state and local tax system and prevent or at least reduce new tax expenditures that avoid the state and local budget-appropriation expenditures process.

HCR 5028 does not have the force of law. Hopefully, with House enactment and Senate concurrence, HCR 5028 has sufficient "moral weight" to persuade legislators to do what they resolve to do in the resolution. Enactment and concurrence would allow time for the Legislature to learn more about the number, size, purpose, characteristics and revenue impacts of tax exemptions and tax credits, to ascertain whether additional tax exemption and tax credit controls are necessary, and, if so, to enact a tax exemption control law. Such law would also control tax expenditures.

This concludes my testimony. I will respond to questions.

SILCK
Statewide Independent Living Council of Kansas
700 S.W. Jackson, Suite 212, Topeka, KS 66603 ☎ (785) 234-6990 voice / tdd ☎ (785) 234-6651 fax

Testimony in

Support HCR 5028

February 8, 2010

I am Shannon Jones, executive director of the Statewide Independent Living Council of Kansas (SILCK).

We are in strong support of HCR 5028. The consumers I represent, Kansans with disabilities are feeling the real brunt of reduced revenues in our state. Through no fault of their own, persons with disabilities are feeling in a personal way the states revenue shortfall.

They feel it in reduced services, recognizing their personal attendants are working for less than poverty wages, the may be or may have a friend making up one of the 1800 persons on the HCBS/PD waiting list or maybe they have a friend who is one of the 50 persons who have died while waiting to come off the waiting list.

While the state is working its way out of it's financial crisis, we think it only appropriate to have a moratorium on tax exemptions, tax credits or other incentives during this period of time.

House Taxation
Date: 2-8-10
Attachment: 3

Kansas Families for Education

Demanding Excellent Public Schools

Missy Taylor
Kansas Families for Education

House Taxation Committee
February 8, 2010
HCR5028-Moritorium on Exemptions

Mr. Chairman, members of the committee, thank you for the opportunity to come before you today. My name is Missy Taylor, and I appear before the committee today on behalf of Kansas Families for Education. We stand in support of HCR5028. For several years this body has increasingly granted new tax exemptions, both in number and in dollars. As a result, the state has scaled back our revenue sources dramatically, and we believe it to be one of the main reasons for the state's inability to protect services to our children, our grandparents, and our disabled citizens during this economic downturn.

I searched for the legislature's policy on sales tax exemptions, and was shocked that there were no defined rules. It was alarming to us that many of these exemptions are granted arbitrarily. While we believe that some of the billions of dollars worth of exemptions may very well be worthy, there should be clearly defined state policy regarding any exemption.

Given that the makeup of the Kansas House changes every two years, it seems that a clear policy would help guide future lawmakers, and help them to more carefully examine the impact of tax policy, not solely on the recipient of the exemption, but on all Kansans.

The state has a statutory obligation, and in some cases a Constitutional obligation, to provide vital services such as public education and home based community services for the elderly and disabled. These programs have been devastated by the cuts already made and they cannot sustain or endure any additional cuts and still meet those obligations. We ask that the Kansas Legislature not erode our revenue stream any further by granting even one more exemption before there is a clear policy in place.

We must have a revenue stream that provides our state with the strong foundation needed to meet its current and future responsibilities to the people of Kansas. We believe that HCR5028 is a step in the right direction to insure a tax policy that is fair to ALL of our citizens.

Thank you.

Missy Talyor
staff@fundourpublicschools.com

House Taxation
Date: 2-8-10
Attachment: 4

KNEA

Making public schools great for every child

KANSAS NATIONAL EDUCATION ASSOCIATION / 715 SW 10TH AVENUE / TOPEKA, KANSAS 66612-1686

Mark Desetti, Testimony
Also Representing KASB
House Committee on Taxation
February 8, 2009

HCR 5028

Mr. Chairman, members of the committee, thank you for the opportunity to submit written testimony to share our thoughts on **HCR 5028.**

As written, HCR 5028 calls upon the legislature to stop granting new tax reductions for a period of three years. We believe this is a good idea and we believe so primarily because of two things specifically mentioned in the resolution.

Lines 27 through 30 refer to the impact on the budget over the last 15 years of such reductions. You have seen the data as prepared for you by both the Department of Revenue and Legislative Research staff. When I look at it, I see about $10 billion in cumulative tax reductions over the period. That figure includes factoring in the tax increase of 2002. Even examining the chart year by year, it appears that lost revenue due to these tax reductions for FY 2010 alone is over $1.2 billion.

This is not to say that some of these reductions are not worthy or that all of them should be repealed. And that brings me to lines 31 through 33 of the resolution. This section calls upon the legislature to examine in-depth the policies underlying the expansion in tax reductions. Some of this examination is already underway and other efforts are in the pipeline. KACIR has already made recommendations for improving the policy on the granting of sales tax exemptions – you will hear a bill on these recommendations later this week. You had a hearing on a bill by Representative Siegfreid that would establish a committee on tax simplification.

Another important element of the resolution is contained in lines 3 through 5 on page two. "any new property tax, sales tax exemption or tax credit granted thereafter shall include provisions for the sunset of such exemption within three years." We believe this would establish good practice in the granting of new tax changes. Under this concept, nothing would continue in perpetuity

House Taxation
Date: 2-8-10
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unless it proved to be beneficial to the state. Why keep something on the books if it doesn't work for the citizens of Kansas?

The state budget is in bad shape. One of the reasons is that we have had an unprecedented economic downturn. But it has been exacerbated by enormous reductions to state revenue through tax reductions and growing demand on the budget both through inflation and need.

It is true that the legislature was found to be underfunding the K-12 school system and you responded by meeting that challenge in 2005. But the needs of citizens with physical and developmental disabilities has not gone away and your desire to serve every one of them is good policy. Our highway system must be maintained both for the safety of citizens and for the benefit of commerce. We cannot afford to weaken our correctional system and endanger the lives of Kansans. And we can't continue to balance the state budget by taking money from local units of government thus forcing them to either raise property taxes or cut important services.

Finally, I know that there are some who continue to call for budget balancing through more cuts to K-12 education. These people say that K-12 education did not take as large a cut last year as did other functions of government. I would suggest to you that that is not actually true – what is true is that the state cut to K-12 education is a delayed cut. In total dollars across the system, it is true that the K-12 cut appears smaller. But the fact is that our state cut was mostly filled with new federal dollars thanks to the American Recovery and Reinvestment Act which specified that much of that federal money was to go into education. I feel the need to remind the committee that much of that federal money is set to go away after 2011. At that time, the public education system will be standing on the edge of a cliff. Where will the replacement funds come from just to keep the system flat? Are we all to depend on congress again passing another stimulus plan?

We would urge this committee to consider the programs that are important to Kansans in both good and bad economic times. HCR 5028 would give the legislature the necessary breathing room to get through this downturn and craft policies that will stabilize the state revenue system for decades to come.

FISCAL FOCUS

Budget and Tax Policy in Perspective

Gary Brunk, President and CEO
Kansas Action for Children
House Taxation Committee
February 8, 2010
Legislative Testimony – HCR 5028

Good morning, Chairman Carlson and members of the Committee. On behalf of Kansas Action for Children, I would like to thank you for this opportunity to testify in support of House Concurrent Resolution 5028.

Kansas has been successful and able to provide its citizens with a better quality of life because of the strong foundation we've built together. That foundation includes well-maintained roads that allow us to move goods to markets, an educational system that prepares children for success, and a safety net for the elderly and persons with disabilities.

That foundation - which for decades allowed our families, communities and economy to thrive - is now under tremendous strains. One sign of those strains is that, for the first time since the 19th century, we have a generation of children who are likely to have a lower standard of living than did their parents. A key reason for that decline is that we are falling behind other nations in our ability to prepare children for the global economy of the 21st century.

One example among many that could be given: the United States used to lead the world in the preparation of students to enter the work force. That is no longer the case, and we now lag behind other nations who are doing a better job of equipping students with the skills they need and of graduating them from high school and college.

In the face of these challenges we need to find ways to strengthen our foundation, not let it further deteriorate.

We know that our state's current tax structure is no longer keeping pace with public infrastructure costs. Although major components of the Kansas tax structure have been in place for quite some time, the strength of our tax policy has been eroded little by little over the years. Enacting a three-year moratorium on some of the causes of this erosion is a prudent and measured response.

For the past several years Kansas Action for Children has called for the creation of a bi-partisan commission charged with a top to bottom review of our current tax system and with presenting to citizens, the legislature and the governor a proposal for bringing our tax structure into the 21st century. We continue to believe such a commission is necessary, but in its absence we are faced with the need to stem the erosion that is already occurring. I ask for your support of HCR 5028.

720 SW Jackson, Suite 201 | Topeka, KS 66603 | Telephone 785- 232-0550 | Fax 785-232-0699 | kac@kac.org | www.kac.org

An initiative of Kansas Action for Children

House Taxation
Date: 2-8-10
Attachment: 6

InterHab: The Resource Network for Kansans with Disabilities

February 9, 2010

TO: Representative Richard Carlson, Chair and Members, House Committee on Taxation

FR: Tom Laing, Executive Director InterHab: The Resource Network for Kansans with Disabilities R

RE: Testimony in support of HCR 5028: A concurrent resolution establishing a 3-year moratorium on new tax exemptions, tax credits and economic development tax incentive programs.

Thank you for taking testimony on this legislation. On behalf of InterHab, I recommend the adoption of HCR 5028 as a needed step to address the budget challenges facing our State.

Among many concerns facing Kansans, two are at issue in this legislation. The first is the necessity to fund the State budget. The second is our inability to do so.

In this legislation, the matter arises concerning revenue-side expenditures, caused by annual and expensive legislation to weaken the revenue-producing capacity of current tax laws.

Part of the problem is the structural disconnect within the legislature. Tax committees and budget committees live in separate worlds. Spending policies and tax policies are central to any rational consideration of a budget situation, but are rarely considered in the same discussion.

When the subject of red-ink is raised, it is almost always blamed on expenditures for general government, public education, social services, etc. Everyone knows that is only half the story .

This legislation spells out one way to address the other half of the story, i.e. by establishing a three year moratorium on the frequent and expensive legislation to cut taxes.

Such a moratorium should not be needed. Those who annually and successfully advocate for tax cuts should look at the budget needs of the State and the shortage of revenues, and establish restraints on their annual hunger. Sadly, a look at the tax committee calendars of the several recent sessions shows no such restraint.

It is overdue that legislators restore order to this process. We urge your support for HCR 5028.

700 SW Jackson Avenue – Suite 803 – Topeka, Kansas 66603 – 785-235-5103

House Taxation
Date: 2-8-10
Attachment: 7

Kansas Economic Progress Council
Suite 200
212 West 8th
Topeka, Kansas 66603

Testimony on HCR 5028
House Taxation Committee
February 8, 2010

Bernie Koch
Executive Director, KEPC

Chairman Carlson and members of the committee, thank you for the opportunity to appear on HCR 5028. I'm Bernie Koch, the Executive Director of the Kansas Economic Progress Council.

The Kansas Economic Progress Council is a statewide not for profit organization of business, trade associations, and chambers of commerce. We support pro-growth policies for communities.

I have an unusual perspective. After 21 years at the Wichita Chamber of Commerce, my position was eliminated in a re-organization. I spent much of last year as Vice President for Government Affairs at the Tulsa, Oklahoma Metro Chamber of Commerce.

My experience was that Oklahoma can turn on a dime on economic development projects, and they did for two projects in the short time I was there.

When the Holly Corporation of Texas wanted to purchase the Sunoco Refinery in Tulsa, it needed specific tax credits expanded to make the purchase work. The Oklahoma Legislature passed specific legislation for the company, allowing 500 jobs to be saved. In the economic downturn being experienced nationwide, our economic development executive at the Tulsa Chamber said many times, this was probably going to be the biggest economic development project that year for the state.

In another instance, the legislature passed a bill specifically designed to help a Stillwater Company that needed help expanding. Oklahoma and other aggressive states have a long history of turning on a dime to help economic development projects. I urge you to be extremely careful when considering limitations on what the state can and cannot do.

Thank you for your thoughtful attention on this issue.

House Taxation
Date: 2-8-10
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Lenexa Chamber of Commerce

The Historic Lackman-Thompson Estate

11180 Lackman Road

Lenexa, KS 66219-1236

913.888.1414

Fax 913.888.3770

TO: Rep. Richard Carlson, Chairperson
Members, House Taxation Committee

FROM: Ashley Sherard, Vice-President
Lenexa Chamber of Commerce

DATE: February 8, 2010

RE: **Opposition to HCR 5028**

The Lenexa Chamber of Commerce appreciates the opportunity to express its opposition to HCR 5028, which would place a three-year moratorium on the "granting of any new property tax exemptions, sales tax exemptions, tax credits or economic development incentive programs involving the use of employer withholding taxes."

While the purpose of the resolution seems to be to protect state revenues, we believe its effect would be the opposite. First, it's important to examine the resolution's underlying premise of "cost," a premise we strongly dispute where it describes a temporary reduction in revenues the state is not currently receiving and/or, in the case of retention, would not otherwise receive in the future. For example, if a PEAK project were assigned a "cost" of \$6 million – an amount equal to 95% of the projected new withholding taxes – then that would mathematically equate to total projected new withholding taxes of \$6,316,000. The result, therefore, is the state would receive at least \$316,000 more in withholding tax revenues than it is receiving today, to be followed by the full amount at the conclusion of the benefit period. To contend that scenario represents a "cost" requires one to contend that companies would make those investments and create or retain those jobs anyway; that is simply not true.

Even if you do accept the proponents' notion of "costs" as true, the financial benefits to the state and its citizens outweigh those costs. Fiscal notes look at only one side of the ledger – what is not accounted for in any way are the additional state and local revenues generated through sales taxes, property taxes, income taxes, motor fuels taxes, fees, and other economic drivers such as rent or leases, paid by companies, their individual employees and their families, who might otherwise not be employed or spend money in Kansas. For example, last year the Legislative Research Department estimated that, based on the assumptions relied on by the Department of Revenue, projects utilizing the proposed PEAK legislation could be expected to generate \$6.6 million in additional state sales tax revenues and \$1.4 million in motor fuels tax receipts.

Lastly, this resolution would be the worst message the legislature could send to business prospects at the worst time. Competition for projects is tough (and getting tougher) and Kansas unemployment is historically high. When the states around us are loudly and publicly touting job creation, why would our legislature want to send the message that Kansas is closed for business? Why would the legislature want to tie its hands and take away the flexibility to respond to opportunity for the next three years?

House Taxation
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The fact is we compete every day for new jobs and investment against out-of-state communities and, like it or not, incentives are a necessary part of that equation. We fully understand the state faces significant financial difficulties, but in such challenging times private sector growth will be more important than ever.

In summary, we believe HCR 5028 would be a significant step away from ensuring that Kansas incentives remain globally competitive, from supporting job creation, and from maintaining a healthy and growing statewide economy for the years ahead. <u>For those reasons we strongly urge you **not** to recommend HCR 5028 favorable for passage.</u>

Thank you very much for your time and attention to this important issue.

KEDA
Kansas Economic Development Alliance

Testimony in opposition to HCR 5028

Submitted by Lavern Squier
On behalf of the Kansas Economic Development Alliance (KEDA)

House Taxation Committee
Monday, February 8, 2010

Chairman Carlson and Committee Members:

My name is Lavern Squier - I lead the Overland Park Economic Development Council and am chair of the KEDA Competitiveness Task Force. Today, I am submitting written testimony in opposition to House Bill HCR 5028 on behalf of KEDA and its 200 economic development members across the state.

We have to have adequate economic development tools at the state level to join with the communities' abilities and assets to achieve our expected (and sorely needed) outcomes of creating jobs and prosperity across our state.

As economic developers, we understand the current budget issues, but we don't agree that making Kansas uncompetitive is the answer. This bill is not clear as to the effects it would have on existing economic development programs/incentives.

Beginning on line 41, the bill states; That, for tax years 2010, 2011 and 2012, there shall be a moratorium on the granting of any new property tax exemptions, sales tax exemptions, tax credits or economic development incentive programs involving the use of employer withholding taxes by the Legislature of the State of Kansas

It is not clear whether that means all of these exemptions or only exemptions using withholding taxes. For example a property tax exemption is granted by the local city or county, and is reviewed and approved by BOTA. The impacted taxes are real estate taxes, not withholding. Since they don't impact withholding, why are they listed in the three year moratorium?

As the bill relates to payroll withholding, does it affect the original PEAK bill (SB97) or its contemplated amendments (HB2538) since they are amendments to a prior existing bill (i.e. grandfathered)? Does it affect the IMPACT program which uses withholding mechanisms as well?

The lack of definition, the strong potential for negative net effects on economic development and job creation, as well as extended timeouts/use of incentives being mandated to future KS Legislatures is not good public policy.

Thank you for your consideration of this letter. We believe it is not sound policy, and we feel that HCR 5028 hurts Kansas in competition for new economic development projects.

House Taxation
Date: 2-8-10
Attachment: 10

Sumner County Economic Development Commission

Physical Address: 123 N. Jefferson, Wellington, Kansas 67152
Mailing Address: P. O. Box 279, Wellington, Kansas 67152
Office Phone Number: (620) 326-8779 Office Fax Number: (620) 326-6544
Email Address: scedc@co.sumner.ks.us
Website: www.gosumner.com

February 8, 2010

To: The Committee on Taxation

RE: HCR 5028

Members of the Committee on Taxation

Thank you for allowing us to present our concerns with Senate Concurrent Resolution No. 1624.

As we all know economic times are stretching the budgets of all governmental agencies. We appreciate and applaud your efforts to address these issues by reviewing all programs and their value compared to their cost and effectiveness. However, we are concerned with several issues regarding this resolution.

First of all, in reading the resolution we are unclear on the intent of the resolution. We would appreciate clarification in the resolution on whether the intent is to halt new types of exemptions and incentives from being proposed and implemented or whether the intent is to halt the usage of the ones currently in place or whether the intent is to halt both.

We have great concern if the intent is to limit or halt the usage of the current exemptions and incentives. There are two main reasons for this concern. One is we already have projects in progress that have been given information/proposals based on the currently allowed exemptions and incentives. If you halt the usage of these economic development tools, we stand to lose these projects to other states. If you intend to discontinue the use of these programs, please state in your resolution a specific date after which no more offers can be made so that the projects already in the pipeline can still continue.

The second concern is what a halt in incentives and exemptions does to our ability to attract new businesses to the State. We have to compete with all other States and Overseas if we want to attract new businesses and jobs to our State. We already struggle to be able to compete. The economy is just now starting to show signs of recovery and the activity in our office has really picked up as businesses start to look at the future. Businesses often need some assistance to be able to move forward with projects and if we don't provide that assistance they either will not be able to afford to do the projects or they will look elsewhere. Although we must all tighten our belts, we must also look to the future and not restrict our opportunities to bring businesses, jobs, and residents into our State. Other States are working aggressively to bring jobs to their States as they know that is the way to strengthen their economy and create additional revenue for their State.

Please consider these factors before enacting this resolution. Keep in mind the detrimental effect this could have on our future.

Sincerely,

Janis Hellard

Janis Hellard, Director

Overland Park
Chamber of Commerce

Written Testimony in Opposition to House Concurrent Resolution 5028

Submitted by Jennifer Bruning
On behalf of the Overland Park Chamber of Commerce

House Taxation Committee
Monday, February 8th, 2010

Chairman Carlson and Committee Members:

My name is Jennifer Bruning, and I am Vice President of Government Affairs with the Overland Park Chamber of Commerce. I am writing today on behalf of our board of directors and our nearly 1,000 member companies. I appreciate the opportunity to share written testimony in opposition to House Concurrent Resolution 5028, which would establish a three-year moratorium on the granting of new tax exemptions, tax credits or economic development incentive programs involving employer withholding taxes.

The Overland Park Chamber fully understands the direness of our State's current budget situation; however, placing a moratorium on the economic development tools listed above does nothing to alleviate the crisis we are in. In fact, a moratorium stifles our State's opportunity to find creative solutions to grow employment. Additionally, a three-year moratorium is extreme given that economic climate conditions for that period are unpredictable; our state's job creation needs should not be stifled by an arbitrary number.

Specifically in Overland Park, we have seem numerous attempts just in the last several months by our adjacent neighbor to the east (Missouri) to become more active in utilizing new resources to attract and retain businesses. As Missouri steps up its game, do we really want to tell businesses and developers interested in locating or expanding in Kansas that we are not interested in finding new, creative solutions that make it feasible for them to bring more jobs here?

The resolution also incites several questions as to the meaning and definition of certain words and phrases. What is the official definition of *"new"* when suggesting a moratorium on *"new tax exemptions, tax credits or economic development incentives programs involving employer withholding taxes"*? If an existing program were to be amended to expand a company's eligibility requirements, would that be considered a *"new"* exemption, and thus not be allowed, even if it stems from an existing program? Second, the resolution language is confusing and can lead a reader to discern that the moratorium only applies to those listed exemptions and credits which involve use of employer withholding taxes, of which none do.

At this juncture in our state's fiscal crisis, we should be doing everything in our power to woo, not hinder, economic development projects. We encourage you to oppose HCR 5028.

9001 W. 110th Street • Suite 150
Overland Park, KS 66210
t: 913.491.3600 • w: opchamber.org

2227139.2

House Taxation
Date: 2-8-10
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Testimony in opposition to HB 5028

House Committee on Taxation – Richard Carlson, Chair
Submitted by Dan Hartman
Dighton/Lane County Economic Development

February 5, 2010

Mr. Chairman and Members of the House Committee on Taxation:

My name is Dan Hartman with Dighton/Lane County Economic Development. I am submitting written testimony today in opposition to House Bill 5028 on behalf of the organization.

This measure will not only end economic development efforts in rural Kansas, but stop many projects just now getting underway, costing jobs and capital investment. HCR 5028 is wrong minded. Stopping spending is one thing, but I find it far more productive to "spend smart" instead. Our efforts out here in western Kansas will more than make up for any short term cost. The answer to budget problems is really very simple...just spend smarter.

Thanks for your efforts on our behalf, you are appreciated!

House Taxation
Date: 2-8-10
Attachment: 13

Written Testimony in Opposition to Language Contained in HCR 5028

House Committee on Taxation – Richard Carlson, Chair
Submitted by Kevin Jeffries, President & CEO
Leawood Chamber of Commerce

February 4, 2010

Mr. Chairman and Members of the House Committee on Taxation:

The Leawood Chamber of Commerce wishes to express its concern about several elements included in HCR 5028 that would negatively impact economic recovery in the State of Kansas.

Line 41 and on states that property tax exemptions, amongst other things, would not be allowed for a 3 year moratorium period. While Leawood does not currently offer tax abatements, these proposed changes could adversely affect tax abatements for projects for many other projects throughout the State of Kansas. There are also segments of this bill in lines 1 and 2 that could preclude the currently proposed PEAK amendments from being allowed.

While this bill is unclear whether or not the word "new" in line 42 truly stops all activity or not – we don't need to take the chance of this language effectively putting the brakes on economic development in our state.

SOUTHWEST
JOHNSON
COUNTY
ECONOMIC
DEVELOPMENT

Testimony in opposition to HB 5028

Submitted by Thomas Riederer
On behalf of the Southwest Johnson County Economic Development Corp.

House Taxation Committee
Thursday, February 8, 2010

Chairman Carlson and Committee Members:

My name is Tom Riederer, and I am President of Southwest Johnson County Economic Development Corporation. I am submitting written testimony today in opposition to House Bill 5028 on behalf of the organization.

We understand the current budget issues, but we don't agree that making Kansas uncompetitive is the answer. The goal of economic development is to increase the economic base which will help close the gap referred to in the bill. The bill is also not clear on what incentives are included. Beginning on line 41, the bill states;

> That, for tax years 2010, 2011 and 2012, there shall be a moratorium on the granting of any new property tax exemptions, sales tax exemptions, tax credits or economic development incentive programs involving the use of employer withholding taxes by the Legislature of the State of Kansas

It is not clear wheter that means all of these exemptions or only exemptions using witholding taxes. For example a property tax exemption is granted by the local city, reviewed and approved by BODA. The impacted taxes are real estate taxes, not withholding. Since they don't impact witholding, why are they listed in the three year moratoium?

Thank you for your consideration of this letter. We believe it is not sound policy, and we feel that HB 5028 hurt Kansas in competition for new economic development projects.

Testimony Regarding
House Concurrent Resolution No. 5028

House Committee on Taxation – Richard Carlson, Chair

February 5, 2010

Mr. Chairman and Members of the House Committee on Taxation:

My name is Robert L. Cole. I am the Director of the Pottawatomie County Economic Development Corporation.

We have a number of concerns regarding House Concurrent Resolution No. 5028 which are detailed below.

We do not believe that the significant revenue and budgetary issues facing the State of Kansas will be solved by freezing the few financial incentives we are able to use for economic development purposes in the State of Kansas.

We are especially concerned about the meaning of the word "new", as presented in this resolution beginning on line 27 and continuing throughout. We have several previously granted property tax abatements in place at the present time. Does this resolution "freeze" the existing benefits to participating businesses that have already been granted those abatements?

We have just been designated an "E-Community" by the Network Kansas – Kansas Entrepreneurship Center. That designation allowed us sell $153,000 in 2009 state income tax credits to private investors, resulting in us being able to establish, for the first time, our own revolving loan fund to provide "gap" financing for startup and early stage small businesses that would not otherwise be quite bankable. We would really not like this program to be cut back any further than it was with last year's "haircut". It certainly should not be eliminated or "frozen" at this time.

We recently received a grant, paid for out of Regional Economic Development Foundation Tax Credits, through the North Central Kansas Regional Planning Commission. The amount of the grant was $75,000. We have used this money to enter into a consulting contract with George Butler Associates in Lenexa, KS to determine the feasibility of a major and complex redevelopment project in Wamego, Kansas. Were it not for the grant funds, this analysis would not be possible. We would really urge you to retain the ability of the regional foundations to sell state income tax credits to finance such growth- inducing projects.

We also support the continuation of the newly – allowed use of reduced employer withholding taxes as an additional incentive, especially for major projects, and especially since surrounding competing jurisdictions already have this incentive in place.

We submit that the "significant growth in new property tax exemptions, sales tax exemptions, tax credits and economic incentives programs involving the use of employer withholding taxes" described in pages 27 to 30 is a function of the success that local jurisdictions and economic developers have had in recruiting new business to the state and/or in helping existing businesses expand. We wonder if now is the time to discourage such growth by removing the very tools that make much of it possible.

Understanding that there is a major revenue and budget issue facing the state, we certainly have no objection to the state taking the action intended in lines 31 – 33 of the resolution to evaluate the "policies underlying such growth (of the use of incentives) , and for them to be "examined in depth"

However we submit that *such analysis should occur before* any significant action is taken to curtail or eliminate the few incentive tools that we have available to us

Thank all of you for your consideration of this matter – especially during this time when you are faced with many difficult budget issues.

Respectfully,

Robert L. Cole
Director

SHAWNEE
CHAMBER OF COMMERCE

Testimony in Opposition to HCR 5028

Submitted by James A. Martin
On Behalf of the Shawnee Chamber of Commerce

House Committee on Taxation
Monday, February 8, 2010

Chairman Carlson and Members of the House Committee on Taxation:

Thank you for your work on behalf of the people of Kansas during this extremely difficult financial situation. We understand the realities of cost containment and revenue enhancement to balance the State's budget, but are opposed to HCR 5028 as a means of attaining this goal.

If another of our goals is to create new jobs and grow the tax base, HCR 5028 would be a severe hindrance in this competitive economic development environment. As you know, Kansas' competitors in the region and the world are ramping up new incentives in order to compete, not temporarily halting the use of these tools, as HCR 5028 would apparently do.

The language in the Concurrent Resolution also leaves many questions unanswered. Would the moratorium apply only to incentives involving employer withholding taxes (Lines 13-14) or would it also apply to property and sales taxes (Lines 36-37)? It seems the language could be interpreted in multiple ways and might lead to unintended results.

Shawnee is currently working with two prospects, that if successful, will represent over $24 million in new capital investment and about 300 new jobs to the City and the State of Kansas. Both projects have continued interest in locating here, with the understanding that the promised incentives will be delivered. The message a moratorium would send to these and other businesses would be detrimental to Kansas' image as a place that is "open for business."

These are indeed challenging times. The Shawnee Chamber understands the difficult decisions that need to be made this session. We believe your vote in opposition to HCR 5028 would be a step toward growth out of these difficulties. Thank you once again for your time and consideration; and your efforts on behalf of the State of Kansas.

15100 W. 67th Street, Suite 202 • Shawnee, KS 66217 • 913.631.6545 • www.shawneekschamber.com

House Taxation
Date: 2-8-10
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Testimony in Support of HB5028

House Committee on Taxation – Richard Carlson, Chair

February 8, 2010

Mr. Chairman and Members of the House Committee on Taxation:

My name is Mike Michaelis. I am the Executive Director of the Ellis County Coalition for Economic Development, based in Hays, and I whole-heartedly oppose HB 5028.

As you heard last week, members of the Kansas Economic Development Alliance (KEDA) met a number of times over the past year to discuss legislation that would make Kansas more competitive with other states, but more importantly with our neighboring states as we try to create jobs and help pull the state out of the financial crisis which now exists. That competition is incredibly intense and has been elevated because of the national economy. There are fewer companies looking for expansion now and without the tools we have, fewer will look to Kansas for opportunities.

House Bill 5028 is removes these tools and will label Kansas as anti-growth. We cannot cut our way completely out of this budget shortfall and by taking tools away from the economic development professionals, who represent the only means of growth and job creation the state has, you are left with nothing but cuts to education, transportation, social services, and other programs the citizens of the state expect. By placing a "three-year moratorium on the granting of new tax exemptions, tax credits or economic development incentive programs involving employer withholding taxes," you effectively kill the potential for business expansion and recruitment efforts for the entire state.

I will give you one of what I would expect could be hundreds of examples from economic development professionals. On Friday, February 5, 2010, I met with representatives of a local entrepreneur with a proven record of success about the potential of creating a new division for a growing company. We discussed financing and what it would take to make the project move forward. After representatives of the Kansas Department of Commerce and I explained training and incentive programs such as KIT, KIR, IMPACT, and the Enhanced Enterprise Zone, the representatives felt the owner could move forward if allowed to use these tax credit and exemption options. Without these offerings, the firm will likely not expand because it will not make financial sense. If these programs are put under a moratorium, Ellis County will lose an expansion that will create 30 new jobs and a $100 million investment in the project. Remember, this is only one example.

Please don't take away the few tools we have to create jobs and help Kansas grow our way out of the current economic slump. Vote no on HB 5028.

Thank you for your time and consideration of this matter.

Written Testimony before the House Taxation Committee
HCR 5028 – Moratorium & Sunset on New Economic Development Deals
Presented by J. Kent Eckles, Vice President of Government Affairs

achieve more

Monday, February 8th, 2010

The Kansas Chamber of Commerce appreciates the opportunity to submit testimony in opposition to HCR 5028, which would place a three-year moratorium on any new economic development incentive deals and sunset any newly established deals within three years.

As written, HCR 5028 is unclear on how existing economic development incentives and programs would be affected if passed. With regard to sales tax exemptions: Does the bill mean "any new sales tax exemptions" or only those exemptions using withholding taxes? With regard to property tax exemptions: Does the bill propose to include any and all new property tax exemptions granted by local cities or counties? We ask because the impacted taxes are real estate taxes, not withholding taxes. Since they don't impact withholding, why are they listed in the three year moratorium?

Regarding withholding taxes: Does the bill propose to affect the original PEAK bill (SB97) or its proposed amendments (HB2538) since they are amendments to a prior existing bill? Does passage of this bill affect the IMPACT program which uses withholding mechanisms as well? We would also ask about one-off special legislation for companies bringing thousands of new jobs to Kansas, which the legislature is prone to do on an annual basis?

The bottom line is it's simply bad public policy to tie the hands of the state for an arbitrary period of three years thus making Kansas uncompetitive when what the state most desperately needs is new and retained high-paying jobs. When businesses prosper by hiring new workers and retaining existing jobs, the state's revenue situation also prospers in the form of increased tax receipts.

We urge the committee not to pass HCR 5028.

The Kansas Chamber, with headquarters in Topeka, Kansas, is the leading statewide pro-business advocacy group moving Kansas towards becoming the best state in America to live and work. The Chamber represents small, medium, and large employers all across Kansas. Please contact me directly if you have any questions regarding this testimony.

THE KANSAS CHAMBER

835 SW Topeka Blvd. Topeka, KS 66612 785.357.6321

House Taxation
Date: 2-8-10
Attachment: 19

GREATER TOPEKA CHAMBER
GO TOPEKA

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TESTIMONY
HOUSE TAXATION COMMITTEE
HCR 5028, Three Year Moratorium on Tax Credits,
Tax Exemptions and Economic Development Programs
involving Employer the Use of Employee Withholding
February 8, 2010
By: Christy Caldwell, Vice President Government Relations
Greater Topeka Chamber of Commerce

Chairman Carlson and members of the Committee:

The Greater Topeka Chamber of Commerce strongly opposes HCR 5028 that would create a moratorium on granting tax exemptions, tax credits and economic development programs involving the use of employee withholding. This action would most assuredly end our state's ability to attract private investment and jobs not only for the three years of the moratorium but likely for many years into the future.

Although we recognize the challenge the legislature and executive branch have in budgeting for many important public expenditures during a recession, eliminating critical tax incentives used to grow the state's economy is not the answer. Local communities and the state are in tough competition with other communities around the country and the world to attract private investment, new jobs, and in some cases to retain the jobs we have. You previously were provided testimony that states surrounding Kansas are strengthening their economic development incentives. Kansas economic developers work daily to compete with our neighboring states, states further from our borders and internationally for business growth. The economic development staff at the Greater Topeka Chamber of Commerce/ GO Topeka are involved in negotiations with firms corporately located overseas; firms now established in other states, local companies that have plans to expand somewhere and are considering Kansas, and with start-up companies that think Topeka, Kansas is the place they might want to be.

In many cases, state and local tax incentives have already been offered and in other cases competing cities and states are laying their offers on the table. These projects will evaporate instantly if this resolution becomes law and we do not have incentives to close the deal. Not only that, Kansas will instantly be eliminated from future consideration for investment and new jobs and we will have established a state reputation that will do harm well into the future. We will elongate the recessionary situation we are in; we will remove any incentive for companies already in the state to invest and add jobs which will help unemployed individuals recapture gainful employment so they can provide for their families and contribute to a growing economy.

In Topeka we have been very aggressive in trying to offset the recessionary effects. A new Home Depot Rapid Deployment Center just opened, putting 200 people to work, with the company planning to add 100 additional jobs. A local company, PTMW that manufactures housing units for railroad equipment, has announced a major expansion and is now in the process of moving into the former Payless Distribution building because they will be hiring 138 individuals to work in their expanded plant.

- Over -

House Taxation
Date: 2-8-10
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The Frito-Lay plant has had two expansions bringing $60 million in new investment and new construction to our city. Goodyear remains a viable and productive plant with 1,600 employees due to the state and our community working closely to retain and grow their investment in machinery and equipment. All of these examples required the use of tax exemptions, tax credits and incentives using withholding funds. Without these companies investing here, we would have more persons unemployed in Shawnee County, no major economic investment and likely the loss of other companies who provide services and products to these companies. Based upon an independent analysis reviewing our 2009 Topeka/Shawnee County successes there will be a NET financial return to the state of Kansas of $104+ million, over the next 10 years.

The Topeka Chamber is presently working to attract a European company that will create over 200 high-paying jobs. Tax incentives, most particularly real property and machinery and equipment (M&E) exemptions, are key factors in their location decision. Loss of these tax incentives will kill the project for Kansas.

Site selectors have stated without a doubt one of the clear advantages Kansas offers is the exemption on machinery and equipment. During the recent International Economic Development Council Leadership Summit in Houston, site consultants said that removal of tax abatements and exemptions on M&E would have a devastating impact on any state's ability to attract jobs and investments. To lose these incentives and others will have an extreme negative impact on the economy, further exasperating the state's financial condition.

This resolution also creates a three year sunset of future incentives. This decision would eliminate any predictability that our state is open and serious about attracting new investment and jobs. Again, the word would spread through site locaters and businesses that the State of Kansas is not reliable in their interest in economic development.

The fact that this resolution is being considered, at all, is not something we even want to whisper outside the walls of this room. I say this tongue in cheek, but also seriously.

Mr. Chairman and Committee, the Topeka Chamber strongly urges you to turn down this resolution post haste.