

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Barbara Allen at 10:40 A.M. on March 21, 2006 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Chris Courtwright, Kansas Legislative Research  
Martha Dorsey, Kansas Legislative Research  
Gordon Self, Revisor of Statutes Office  
Judy Swanson, Secretary

Conferees appearing before the committee:

Others attending:

See attached list.

**HB 2548, Three-year phase out of the franchise tax**, was discussed. Senator Donovan suggested a return to pre-2002 franchise tax law. Chris Courtwright presented fiscal information if Senator Donovan's suggestion was implemented. (Attachment 1)

Senator Donovan said he would prefer a total phase out of the franchise tax, but felt it would be fiscally impossible to do this. Therefore, he said his suggested bill would be a good compromise to provide at least some tax relief and lower the fiscal note. Senator Lee said this would make it a regressive tax, and place a heavier burden on the smaller businesses who would then pay a franchise tax on their entire net worth.

Senator Schmidt requested Staff amend the fiscal note Senator Donovan requested to reflect that the current law exemption for entities with less than \$100,000 in net worth would be retained.

Senator Donovan made a motion to amend **HB 2548** by exempting from the franchise tax businesses with a net worth under \$100,000, and leaving in all other provisions as requested. Senator Pine seconded the motion, and the motion passed. Senator Lee voted No.

Chairman Allen reviewed the House Tax Committee amendment to **SB 384, income tax checkoff for Kansas military emergency relief and Breast Cancer Research.**

Senator Donovan moved to put **SB 384**, as amended by the House, into **HB 2548**. Senator Schmidt seconded the motion, and the motion passed.

Senator Bruce moved to amend **SB 365** into **HB 2548**. Senator Donovan seconded the motion, and the motion passed.

Senator Lee moved to further amend **HB 2548** by adding in language that would allow Phillips County to retain prospectively the revenues from a 0.5 percent sales tax previously adopted by voters and no longer be required to share the monies with cities located in that county. Senator Goodwin seconded the motion, and the motion passed.

Senator Apple moved to further amend **HB 2548** by amending in the original language of **HB 2581** (without the filtering amendment). Senator Goodwin seconded the motion, and the motion passed.

No final action was taken on amended **HB 2548** by the Committee.

Hearing on **HB 2794, classification of cities for sales taxation purposes**, was opened.

Senator Apple testified the City of Paola would like to propose a three-fourth cent sales tax on their ballot. KDOR said Paola already has the ability to do this under a charter ordinance. Hearing was closed.

CONTINUATION SHEET

MINUTES OF THE Senate Assessment and Taxation Committee at 10:30 A.M. on March 21, 2006 in Room 519-S of the Capitol.

Martha Dorsey briefed the Committee on:

**HB 2900--Oil refineries; tax incentives; K DFA bonds; permits**

**HB 2901--Crude oil pipelines; tax incentives; K DFA financing**

**HB 2902--Integrated coal or coke gasification nitrogen fertilizer plants; tax incentives; K DFA bonds**

**HB 2903--Cellulosic alcohol plants; tax incentives; K DFA financing**

**HB 2904--Electric generation facilities; tax credits and exemptions; K DFA bonds; safety requirements**

She said the House Utilities Committee amended the above listed bills into **SB 303** at today's meeting, and passed **SB 303**, as amended, out of Committee. She also reviewed the fiscal impact of these bills. (Attachment 2)

Representative Carl Holmes and Mary Galligan, Legislative Research, answered questions concerning these bills. Rep. Holmes provided information from Sunflower Electric Power Corporation on its support of the bills. (Attachment 3) Committee discussion was held with Rep. Holmes. Richard Cram, KDOR, reviewed possible future projects and how the timelines of the projects were used to create KDOR's fiscal figures.

Written testimony supporting the bills was received from Kansas Cooperative Council (Attachment 4) and Coffeyville Resources (Attachment 5). The informational hearing was closed.

Senator Donovan moved to approve the Minutes of the March 20 Committee Meeting. Senator Schmidt seconded the motion, and the motion passed.

Chairman Allen announced there was no date set for future Committee meetings, but they will be scheduled as needed.

Being no further business, the meeting adjourned at 11:35 a.m.



PER  
DOWDAN'S  
PROPOSAL -

				KDOR	Sec State	total	proposed			House
	rate	min tax	max tax	Revenue	40 bucks	revenue	f note			f note
tax year 2006	0.12500%	\$125	\$20,000	\$42.0	\$4.0	\$46.0	---	FY 2007		---
tax year 2007	0.11667%	\$20	\$14,167	\$35.2	\$4.0	\$39.2	-\$6.8	FY 2008		-\$14
tax year 2008	0.10833%	\$20	\$8,334	\$28.4	\$4.0	\$32.4	-\$13.6	FY 2009		-\$28
tax year 2009	0.10000%	\$20	\$2,500	\$21.6	\$4.0	\$25.6	-\$20.4	FY 2010		-\$42
							-40.8			-84

Assessment & Taxation  
Date 3-21-06  
Attachment # 1

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March 22, 2006

## Bill Briefing—HBs 2900 through 2904 As Amended by House Committee on Taxation

All five bills would provide essentially the same income tax credit and income tax deduction to five entities.

- The entities receiving the credits would be:
  - Oil Refineries – HB 2900;
  - Crude Oil and Natural Gas Liquids Pipelines – HB 2901;
  - Integrated Coal or Coke Gasification (ICCG) Nitrogen Fertilizer Plants – HB 2902;
  - Cellulosic Alcohol Plants – HB 2903; and
  - Nuclear Generation Facility Expansion, and New or Expanded Integrated Coal Gasification Power Plants (ICGPP) – HB 2904.
  
- The five bills would provide the following, with respect to tax credits and deductions:
  - An income tax credit, beginning with the 2006 tax year, for investments in new construction or expansion of an existing entity if the taxpayer agrees to operate the entity for at least ten years;
    - **Note:** For all bills *except* HB 2902, the expansion of capacity of an existing entity must be a minimum of 10 percent. For HB 2902 (related to ICCG nitrogen fertilizer plants), the minimum qualifying expansion amount was increased to 20 percent of capacity.
    - **Note:** For HB 2904, the bill contemplates no tax credit for new or expanded nuclear generation facilities (only for new or expanded ICGPPs).
    - The credit would be in an amount equal to the sum of 10 percent of the investment for the first \$500 million invested and 5 percent of the amount of investment over \$500 million.
    - The credit would be awarded in ten equal annual installments, beginning with the year the entity or its expanded capacity is placed into service.

- If an installment amount exceeds the taxpayer's income tax liability for a tax year, the remainder may be carried over for deduction from the taxpayer's income tax liability in the next tax year. The carry-forward provision is authorized for no more than four years, in addition to the ten years for which installment payments are authorized.
- If the entity (or portion thereof to which the tax credit applies) fails to operate for the required ten-year period, the tax credit must be forfeited.
- o A deduction from Kansas adjusted gross income for amortization of the amortizable costs (this amortization will be subject to accelerated depreciation for ten years (55 percent first year, 5 percent for nine years)); and
- o Kansas Development Financing Authority (K DFA) financing assistance for projects provided with tax incentives under other provisions of the bills.

Four of the five bills provide the same property tax exemption. The fifth bill's exemption is different.

- HBs 2900 through 2903 – A ten-year (beginning with purchase or the start of construction) property tax exemption for new equipment and construction or expansion of capacity by at least 10 percent.
- HB 2904 (related to Nuclear Generation Facility and ICGPP):
  - o A 12-year (beginning with purchase or the start of construction or installation) property tax exemption for any new or expanded (by at least 10 percent) ICGPP property;
  - o A 12-year (beginning with purchase or the start of construction or installation) property tax exemption for property purchased for or constructed or installed at an ICGPP to comply with federal or state air emission standards; and
  - o A 12-year (beginning with purchase or the start of construction) property tax exemption for expansion of existing nuclear generation facility capacity by at least 10 percent.

Items unique to HB 2900 and HB 2904.

- HB 2900 (related to oil refineries) would:
  - o Provide for an income tax credit for qualified expenditures certified by the Secretary of Health and Environment as required for an existing refinery to meet federal or state environmental standards established after December 1, 2006. If the amount of the credit exceeds the taxpayer's liability for the year in which the expenditure is made, the remainder of the credit could be carried forward to subsequent years.
  - The bill would create procedures for applying to the Secretary of Health and Environment for the required certification.

- HB 2904 would:
  - Exempt nuclear generating facilities from the power plant siting act if built within five miles of an existing nuclear plant; and
  - Exclude transmission equipment at the plant site from the property tax exemption.

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Fiscal Impact: HB 2900 - 2904

Fiscal Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
HB 2900	-\$2.70	-\$2.63	-\$2.56	-\$2.49	-\$2.42	-\$2.35	-\$2.28	-\$8.41	-\$8.18	-\$7.95	-\$7.71	-\$7.48	-\$7.25	-\$7.02	-\$6.79
HB 2901	\$0.00	\$0.00	-\$1.71	-\$1.64	-\$4.89	-\$4.69	-\$4.49	-\$4.30	-\$3.92	-\$3.72	-\$3.52	-\$3.32	-\$3.13	-\$2.99	-\$2.86
HB 2902	-\$0.20	-\$0.39	-\$0.38	-\$0.37	-\$0.36	-\$0.35	-\$0.34	-\$0.33	-\$0.32	-\$0.31	-\$0.30	-\$0.29	-\$0.27	-\$0.26	-\$0.25
HB 2903	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
HB 2904	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	-\$1.29	-\$1.25	-\$1.22	-\$1.18	-\$1.15	-\$1.11	-\$1.08	-\$1.04	-\$1.01
Total															
Fiscal Impact	-\$2.90	-\$3.02	-\$4.65	-\$4.50	-\$7.67	-\$7.39	-\$8.40	-\$14.29	-\$13.63	-\$13.16	-\$12.68	-\$12.20	-\$11.73	-\$11.31	-\$10.90





# SUNFLOWER ELECTRIC POWER CORPORATION

A Touchstone Energy<sup>®</sup> Cooperative 

## Support Senate Bill 361

March 2006

**Purpose of legislation:** Expedite the appellate process for participants in proceedings for the issuance of construction air permits issued under the federal Clean Air Act.

- KDHE is charged with issuing this Permit, and they must issue it in full accordance with state and federal environmental laws.
- Title V of the Clean Air Act provides that state permit program must contain: "Adequate, streamlined, and reasonable procedures for expeditiously determining when applications are complete...including *an opportunity for judicial review in State court of the final permit action....*"

**Change from existing statutes:** Require that appeals of a KDHE action be first heard by Court of Appeals, rather than District Court.

- SB 361 does not change the scope of review from existing law. The scope of review called for in state courts is a review on the record of the administrative hearings to ensure that KDHE acted in accordance with state and federal laws.

**Reason for change:** The time sensitivity of the air permit application. In any permit application, data used to support application is valid for 18 months. If appeals process extends beyond 18 months, another re-assessment is required at considerable cost and the process would start again at the beginning.

- Appeals are **challenges to public policy, not existing law (both federal and state)**.
  - In a recent appeal of the Iatan 2 plant, the Missouri Sierra Club was quoted as saying, "future energy needs could be met with greater conservation and more use of cleaner alternative energy."
- Applicants should be able to submit application and receive a timely response to avoid the potential for the loss of pending \$3.6 billion capital investment in Kansas.
  - Seventeen of the last twenty one PSD permits issued in the nation have been appealed to the courts.

**Change not unprecedented:** Identical process already used in Kansas where timely resolution of judicial cases is of the essence. Direct appeals to the Court of Appeals are authorized:

- In public utility rate decisions issued by the KCC involving utilities (KSA 66-118a)
- Kansas Racing Commission - appeals go directly to the Supreme Court (KSA 74-8813(v));

- Decisions of the Board of Tax Appeals (BOTA) in matters as to appraisals, assessments, income and other taxes go directly to the Court of Appeals(KSA 74-2426(c)(3))

**Economic Impact on Kansas:** Sunflower recently announced an agreement to build two new power plants in conjunction with a Colorado cooperative. They also hope to announce a third plant in the near future which will serve loads in Kansas and the region.

The value of this project is approximately \$3.6 billion and it will take at least six years to complete construction. A recently completed economic impact study projects the following impacts:

- Western Kansas will see the creation of 2,641 temporary and permanent jobs with payroll earnings during construction and the first 35 years of operation of \$1.15 billion.
- Statewide, 4,158 temporary and permanent jobs will be created with payroll earnings during construction and the first 35 years of operation of \$1.54 billion.
- Permanent jobs created in western Kansas are 408; statewide, the total will be 489.

A more specific breakdown of these impacts is shown in the table below.

<b>TOTAL ANNUAL PROJECT IMPACTS, THREE UNITS</b>			
	<b>Jobs</b>	<b>Earnings</b>	<b>Local &amp; State Sales Taxes</b>
<b>Construction Period (2007- 2013)</b>			
Western Kansas	2,233	\$63,007,706	\$1,727,789
Eastern Kansas	1,439	\$53,488,106	\$675,164
Kansas	3,669	\$116,495,812	\$12,180,348
Out-of-State	17,641	\$478,932,091	NA
<b>Ongoing Operations (2011-2046)</b>			
Western Kansas	408	\$22,053,702	\$438,782
Eastern Kansas	79	\$2,027,756	\$80,804
Kansas	489	\$24,039,133	\$1,017,615
Out-of-State	417	\$11,005,065	NA

**For Further Information Contact:**

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## Senate Committee on Assessment & Taxation

March 22, 2006

### HB 2900/2902 - Incentives for Refineries and Coke Gasification Operations.

Chairman Allen members of the Senate Assessment & Taxation Committee, thank you for the opportunity to comment today regarding HB 2900 and 2902. I am Leslie Kaufman and I serve the Kansas Cooperative Council as Executive Director.

The Kansas Cooperative Council represents all forms of cooperatively structured, member-owned/member-controlled businesses. We have nearly 200 members across Kansas. Approximately one-half of these members are engaged in grain storage and farm supply enterprises. These agricultural cooperatives are owned by producers. Rising in-put costs, including fuel and fertilizer, are a concern for our producer-owners and our cooperative businesses.

In addition to cost, continued availability, dependable supplies and alternatives to foreign petroleum sources are important issues to consider. As we see it, the intent of measures such as HB 2900 and HB 2902 is to help address many of these concerns. As such, we appreciate and support the basic concepts contained in these bills.

Thank you.

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March 22, 2006

Chairperson Allen, and Members of the Senate Taxation & Assessment Committee, thank you for this opportunity to submit comments to you today regarding HB 2900, the refinery bill and HB 2902, the fertilizer legislation.

**Background on Coffeyville Resources, LLC**

While Coffeyville Resources is relatively a new name, our operations have been in place since 1906. We are a long-standing member of the Coffeyville community, and equally proud to be a part of the Kansas economy with nearly 475 employees, nearly \$35 million in payroll and approximately \$2.5 billion in revenues.

Today, Coffeyville Resources, LLC is a unique company which includes a sophisticated petroleum refinery and a state-of-the-art nitrogen fertilizer manufacturing plant, which is adjacent to the refinery. While our headquarters office is located in Kansas City, Kansas, our major operations are located in Coffeyville and Phillipsburg, KS, with offices in Plainville, McPherson, Winfield, KS; Bartlesville, OK and Houston, TX.

**Petroleum Refining Operations**

Coffeyville Resources is one of only 3 small Midwestern refineries located in Kansas. We refine 100,000 barrels per day and we market unbranded petroleum products throughout the Midwest, with a large portion going through the Kansas City market.

We also have a significant crude oil gathering system, purchasing 25,000 barrels of crude per day from domestic producers located in Kansas and Oklahoma.

We own and operate a refined fuels and asphalt terminal in Phillipsburg, KS. This facility supplies the region with nearly 4,500 barrels per day of asphalt and other refined transportation products.

**Coke Gasification – Fertilizer Operations**

In 1998, Coffeyville Resources decided to bring together two significantly different production operations – petroleum refining and nitrogen fertilizer – by binding them together with one common product: petroleum coke.

Petroleum coke, also known as “pet coke,” is a waste byproduct from the petroleum refining process. Normally a refinery would sell pet coke to power plants for energy recovery. However it is used at Coffeyville Resources as a main feedstock for manufacturing anhydrous ammonia (NH<sub>3</sub>) and urea ammonium nitrate (UAN) through gasification.

Coffeyville Resources is the **only** nitrogen fertilizer facility in North America that uses petroleum coke rather than natural gas as a feedstock to produce nitrogen fertilizer.

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It is important to note that there is a reason that the petroleum coke gasification process is very rare in North America. It is an extremely expensive investment.

When we pursued this process in 1998, the gasification facility was largely built with "used" equipment and the entire facility cost the company more than \$260 million. If we were to build a new facility, with new equipment, the estimated cost would be more than \$600 million.

**Status of Coffeyville Resources' Operations**

During the next two years Coffeyville Resources is investing more than \$350 million into both the refining and fertilizer manufacturing operations.

Coffeyville Resources is currently expanding its operations from nearly 90,000 barrels per day to more than 100,000 barrels per day. We believe it is critical to our operations and to the region to reinvest into improvements and other expansion endeavors.

More than \$32 million of the total investment for expansion will go specifically to the nitrogen fertilizer production operation. This expansion will significantly increase UAN production capacity from 650,000 tons to more than one million tons annually. Ammonia production will increase considerably as well.

**In Conclusion**

While our expansion efforts actually began in August 2005, we strongly encourage both committees to support HB 2900 and HB 2902. These measures will not only provide economic support for our operations, but will encourage additional economic stimulus to our industry counterparts.

Thank you for your consideration.

Coffeyville Resources Contact Information:

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Date \_\_\_\_\_  
Assessment & Testimony