SESSION OF 2006

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2901

As Amended by House Committee on Taxation

Brief*

HB 2901 would authorize an income tax credit, accelerated depreciation, and a property tax exemption for a pipeline carrying crude oil or natural gas liquids, if the pipeline is new or has expanded its capacity by at least 10 percent, has a length of at least 190 miles in Kansas, and to which Kansas refineries or natural gas liquid processing facilities have access. Specifically, the bill would authorize:

- An income tax credit, beginning with the 2006 tax year, for investments in new construction or expansion (by a minimum of 10 percent of capacity) of an existing pipeline, if the taxpayer agrees to operate the pipeline 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 pipeline 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 pipeline (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

- A deduction from Kansas adjusted gross income for amortization of the amortizable costs of a new pipeline or expansion of pipeline 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 pipeline or the expansion of a pipeline'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.

Background

HB 2901 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 2901 reflects the recommendations of the Subcommittee, with an additional amendment made by the full Committee.

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

- Simplify and clarify 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.

- Prohibit expenditures used to qualify for the tax credit from being used to qualify for any other Kansas income tax credit.

- Expand the scope of the bill to include pipelines carrying natural gas liquids that meet specified criteria. (The original bill would apply only to pipelines carrying crude oil.)

- Include a requirement that qualifying pipelines would have to be accessible to refineries and natural gas liquid-processing facilities in Kansas.

- Make technical changes.

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

According to a fiscal impact assessment on the amended bill prepared by the Kansas Department of Revenue (KDOR), passage of HB 2901 is expected to result in a $1.71 million state fiscal impact in FY 2009 (*i.e.*, $1.71 million in income and property tax revenues that will not be realized). This figure assumes that both the Conway natural gas liquids pipeline project and the Cushing extension crude oil pipeline projects qualify for the incentives created by the amended bill.