SESSION OF 2006

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2900

As Amended by House Committee on Taxation

Brief*

HB 2900 would authorize an income tax credit, accelerated depreciation, and a property tax exemption for an oil refinery, if the oil refinery is new, has expanded its capacity or property, or has resumed production after having been out of production for five or more years. Specifically, the bill would authorize:

- An income tax credit, beginning with the 2006 tax year, for investments in new construction, expansion (by a minimum of 10 percent of capacity) of an existing refinery, or restoration to productivity of a refinery that has been out of production for five or more years, if the taxpayer agrees to operate the plant for ten years.
  - 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 refinery 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 refinery (or portion thereof to which the tax credit applies) fails to operate for the required 10-year period, the tax credit must be forfeited.

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*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

- An income tax credit equal to 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.
- A deduction from Kansas adjusted gross income for amortization of the amortizable costs of a new refinery, restoration of a refinery that had been closed for at least five years, and expansion of refinery capacity by at least 10 percent. This amortization would be subject to accelerated depreciation for ten years (55 percent for the first year, and 5 percent for the nine succeeding years).
- A ten-year (beginning with purchase or the start of construction) property tax exemption for a new refinery, a restored refinery (if it had been out of production for at least five years), or the expansion of a refinery's capacity by at least 10 percent.
- Kansas Development Financing Authority (KDFA) financing assistance for projects provided with tax incentives under other provisions of the bill.
- Expedited permit handling by the Kansas Department of Health and Environment (KDHE).

Background

HB 2900 is one of a group of bills, all of which would create similar tax incentives for creation or expansion of energy-related projects in Kansas. Assigned to both the House Committee on Utilities and the House Committee on Taxation, this group of bills was referred to a Joint Utilities-Taxation Subcommittee. The Subcommittee met on several occasions, consulting with the Departments of Revenue and Commerce, the Kansas Corporation Commission, representatives of the industries that might utilize these tax incentives, and interested members of the Legislature. The amended version of HB 2900 reflects the recommendations of the Subcommittee, with an additional amendment as well.

The House Committee on Taxation amended the bill to incorporate the Subcommittee's recommendations. The amendments would accomplish the following:

- Simplify and clarify the general tax credit provisions to:
  - Remove the cap on each installment payment and require instead that the credit be taken in 10 *equal* annual installments. (As introduced, the bill would have required each of the 10 annual payments be in an amount equal to 25 percent of the total credit amount, divided by 10, or the taxpayer's total income tax liability, whichever is less.)
  - Remove the language limiting any tax credit amount carried forward beyond the initial 10 years to 50 percent of the taxpayer's income tax liability for the taxable year. (The amended bill would therefore allow any remaining tax credit to be carried forward for a maximum of four years beyond the initial 10 years.)
  - Allow the tax credit to be transferred to a pass-through entity.
- Create the same tax incentives, for restoration of production of a refinery that has been out of production for five or more years, as in the introduced version of the bill for new and expanded-capacity refineries.
- Prohibit expenditures used to qualify for the tax credit from being used to qualify for any other Kansas income tax credit.
- Create procedures for the Secretary of Health and Environment's certification responsibilities relative to the income tax credit for expenses made to comply with environmental requirements.
- Make technical changes.

In addition, the House Committee on Taxation amended the bill to require the general tax credit to be forfeited if the refinery (or portion thereof to which the credit applies) fails to operate for the required 10-year period.

According to a fiscal estimate on the amended bill prepared by the Kansas Department of Revenue (KDOR), passage of HB 2900 is expected to result in a \$2.7 million fiscal impact in FY 2007 (*i.e.*, \$2.7 million in income and property tax revenues that will not be realized). This estimate assumes that the current, actual Coffeyville Resources refinery expansion project would qualify for the tax incentives. In addition, the estimate assumes that a six-year \$500 million refinery construction project would start in FY 2007 and be completed in FY 2013. The income tax credits for the anticipated new project would not apply until the year after the project was completed. The estimated impact in that year (FY 2014) is \$8.41 million.