



Testimony to the House Taxation Committee
on HB 2406
April 4, 2017

Mr. Chairman and Members of the Committee:

Thank you for accommodating us with a hearing on HB 2406 at this late hour of the session. The proponents of the legislation appreciate the opportunity to educate members of the committee about the property tax exemption granted to pipelines in the state of Kansas.

In 2006, a series of bills were introduced that created income tax credits, deductions and property tax exemptions for various energy segments in Kansas (see attached memo from Mary Galligan, Legislative Research). One of those 2006 bills is the subject of HB 2406: the ten-year property tax exemption granted to qualifying pipelines.

This legislation prompted a legal challenge, which was decided in the Court of Appeals in 2013. The Property Valuation Division argued that eligibility for the exemption required that Kansas refineries have access to the pipeline within the state of Kansas. Both the Court of Tax Appeals and the Court of Appeals determined that the law was not written to clearly require access within the state, and having access in Cushing, Oklahoma was enough to merit the tax exemption. In this case, *In the Matter of the Application of Transcanada Keystone Pipeline, LP*, the opinion reads “Even if we were to assume that the omission was a mistake by the legislature, it is simply not the role of courts to rewrite statutes. . . .” It remains an open question whether the Kansas legislature intended a tax exemption for pipelines that merely run through the state but provide no access within the state.

While the pipeline exemption was brought about by the Transcanada Keystone pipeline, several other pipelines have qualified for the exemption (see attached listing from Property Valuation Division). For 2016, the valuation amount of exempted pipelines was \$124 million. In 2017, the White Cliffs Pipeline LLC will be an additional exemption under the state law. It was the White Cliffs Pipeline exemption that raised this issue to counties this year, due to the large losses expected in the future for the 14 counties affected. These tax revenues are used by local government to provide services to taxpayers, including exempt taxpayers, such as public safety and transportation.

In addition to losses for counties, the State also loses monies because of the pipeline exemption. In 2016, the state’s lost property tax from the 20 mill levy for education would be \$2.48 million.¹

I have attached a sheet showing JUST the tax revenues from the White Cliffs Pipeline LLC in the 14 counties affected by it. This will be an annual loss of income for these counties. Note that

there are four other exempted pipelines in the state with a total valuation just under \$124 million. Further note that the pipelines are limited liability companies or limited partnerships and therefore pay no income tax to the State of Kansas.

HB 2406 is prospective in its application; meaning, it will affect only new pipelines that seek an exemption after June 30, 2017. Those pipelines that have an exemption are grandfathered in under the law. Because White Cliffs Pipeline has already filed its exemption, it would also secure an exemption under current law.

We appreciate the hearing today to educate the committee on the consequences of this property tax exemption. We know that the Kansas legislature has considered tax exemptions and their effect on the overall tax system, and we ask that you continue to review whether tax exemptions are an economic advantage or disadvantage to the state and local governments.

Thank you for the opportunity to testify on HB 2406, and I am happy to answer questions.

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ⁱ The State assesses 20 mills for education. $\$124\text{m} \times 20 / 1,000 =$ a loss of \$2.48 million annually.

79-227. Property exempt from taxation; certain crude oil or natural gas pipeline property. (a) The following described property, to the extent herein specified, shall be exempt from all property taxes levied under the laws of the state of Kansas: Any new qualifying pipeline property.

(b) The provisions of subsection (a) shall apply from and after purchase or commencement of construction or installation of such property and for the 10 taxable years immediately following the taxable year in which construction or installation of such property is completed.

(c) The provisions of this section shall apply to all taxable years commencing after December 31, 2005.

(d) As used in this section:

(1) "New qualifying pipeline property" means any real or tangible personal property purchased, constructed or installed for incorporation in and use as part of a new qualifying pipeline, construction of which begins after December 31, 2005.

(2) "Qualifying pipeline" has the meaning provided by K.S.A. 2016 Supp. 79-32,223, and amendments thereto.

History: L. 2006, ch. 209, § 34; July 1.

79-32,223. Crude oil or natural gas pipelines; credits for certain investments; definitions. As used in K.S.A. 2016 Supp. 79-32,223 through 79-32,226, and amendments thereto:

(a) "New qualifying pipeline" means a qualifying pipeline, construction of which begins after December 31, 2005.

(b) "Pass-through entity" means any: (1) Corporation which is exempt from income tax under section 1363 of the federal internal revenue code and which complies with the requirements of K.S.A. 2016 Supp. 79-32,100e, and amendments thereto; (2) limited liability company; (3) partnership; or (4) limited liability partnership.

(c) "Qualified investment" means expenditures made in construction of a new qualifying pipeline for real and tangible personal property incorporated in and used as part of such pipeline.

(d) "Qualifying pipeline" means a pipeline which is located in this state, is used primarily for transportation of crude oil or natural gas liquids and has a length of more than 190 miles in this state and to which refineries or natural gas liquid processing facilities in this state have access.

History: L. 2006, ch. 209, § 7; July 1.

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Revised
March 1, 2006

To: Representative Carl Holmes **Office No.:** 115-S
From: Mary Galligan, Assistant Director for Information Management
Mary Torrence, Revisor of Statutes Office
Re: 2006 House Bills 2900-2904

In response to your request for short summaries of recently introduced committee bills, we have prepared the following:

HB 2900—Oil Refineries. (Defined as an industrial process plant, located in Kansas, where crude oil is processed and refined into petroleum products.) The bill would:

- Provide an income tax credit, beginning with the 2006 tax year, for investments in new construction or expansion (minimum of ten percent of capacity) of an existing refinery if the taxpayer agrees to operate the plant for at least ten years.;
 - The credit would be in an amount equal to the sum of ten 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 annual installments; and
 - The installment could not exceed 25% of the lesser of: (a) the credit amount divided by 10; or (b) the taxpayer's income tax liability in a single tax year.
- Provide for accelerated depreciation for ten years (55 percent first year, 5 percent for nine years);
- Provide a ten-year (beginning with purchase or the start of construction) property tax exemption for new equipment and refinery construction or expansion of capacity of at least ten percent;
- Provide for expedited permit handling by the Department of Health and Environment; and
- Provide for KDFA financing assistance.

HB 2901—Crude Oil Pipelines. (Defined to be a pipeline, at least 190 miles of which is located in Kansas, that is used primarily for transportation of crude oil.) The bill would:

- Provide an income tax credit, beginning with the 2006 tax year, for investments in new construction or expansion (minimum of ten percent of capacity) of pipelines if the taxpayer agrees to operate the pipeline for at least ten years;
 - The credit would be in an amount equal to the sum of ten 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 annual installments; and
 - The installment could not exceed 25% of the lesser of: (a) the credit amount divided by 10; or (b) the taxpayer's income tax liability in a single tax year.
- Provide for accelerated depreciation (55 percent first year, 5 percent for nine years);
- Provide a ten-year (beginning with purchase or the start of construction) property tax exemption for new equipment and refinery construction or expansion of capacity of at least ten percent; and
- Provide for K DFA financing assistance.

HB 2902—Integrated Coal or Coke Gasification (ICCG) Nitrogen Fertilizer Plant. (Defined to be a plant in Kansas where coal or petroleum coke is used to synthesize gas and that gas is used to produce nitrogen fertilizer.) The bill would:

- Provide an income tax credit, beginning with the 2006 tax year, for investments in new construction or expansion (minimum of ten percent of capacity) of an ICCG nitrogen fertilizer plant if the taxpayer agrees to operate the plant for at least ten years, and if the taxpayer uses Kansas coal in any coal gasification process at the plant, as required by the Secretary of Commerce;
 - The credit would be in an amount equal to the sum of ten 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 annual installments; and
 - The installment could not exceed 25% of the lesser of: (a) the credit amount divided by 10; or (b) the taxpayer's income tax liability in a single tax year.
- Provide for accelerated depreciation (55 percent first year, 5 percent for nine years);

- Provide a ten-year (beginning with purchase or the start of construction) property tax exemption for new equipment and plant construction or expansion of capacity of at least ten percent; and
- Provide for KDFA financing assistance.

HB 2903—Cellulosic Alcohol Plants. (Defined to be a plant in Kansas where matter containing cellulose and which is available on a renewable basis is processed to produce cellulosic alcohol.) The bill would:

- Provide an income tax credit, beginning with the 2006 tax year, for investments in new construction or expansion (minimum of ten percent of capacity) of a cellulosic alcohol plant if the taxpayer agrees to operate the plant for at least ten years;
 - The credit would be in an amount equal to the sum of ten 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 annual installments; and
 - The installment could not exceed 25% of the lesser of: (a) the credit amount divided by 10; or (b) the taxpayer's income tax liability in a single tax year.
- Provide for accelerated depreciation (55 percent first year, five percent for nine years);
- Provide a ten-year (beginning with purchase or the start of construction) property tax exemption for new equipment and plant construction or expansion of capacity of at least ten percent; and
- Provide for KDFA financing assistance.

HB 2904—Nuclear generation facility expansion and new or expanded Integrated Coal Gasification Power Plant (ICGPP). (Defined to be a facility in Kansas that synthesizes coal into gas that can be used as a fuel to generate electricity, uses that synthetic gas as a fuel to generate electricity, and primarily serves retail electric customers in Kansas.) The bill would:

- Provide an income tax credit, beginning with the 2006 tax year, for investments in new construction or expansion (minimum of ten percent of capacity) of an ICGPP if the taxpayer agrees to operate the plant for at least ten years and agrees to use coal produced in Kansas as required by the Kansas Corporation Commission;
 - The credit would be in an amount equal to the sum of ten percent of the investment for the first \$500 million invested and five percent of the amount of investment over \$500 million;

- The credit would be awarded in ten annual installments; and
- The installment could not exceed 25% of the lesser of: (a) the credit amount divided by 10; or (b) the taxpayer's income tax liability in a single tax year.
- Provide for accelerated depreciation (55 percent first year, five percent for nine years) for ICGPPs;
- Provide a 12-year (beginning with purchase or the start of construction) property tax exemption for new equipment and plant construction or expansion of ICGPP capacity of least ten percent. The property tax exemption would specifically extend to equipment needed to comply with federal or state air emission standards;
- Provide 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 ten percent;
- Exempt new nuclear generating facilities from the power plant siting act if built within five miles of existing nuclear plant; and
- Provide for KDFA financing assistance for ICGPPs.

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2016 EXEMPT PROPERTY REPORT

	CUV	Exempt Original Cost	Exempt Assessed Value	
E2302	EMPIRE DISTRICT ELECTRIC COMPANY	1,065,000,000	166,713,960	21,642,291
E2303	KANSAS CITY POWER & LIGHT CO	3,320,000,000	886,116,140	95,178,059
E2304	KANSAS GAS & ELEC-A WESTAR ENERGY CO	1,600,000,000	836,990,981	64,769,760
E2305	WESTAR ENERGY (ELECTRIC DIV)	3,195,000,000	1,264,838,587	207,720,657
E2321	KAMO ELECTRIC COOPERATIVE	154,000,000	18,681,267	931,378
E2328	MIDWEST ENERGY INC	156,000,000	46,843,576	4,027,074
E2336	RADIANT ELECTRIC COOPERATIVE INC	7,200,000	2,500,000	194,563
E2342	SUNFLOWER ELECTRIC POWER CORP	220,000,000	22,482,198	2,157,091
E2352	MID KANSAS ELECTRIC COOPERATIVE	151,000,000	164,692,315	15,516,913
E2363	KCP&L GREATER MISSOURI OPERATIONS	1,650,000,000	72,288,032	10,531,175
E2366	ITC GREAT PLAINS	415,000,000	375,138,009	95,613,834
E2369	PRAIRIE WIND TRANSMISSION LLC	131,000,000	158,125,589	43,230,000
ELECTRIC TOTALS		12,064,200,000	4,015,410,654	561,512,795
F3202	KEYSTONE PIPELINE	3,650,000,000	596,320,642	95,309,676
F3220	ONEOK NGL PIPELINE LP	100,000,000	42,862,942	1,729,200
F3228	OVERLAND PASS PIPELINE CO LLC	275,000,000	268,534,393	24,991,643
F3252	ONEOK HYDROCARBON LP	11,400,000	87,691,344	1,847,465
PIPELINE TOTALS		4,036,400,000	995,409,321	123,877,984
R6103	BNSF RAILWAY COMPANY	32,745,000,000		42,194,175
R6106	KANSAS CITY SOUTHERN	1,825,314,000		554,007
R6108	NORFOLK SOUTHERN	15,482,000,000		48,132
R6111	UNION PACIFIC RAILROAD	36,460,000,000		52,797,015
R6120	MARSHALL COUNTY RR HISTORICAL SOCIETY	45,000	45,000	11,250
R6123	KAW RIVER RAILROAD	3,200,000		3,840
R6124	KANSAS CITY TERMINAL	49,000,000		95,933
R6127	ABILENE & SMOKY VALLEY RAILROAD	300,000	623,424	75,000
R6130	BLACKWELL NORTH GATEWAY RAILROAD CO			
R6131	MIDLAND RAILWAY			
R6133	SOUTH KANSAS AND OKLAHOMA RAILROAD	10,000,000		91,346
R6136	MISSOURI & NORTHERN ARKANSAS	22,000,000		7,518
R6138	CIMARRON VALLEY RAILROAD	1,300,000		2,019
R6144	KANSAS AND OKLAHOMA RAILROAD	7,200,000		154,932
RAILROAD TOTALS		86,605,359,000	668,424	96,035,167
T7405	SOUTHWESTERN BELL TELEPHONE LP	7,000,000,000	1,141,041,739	131,887,140
T7406	UNITED TELEPHONE COMPANY OF KANSAS INC	26,700,000	34,662,194	1,081,718
T7407	UNITED TELEPHONE CO OF SOUTH CENTRAL KS	6,200,000	4,997,934	222,713
T7408	UNITED TELEPHONE CO OF EASTERN KS	24,700,000	31,927,122	1,062,793
T7409	UNITED TELEPHONE CO OF SOUTHEASTERN KS	107,000,000	1,210,244	52,365
T7410	AT&T COMMUNICATIONS	3,500,000,000	52,500,805	2,350,425
T7415	MCI COMMUNICATIONS SERVICES INC	3,400,000,000	14,777,710	1,142,196
T7417	SPRINT COMMUNICATIONS CO LP	900,000,000	75,718,175	20,086,110
T7425	LEVEL 3 COMMUNICATIONS LLC	5,000,000,000	18,070,557	1,244,100
T7427	CENTURYLINK COMMUNICATIONS LLC	2,000,000,000	22,420,707	2,459,160
T7430	BLUE VALLEY TELE-COMMUNICATIONS INC	22,600,000	40,767,503	4,873,542
T7431	COLUMBUS TELEPHONE COMPANY	1,500,000	3,960,137	176,674
T7432	CRAW-KAN TELEPHONE COOP ASSN INC	18,500,000	53,088,924	1,930,230
T7433	GOLDEN BELT TELEPHONE ASSN INC - BURDET	10,300,000	35,889,709	1,609,807
T7434	KANOKLA TELEPHONE ASSOCIATION INC	19,100,000	39,338,723	3,213,742
T7435	MUTUAL TELEPHONE COMPANY	1,600,000	5,251,859	386,641
T7436	PIONEER TELEPHONE ASSOCIATION INC	18,000,000	42,868,147	1,714,557
T7437	RAINBOW TELECOMMUNICATIONS ASSOCIATION	6,600,000	21,889,389	1,611,407
T7438	RURAL TELEPHONE SERVICE COMPANY INC	41,000,000	121,537,623	8,118,731
T7439	S & T TELEPHONE COOPERATIVE ASSN	10,000,000	28,365,580	1,302,655
T7440	SOUTH CENTRAL TELEPHONE ASSN INC	7,400,000	12,260,617	773,215
T7441	TRI-COUNTY TELEPHONE ASSN INC	24,000,000	52,707,869	4,734,006
T7442	UNITED TELEPHONE ASSOCIATION INC	4,600,000	21,127,857	514,752
T7453	CUNNINGHAM TELEPHONE COMPANY INC	4,900,000	16,590,690	1,294,195
T7455	ELKHART TELEPHONE COMPANY INC	2,300,000	6,082,143	353,383
T7456	GORHAM TELEPHONE COMPANY	2,600,000	5,541,537	519,310
T7457	H & B COMMUNICATIONS INC	2,800,000	14,721,570	613,816
T7459	HAVILAND TELEPHONE COMPANY INC	3,900,000	4,937,646	201,533
T7460	HOME TELEPHONE COMPANY INC - (GALVA)	6,000,000	18,261,971	1,463,254
T7461	JBN TELEPHONE COMPANY INC	1,600,000	6,303,062	155,600
T7463	BLUESTEM TELEPHONE CO	400,000	926,935	18,176
T7464	LA HARPE TELEPHONE COMPANY INC	2,300,000	1,122,015	241,636
T7465	MADISON TELEPHONE COMPANY INC	1,400,000	4,903,308	377,795
T7466	MOKAN DIAL COMPANY INC	2,700,000	5,594,625	256,094
T7467	MOUNDRIDGE TELEPHONE COMPANY	3,000,000	7,521,811	374,171
T7468	PEOPLES TELECOMMUNICATIONS LLC	4,700,000	8,684,424	754,917
T7469	S & A TELEPHONE COMPANY INC	3,500,000	3,765,627	534,899
T7470	SOUTHERN KANSAS TELEPHONE COMPANY INC	9,600,000	9,714,355	917,142
T7471	SUNFLOWER TELEPHONE COMPANY INC	2,000,000	2,616,464	78,609

1/1/2021
1/1/2019
1/1/2019
1/1/2019

Property Tax Revenues from White Cliffs Pipeline, LLC for 2016

The pipeline runs through approximately 14 Kansas counties from the Colorado border to the Oklahoma border.

The statewide valuation of the existing structure is \$67.5 million. (2016)
The State receives about \$1.3M from the 20-mills for school finance.

Wallace County - \$1,046,419
The total tax billⁱ was \$1,550,195

Harper County - \$350,315
The total tax bill was \$851,803

Logan County - \$438,322
The total tax bill was \$856,353

Pawnee County - \$80,021
The total tax bill was \$152,029

Scott County - \$164,626
The total tax bill was \$314,157

Edwards County - \$342,078
The total tax bill was \$652,291

Lane County - \$537,569
The total tax bill was \$970,025

Stafford County - \$151,266
The total tax bill was \$325,112

Hodgeman County \$469,085
The total tax bill was \$749,000

Pratt County - \$219,294
The total tax bill was \$602,844

Ness County - \$407,418
The total tax bill was \$1,061,621

Kingman County - \$534,858
The total tax bill was \$1,119,417

Sherman County - \$71,114
The total tax bill was \$134,380

Sumner County - \$43,918
The total tax bill was \$154,165

ⁱ Total tax bill represents all taxing districts, including counties, townships, schools, etc.