

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 25, 2008 in Room 519-S of the Capitol.

All members were present except: Representative McCray-Miller - Excused.

Committee staff present:

Chris Courtwright, Legislative Research Department
Gordon Self, Office of Revisor of Statutes
Ryan Hoffman, Legislative Research Department
Scott Wells, Office of Revisor of Statutes
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Others attending:

See attached list.

Representative Brown introduced Lacey Gabriel and Victoria Lehmann, two young women that were his shadows for the day.

HB 2694 - Income tax credit for alternative-fueled motor vehicle or alternative-fuel fueling station.

Scott Wells, distributed a balloon amendment (Attachment 1).

Representative Brown continued his sub-committee report from the March 12, 2008 meeting. He thanked Representative Bowers and Representative Goyle for their hard work and participation in the sub-committee. He described the new tax incentive programs related to the purchase of qualified alternative fueled motor vehicles. The language related to that program follows: *On and after January 1, 2009, any taxpayer purchasing a new qualified alternative-fueled motor vehicle, who is the first person to take title to such motor vehicle, shall, at the point of sale, be presented with documentation describing all income tax credits, available in the state of Kansas, related to the purchase of qualified alternative-fueled motor vehicles. Such documentation shall be created by KDOR and furnished to motor vehicle dealerships for presentation to the taxpayer. Such documentation shall include: (1) A description of all tax incentive programs related to the purchase of qualified alternative fueled motor vehicles; (2) a form whereby the taxpayer may elect, in lieu of the credit allowed pursuant to subsection (a) to participate in the credit program pursuant to subsection (b) or, alternatively, to receive a debit card from the Department of Revenue in accordance with the provisions of this sections; and (3) any other information KDOR deems necessary. Upon electing to receive the debit card described above, the taxpayer shall return such form the KDOR, and within 28 days of the receipt of such form shall receive such debit card with a credit balance of \$500. Such card shall be capable to be used only for the purchase of alternative fuel. Any magnetic strip appearing on the back of such card shall be deactivated before being delivered to the taxpayer. The Secretary of Revenue shall adopt rules and regulations to administer the provisions of this section.*

Representative Goyle thanked Chairman Brown for his leadership in the sub-committee. He explained how the bill how evolved from a simple definition change of alternative fuel to the development of a meaningful tax credit program. He explained changes regarding: dates; definitions, credit amounts and blend percentages, etc., as outlined on page 1 and the top of page 2 in the balloon.

Representative Brown made a motion to adopt the balloon amendment for HB 2694. Representative Goyle seconded the motion. The motion carried.

Richard Cram said the Department projected a fiscal impact of \$450,000, which includes \$100,000 plus for administrative costs. That figure is based on 1,000 users.

Representative Crum made a motion to amend a sunset clause (2013) into the bill. Representative Goyle seconded. The motion carried.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 25, 2008 in Room 519-S of the Capitol.

Representative Dillmore made a motion that **HB 2694** be tabled and referred as a topic for an interim study. Representative Davis seconded. The motion failed.

Representative Dillmore made a motion to pass out **HB 2694**, as amended, favorable for passage. Representative Wilk seconded the motion.

Representative Holland made a substitute motion to strike all language that refers to the debit card. Representative Peck seconded the motion.

Representation Holland withdrew his substitute motion. Representative Peck concurred.

Representative Siegfroid made a substitute motion to strike "vehicles over 26,000 pounds" from the bill. Representative Crum seconded the motion. The motion carried.

Representative Davis made a motion to pass out the original version of **HB 2694**. Representative Dillmore seconded the motion. The motion failed.

Representative Siegfroid made the motion to pass out **HB 2694**, as amended, favorable for passage. Representative Bowers seconded.

Representative Owens made a substitute motion to amend language on page 2, line 5, to strike *not exceeding the lesser of 5% of the cost of the vehicle* and inserting *of \$500*, after the word amount. Representative Menghini seconded the motion. The motion carried.

Representative Siegfroid made a motion that they make this a substitute bill and pass out **Substitute for HB 2694**, as amended, favorable for passage. Representative Bowers seconded the motion. The motion carried.

The Chairman thanked the Sub-committee for their work.

SB 487 - Sales tax exemption for fees for guided and non-guided hunting and sale of game birds for hunting.

Representative Owens made a motion to reconsider **SB 487**. Representative King seconded the motion. The motion failed 9-11.

SB 444 - Property tax exemption for certain tangible personal property with purchase price less than \$1,500.

The Chairman reminded the committee that Representative Lukert's motion to reconsider the bill passed yesterday. He asked Gordon Self to give an update on the process of inserting the provisions of **HB 2500** and turn it into policy instead of specific to be inserted into **SB 444**. Mr. Self said they have done a preliminary review of the statute to try to accomplish what the Committee requested, and they have not been successful at this point. They are trying to determine which section BOTA denied their exemption in order to develop specific language. Clarification and discussion on the request followed. The Chairman said they would return to **SB 444**.

SB 525 - Kansas Investments in Major Projects and Comprehensive Training (IMPACT) program.

The Chairman turned the Committee's attention to the IMPACT portion of the Corporate Package. He reviewed the House Corporate package actions taken early in the session and said the IMPACT portion of the bill **SB 525**, is currently resting on the Senate calendar with no promise of advancing. He asked Chris Courtwright to brief on **SB 525 (Attachment 2)**.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 25, 2008 in Room 519-S of the Capitol.

Chris Courtwright, said the program is administered by KDOC and provides for the diversion of up to 2% of withholding taxes from the SGF to KDOC. This bill would abolish restrictions on the maximum amount of IMPACT awards per project. Instead, the bill would require the Department to spend at least 15 percent of IMPACT funds on rural projects and an additional 20 percentage on small businesses.

The bill also would alter IMPACT's funding. Currently, two percent (2%) of all state withholding taxes are set aside for the program. After each fiscal year, any amount not used by the program remains in the State General Fund. The bill would amend this provision to allow the unused amounts to remain with the IMPACT program until they are needed.

The Chairman explained the importance of the bill and advised the committee that his intent was to use **SB 180** as a House Substitute bill for the contents of **SB 525** with conferencing in mind.

Representative Siegfried spoke of the importance of the IMPACT program to the aviation industry.

Representative Dillmore made a motion to insert the contents of **SB 525** into **House Substitute for SB 180**. Representative Brown seconded the motion. The motion carried.

The meeting was adjourned at 10:30 A.M. The Chairman advised the members to listen for announcements on the floor for the next meeting, whether today at 1:00 P.M. or tomorrow at 9.00 A.M..

HOUSE BILL No. 2694

By Representative Ward

1-28

9 AN ACT concerning income taxation; relating to credits; alternative-fueled motor vehicles and alternative-fuel fueling stations; amending K.S.A. 2007 Supp. 79-32,201 and repealing the existing section.

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

14 Section 1. K.S.A. 2007 Supp. 79-32,201 is hereby amended to read as follows: 79-32,201. (a) Any taxpayer who makes expenditures for a qualified alternative-fueled motor vehicle or alternative-fuel fueling station shall be allowed a credit against the income tax imposed by article 32 of chapter 79 of the Kansas Statutes Annotated, as follows:

19 (1) For any qualified alternative-fueled motor vehicle placed in service on or after January 1, 1996, and before January 1, 2005, an amount equal to 50% of the incremental cost or conversion cost for each qualified alternative-fueled motor vehicle but not to exceed \$3,000 for each such motor vehicle with a gross vehicle weight of less than 10,000 lbs.; \$5,000 for a heavy duty motor vehicle with a gross vehicle weight of greater than 10,000 lbs. but less than 26,000 lbs.; and \$50,000 for motor vehicles having a gross vehicle weight of greater than 26,000 lbs.;

and before January 1, 2008,

27 (2) for any qualified alternative-fueled motor vehicle placed in service on or after January 1, 2005, an amount equal to 40% of the incremental cost or conversion cost for each qualified alternative-fueled motor vehicle, but not to exceed \$2,400 for each such motor vehicle with a gross vehicle weight of less than 10,000 lbs.; \$4,000 for a heavy duty motor vehicle with a gross vehicle weight of greater than 10,000 lbs. but less than 26,000 lbs.; and \$40,000 for motor vehicles having a gross vehicle weight of greater than 26,000 lbs.;

(3) for any qualified alternative-fueled motor vehicle placed in service on or after January 1, 2008, an amount equal to 80% of the incremental cost or conversion cost for each qualified alternative-fueled motor vehicle, but not to exceed \$4,000.

35 (3) for any qualified alternative-fuel fueling station placed in service on or after January 1, 1996, and before January 1, 2005, an amount equal to 50% of the total amount expended for each qualified alternative-fuel fueling station but not to exceed \$200,000 for each fueling station;

39 (4) for any qualified alternative-fuel fueling station placed in service on or after January 1, 2005, and before January 1, 2009, an amount equal to 40% of the total amount expended for each qualified alternative-fuel fueling station, but not to exceed \$160,000 for each fueling station;

43 (5) for any qualified alternative-fuel fueling station placed in service

1 on or after January 1, 2009, an amount equal to 40% of the total amount
2 expended for each qualified alternative-fuel fueling station, but not to
3 exceed \$100,000 for each fueling station.

4 (b) If no credit has been claimed pursuant to subsection (a), a credit
5 in an amount not exceeding the lesser of 5% of the cost of the vehicle or
6 \$750 shall be allowed to a taxpayer who purchases a motor vehicle
7 equipped by the vehicle manufacturer with an alternative fuel system and
8 who is unable or elects not to determine the exact basis attributable to
9 such property. The credit under this subsection shall be allowed only to
10 the first individual to take title to such motor vehicle, other than for resale.
11 The credit under this subsection for motor vehicles which are capable of
12 operating on a blend of 85% ethanol and 15% gasoline shall be allowed
13 for taxable years commencing after December 31, 1999, only if the in-
14 dividual claiming the credit furnishes evidence of the purchase, during
15 the period of time beginning with the date of purchase of such vehicle
16 and ending on December 31 of the next succeeding calendar year, of 500
17 gallons of such ethanol and gasoline blend as may be required or is sat-
18 isfactory to the secretary of revenue.

- \$500
- at least 20%
- 80%
- 2007
- 200
- (5)

19 (c) The tax credit under subsection (a)(1) through (a)(4) or (b) shall
20 be deducted from the taxpayer's income tax liability for the taxable year
21 in which the expenditures are made by the taxpayer. If the amount of the
22 tax credit exceeds the taxpayer's income tax liability for the taxable year,
23 the amount which exceeds the tax liability may be carried over for de-
24 duction from the taxpayer's income tax liability in the next succeeding
25 taxable year or years until the total amount of the tax credit has been
26 deducted from tax liability, except that no such tax credit shall be carried
27 over for deduction after the third taxable year succeeding the taxable year
28 in which the expenditures are made.

(6)

29 (d) The tax credit under subsection (a)(5) shall be deducted from the
30 taxpayer's income tax liability for the taxable year in which the expendi-
31 tures are made by the taxpayer. If the amount of the tax credit exceeds
32 the taxpayer's income tax liability for the taxable year, the amount which
33 exceeds the tax liability may be carried over for deduction from the tax-
34 payer's income tax liability in the next succeeding taxable year or years
35 until the total amount of the tax credit has been deducted from tax li-
36 ability, except that no such tax credit shall be carried over for deduction
37 after the fourth taxable year in which the expenditures are made.

38 (e) As used in this section:
39 (1) "Alternative fuel" means a combustible liquid derived from grain
40 starch, oil seed, animal fat or other biomass, or produced from biogas
41 source, including any nonfossilized, decaying, organic matter has the
42 meaning provided by 42 U.S.C. 13211. The provisions of this paragraph
43 shall be effective for the taxable year 2007, and all taxable years thereafter.

New subsection (c).

On and after January 1, 2009, any taxpayer purchasing a new qualified alternative-fueled motor vehicle, who is the first person to take title to such motor vehicle, shall, at the point of sale, be presented with documentation describing all income tax credits, available in the state of Kansas, related to the purchase of qualified alternative-fueled motor vehicles. Such documentation shall be created by the Department of Revenue and furnished to motor vehicle dealerships for presentation to the taxpayer. Such documentation shall include: (1) A description of all tax incentive programs related to the purchase of qualified alternative fueled motor vehicles; (2) a form whereby the taxpayer may elect, in lieu of the credit allowed pursuant to subsection (a), to participate in the credit program pursuant to subsection (b) or, alternatively, to receive a debit card from the Department of Revenue in accordance with the provisions of this section; and (3) any other information the Department of Revenue deems necessary. Upon electing to receive the debit card described above, the taxpayer shall return such form to the Department of Revenue and, within 28 days of the receipt of such form by the Department, shall receive such debit card with a credit balance of \$500. Such card shall be capable to be used only for the purchase of alternative fuel. Any magnetic strip appearing on the back of such card shall be deactivated before being delivered to the taxpayer. The Secretary of Revenue shall adopt rules and regulations to administer the provisions of this section.

1 (2) "Qualified alternative-fueled motor vehicle" means a motor ve-
2 hicle that operates on an alternative fuel, meets or exceeds the clean fuel
3 vehicle standards in the federal clean air act amendments of 1990, Title
4 II and meets one of the following categories:

5 (A) Bi-fuel motor vehicle: A motor vehicle with two separate fuel
6 systems designed to run on either an alternative fuel or conventional fuel,
7 using only one fuel at a time;

8 (B) dedicated motor vehicle: A motor vehicle with an engine de-
9 signed to operate on a single alternative fuel only; or

10 (C) flexible fuel motor vehicle: A motor vehicle that may operate on
11 a blend of an alternative fuel with a conventional fuel, such as E-85 (85%
12 ethanol and 15% gasoline) or M-85 (85% methanol and 15% gasoline),
13 as long as such motor vehicle is capable of operating on at least an 85%
14 alternative fuel blend.

15 (3) "Qualified alternative-fuel fueling station" means the property
16 which is directly related to the delivery of alternative fuel into the fuel
17 tank of a motor vehicle propelled by such fuel, including the compression
18 equipment, storage vessels and dispensers for such fuel at the point where
19 such fuel is delivered but only if such property is primarily used to deliver
20 such fuel for use in a qualified alternative-fueled motor vehicle.

21 (4) "Incremental cost" means the cost that results from subtracting
22 the manufacturer's list price of the motor vehicle operating on conven-
23 tional gasoline or diesel fuel from the manufacturer's list price of the same
24 model motor vehicle designed to operate on an alternative fuel.

25 (5) "Conversion cost" means the cost that results from modifying a
26 motor vehicle which is propelled by gasoline or diesel to be propelled by
27 an alternative fuel.

28 (6) "Taxpayer" means any person who owns and operates a qualified
29 alternative-fueled vehicle licensed in the state of Kansas or who makes
30 an expenditure for a qualified alternative-fuel fueling station.

31 (7) "Person" means every natural person, association, partnership,
32 limited liability company, limited partnership or corporation.

33 (f) Except as otherwise more specifically provided, the provisions of
34 this section shall apply to all taxable years commencing after December
35 31, 1995.

36 Sec. 2. K.S.A. 2007 Supp. 79-32,201 is hereby repealed.

37 Sec. 3. This act shall take effect and be in force from and after its
38 publication in the Kansas register.

2007

And by redesignating the remaining sections

SESSION OF 2008

SUPPLEMENTAL NOTE ON SENATE BILL NO. 525

As Recommended by Senate Committee on
Commerce

Brief*

SB 525 deals with the Kansas Investments in Major Projects and Comprehensive Training (IMPACT) program administered by the Department of Commerce. The bill would abolish restrictions on the maximum amount of IMPACT awards per project. Instead, the bill would require the Department to spend at least 15 percent of IMPACT funds on rural projects and an additional 20 percent on small businesses.

The bill also would alter IMPACT's funding. Currently, 2 percent of all state withholding taxes are set aside for the program. After each fiscal year, any amount not used by the program remains in the State General Fund. The bill would amend this provision to allow the unused amounts to remain with the IMPACT program until they are needed.

Background

At the hearing before the Senate Committee on Commerce, the bill was supported by representatives from the Department of Commerce, Kansas Chamber of Commerce, and the Chambers of Commerce for Topeka, Lenexa, Overland Park and Wichita. Conferees testified the bill would allow the Department to be more flexible in offering economic development incentives, which would make Kansas more competitive with other states.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The fiscal note prepared by the Division of Budget indicates the bill would decrease income tax revenue to the State General Fund by \$24.2 million in FY 2009 by allowing IMPACT to receive the full 2 percent of withholding taxes.