

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 16, 2006 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Chris Courtwright, Legislative Research Department
Martha Dorsey, Legislative Research Department
Gordon Self, Revisor of Statutes
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Mark Schreiber - Westar Energy

Others attending:

See attached list.

Chairman Wilk said that the Committee would resume discussion on the Energy Bills, **HB 2900, HB 2901, HB 2902, HB 2903, HB 2904.**

Representative Carlson advised the Committee that a provision pertaining to consequences of being out of compliance was inadvertently left out of all five energy bills. He invited Richard Cram to explain a balloon which added that specific language to the bill (Attachment 1). Richard Cram explained that one of the items in the agreement was that they had to continually operate the facility during the ten years of tax credit claimed. If they do not comply the tax credits claimed for any tax year shall be forfeited. The provision of this balloon is referred to as the "claw back clause".

HB 2903 - Cellulosic alcohol plants

Martha Dorsey explained the proposed changes specific to the cellulosic alcohol plants.

- Include the production of co-products in the definition of "cellulosic alcohol plant," thus extending tax incentives to investments in certain additional related manufacturing capacity.

Representative Carlson made a motion to adopt the sub-committee report and the "claw back clause" and insert it into **HB 2903**. Representative Menghini seconded the motion. The motion carried.

Representative Menghini made the motion to pass out **HB 2903**, as amended. Representative Goico seconded the motion. The motion carried.

HB 2904 - Nuclear and integrated coal gasification electric generation plants

Martha Dorsey explained the proposed changes specific to the bill.

- Exclude transmission equipment and other real and personal property at the plant site from the property tax exemption.
- Remove the specific adjustment of the income tax credit by the amount of Kansas coal used at the plant.

Representative Carlson made a motion to adopt the sub-committee report and the "claw back clause" amendment, and insert it into **HB 2904**. Representative Goico seconded the motion. The motion carried.

In response to a Committee question, Mark Scheiber, Westar Energy, provided an explanation regarding the process of an integrated coal gasification electric generation plants.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 16, 2006 in Room 519-S of the Capitol.

Representative Goico made the motion to pass out **HB 2904**, as amended. Representative Brunk seconded the motion. The motion carried.

*Representative Carlson moved to reconsider **HB 2900**. Representative Goico seconded the motion. The motion carried.

Representative Carlson made a motion to amend the balloon, prepared by Richard Cram, regarding the "claw back clause" into **HB 2900**. Seconded by Representative Menghini. The motion carried.

Representative Menghini made the motion to pass out, **HB 2900**, as further amended, favorable for passage. The motion was seconded by Representative Goico. The motion carried.

*Representative Carlson moved to reconsider **HB 2901**. Representative Owens seconded the motion. The motion carried.

Representative Goico made a motion to amend the balloon, prepared by Richard Cram, regarding the "claw back clause" into **HB 2901**. Seconded by Representative Menghini. The motion carried.

Representative Goico made the motion to pass out, **HB 2901**, as further amended, favorable for passage. The motion was seconded by Representative Carlson. The motion carried.

*Representative Carlson moved to reconsider **HB 2902**. Representative Owens seconded the motion. The motion carried.

Representative Goico made a motion to amend the balloon, prepared by Richard Cram, regarding the "claw back provision" into **HB 2902**. Seconded by Representative Owen. The motion carried.

Representative Goico made the motion to pass out, **HB 2902**, as further amended, out favorably for passage. The motion was seconded by Representative Carlson. The motion carried.

HB 2723 - Would create tax incentives for improvements of energy efficiency of non-owner occupied housing units.

The bill deals with tax credits for renewable energy purchases especially through the federal governments, for Armed Force Bases. The Committee proceeded with a "Gut and Go" process that striped the language from that bill and inserted contents of another bill which allowed for certain tax credits, of \$100 up to \$300, for non-owner occupied dwellings (Attachment 2).

Representative Carlson made a motion to adopt the sub-committee report and insert it into **Substitute HB 2723**. Representative Goico seconded the motion. The motion carried.

Representative Menghini made the motion to pass out **Substitute HB 2723**, as further amended. Representative Goico seconded the motion. The motion carried.

Discussion followed regarding similar federal programs, definitions of "standards", and benefits of a sunset provision. Although the actual numbers of qualified parties is unknown, Richard Cram estimated the fiscal impact of the bill would be \$2 to \$3 million.

Representative Wilk made the motion to amend a sunset clause of three years into **Substitute HB 2723**. Representative Kelley seconded the motion. The motion carried.

Representative Carlson made the motion that they move out **HB 2723**, as amended, favorable for passage. Representative Goico seconded the motion.

After discussion on the pros and cons of the bill, the Chairman conceded the floor to Representative Carlin.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 16, 2006 in Room 519-S of the Capitol.

Representative Carlson moved his motion. The motion carried.

SB 384 - Checkoff: KS military emergency relief; Breast cancer research

Chairman Wilk briefed the Committee on the intent of the bill.

Representative Carlin made a motion to amend a balloon, to insert language on page 2, line 25, regarding the cancer research fund portion of the bill (Attachment 3). Representative Owens seconded the bill.

Discussion followed regarding definitions of *research institution* and *Midwest Cancer Alliance* and the appropriateness of the words "shall" and "may."

Representative Carlin closed her motion to amend the balloon into **SB 384**. The motion carried.

Representative Carlin made the motion to move out **SB384**, as amended, favorable for passage. Representative Owens seconded, The motion carried.

The meeting was adjourned at 10:30. The next meeting is March 17, 2006.

HOUSE TAXATION COMMITTEE GUEST LIST

DATE: March 16, 2006

NAME	REPRESENTING
Mark Schreiber	Westar Energy

HOUSE BILL No. 2900

By Committee on Utilities

2-14

9 AN ACT concerning oil refineries; providing for certain income tax cred-
10 its, income tax deductions and property tax exemptions relating
11 thereto; providing for issuance of bonds and other financing for certain
12 purposes; relating to certain permits; amending K.S.A. 79-32,120 and
13 79-32,138 and K.S.A. 2005 Supp. 79-32,117 and repealing the existing
14 sections.

15
16 *Be it enacted by the Legislature of the State of Kansas:*

17 New Section 1. As used in sections 1 through 5, and amendments
18 thereto:

19 (a) "Pass-through entity" means any: (1) Corporation which is exempt
20 from income tax under section 1363 of the Internal Revenue Code and
21 which complies with the requirements of K.S.A. 79-32,100e, and amend-
22 ments thereto; (2) limited liability company; (3) partnership; or (4) limited
23 liability partnership.

24 (b) "Qualified investment" means expenditures made in construction
25 of a new refinery, or in expansion of the capacity of an existing refinery
26 by at least 10% of such capacity, for: (1) Real and tangible personal prop-
27 erty incorporated in and used as part of such refinery and (2) other real
28 and personal property which are located at the site of such refinery and
29 which are employed specifically to serve such refinery.

30 (c) "Refinery" means an industrial process plant, located in this state,
31 where crude oil is processed and refined into petroleum products.

32 New Sec. 2. (a) For taxable years commencing after December 31,
33 2005, any taxpayer who is awarded a tax credit under this act by the
34 secretary of commerce and complies with the conditions set forth in this
35 act and the agreement entered into by the secretary and the taxpayer
36 under this act shall be allowed a credit against the taxpayer's tax liability
37 under the Kansas income tax act as provided in subsection (c).

38 (b) Subject to the provisions of subsection (c), the amount of the
39 credit to which a taxpayer is entitled shall be equal to the sum of: (1) An
40 amount equal to 10% of the taxpayer's qualified investment for the first
41 \$500,000,000 invested and (2) an amount equal to 5% of the amount of
42 the taxpayer's qualified investment that exceeds \$500,000,000.

43 (c) Except as provided by subsection (d), a credit pursuant to this act

1 shall be taken in 10 annual installments, beginning with the year in which
2 the taxpayer places into service the refinery or the expansion of an existing
3 refinery. Subject to the provisions of section 3, and amendments thereto,
4 the amount of an annual installment of the credit awarded under this act
5 shall be an amount equal to 25% of the lesser of: (1) The credit amount
6 determined under subsection (b), divided by 10; or (2) the taxpayer's total
7 tax liability under the Kansas income tax act for the taxable year.

8 (d) If the amount of an annual installment of a tax credit allowed
9 under this section exceeds the taxpayer's income tax liability for the tax-
10 able year in which the annual installment is allowed, the amount thereof
11 which exceeds such tax liability may be carried over for deduction from
12 the taxpayer's income tax liability in the next succeeding taxable year or
13 years until the total amount of the annual installment of the tax credit has
14 been deducted from tax liability, except that: (1) No such tax credit shall
15 be carried over for deduction after the 14th taxable year succeeding the
16 taxable year in which the first annual installment is allowed; and (2) in no
17 taxable year shall such tax credit exceed 50% of the taxpayer's income tax
18 liability for the taxable year.

19 (e) (1) Before making a qualified investment, a taxpayer may apply
20 to the secretary of commerce to enter into an agreement for a tax credit
21 under this act. The secretary shall prescribe the form of the application.
22 After receipt of such application, the secretary may enter into an agree-
23 ment with the applicant for a credit under this act if the secretary deter-
24 mines that the taxpayer's proposed investment satisfies the requirements
25 of this act. The secretary shall enter into an agreement with an applicant
26 which is awarded a credit under this act. The agreement shall include:
27 (A) A detailed description of the refinery project that is the subject of the
28 agreement, (B) the first taxable year for which the credit may be claimed,
29 (C) the maximum amount of tax credit that will be allowed for each tax-
30 able year and (D) a requirement that the taxpayer shall maintain opera-
31 tions at the project location for at least 10 years during the term that the
32 tax credit is available.

33 (2) A taxpayer must comply with the terms of the agreement de-
34 scribed in subsection (e)(1) to receive an annual installment of the tax
35 credit awarded under this act. The secretary of commerce, in accordance
36 with rules and regulations of the secretary, shall annually determine
37 whether the taxpayer is in compliance with the agreement. If the secretary
38 determines that the taxpayer is in compliance, the secretary shall issue a
39 certificate of compliance to the taxpayer.

40 (3) The secretary of commerce may adopt rules and regulations to
41 administer the provisions of this subsection (e).

42 New Sec. 3. (a) If a qualified investment is made by a pass-through
43 entity and the credit allowed by this act for a taxable year is greater than

which shall include, but not be limited to, operation of the refinery during the tax years when any installments of tax credits are claimed.

If the secretary determines that the taxpayer is not in compliance, the secretary shall notify the taxpayer and the secretary of revenue, and any tax credits claimed pursuant to this section for any tax year shall be forfeited.

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

545N-Statehouse, 300 SW 10th Ave.
Topeka, Kansas 66612-1504
(785) 296-3181 ♦ FAX (785) 296-3824

kslegres@klrd.state.ks.us

<http://www.kslegislature.org/klrd>

March 15, 2006

HB 2723, AS RECOMMENDED FOR AMENDMENT BY HOUSE UTILITIES/TAX SUBCOMMITTEE

The Subcommittee recommended amending the bill to delete provisions that would have created tax incentives for electric utilities to generate and sell to federal facilities energy generated from renewable resources. In place of those provisions of the introduced version of the bill, the Subcommittee recommends a substitute bill that would create tax incentives for improvements of energy efficiency of non-owner occupied housing units.

- Tax credits would be created for the following improvements:
 - \$100 per dwelling unit for each six inches of ceiling insulation installed;
 - \$300 for a newly installed heating, ventilation or air conditioning system that replaces an existing system in a single family dwelling or a duplex if the new system meets the energy efficiency standards established by the bill; and
 - \$300 per dwelling unit served by a replacement heating, ventilation or air conditioning system for multi-family residences other than duplexes, if the new system meets the energy efficiency standards established by the bill.
- If the amount of the tax credit exceeds the taxpayer's income tax liability for the year in which the expenditures were made, the excess amount of credit could be carried forward. The entire tax credit for expenditures made in a single year would have to be taken within five years of the expenditure.
- The bill also would create an accelerated depreciation schedule for heating, ventilation, and air conditioning equipment described in the bill. Depreciation of the equipment would be taken over five years: 60 percent the first year; and ten percent each of the following four years.
- The Department of Revenue would be required to report to the Legislature at the start of the 2008 Session regarding the number of taxpayers who claimed tax credits created by the bill and the amount of those credits claimed.

1 *determine annually the total amount designated for contribution to*
 2 *the Kansas breast cancer research fund pursuant to subsection (c)*
 3 *and shall report such amount to the state treasurer who shall credit*
 4 *the entire amount thereof to the Kansas breast cancer research fund.*
 5 *Such fund is hereby established in the state treasury and shall be*
 6 *administered by the university of Kansas cancer center. In the case*
 7 *where donations are made pursuant to subsection (a), the director*
 8 *shall remit the entire amount thereof to the state treasurer in ac-*
 9 *cordance with the provisions of K.S.A. 75-4215, and amendments*
 10 *thereto. Upon receipt of such remittance the state treasurer shall*
 11 *deposit the entire amount in the state treasury to the credit of such*
 12 *fund. All expenditures from such fund shall be for the university of*
 13 *Kansas cancer center.*

14 (c) *The instructions accompanying the individual income tax re-*
 15 *turn shall include a description of the Kansas breast cancer research*
 16 *fund, the purpose for which the fund was created and a statement*
 17 *specifying that such moneys shall be used to conduct research re-*
 18 *lating to the prevention, treatment and cure of breast cancer. Such*
 19 *description and statement shall be approved by the university of*
 20 *Kansas cancer center.*

21 (d) *All moneys deposited in such fund shall be used by the uni-*
 22 *versity of Kansas cancer center to conduct research relating to the*
 23 *prevention, treatment and cure of breast cancer. Moneys in such*
 24 *fund shall not be used for the funding of administrative personnel*
 25 *or positions. Contributions to the Kansas breast cancer research*
 26 *fund shall be deemed in addition and supplemental to any funding*
 27 *that would otherwise be appropriated to the university of Kansas*
 28 *cancer center for the purposes specified in this act.*

29 (e) *On or before February 1 of each year, the university of Kan-*
 30 *sas cancer center shall submit a report to the committee on assess-*
 31 *ment and taxation and committee on ways and means of the senate*
 32 *of the state of Kansas and the committee on taxation and committee*
 33 *on appropriations of the house of representatives of the state of*
 34 *Kansas reviewing and evaluating all expended moneys expended*
 35 *from the Kansas breast cancer research fund to conduct research*
 36 *relating to the purposes specified in this act. Representatives of the*
 37 *cancer center shall appear before the committees specified in this*
 38 *section if so requested.*

39 Sec. 2. 3. This act shall take effect and be in force from and after its
 40 publication in the statute book.

Insert the following language on line 25 after the sentence that ends
 "or positions":

Monies deposited in such fund shall be used in collaboration with
 other research institutions including but not limited to members of the
 Midwest Cancer Alliance and faculty at state universities.