

SESSION OF 2006

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2904**

As Amended by House Committee on  
Taxation

**Brief\***

HB 2904 would authorize an income tax credit, accelerated depreciation, and a property tax exemption for an integrated coal gasification power plant (ICGPP), if the ICGPP is new or has expanded its capacity by at least 10 percent. The bill also would provide for a property tax exemption for a new or expanded nuclear generation facility. 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 plant, if the taxpayer agrees to operate the project for 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 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 plant 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 ICGPP (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 ICGPP or expansion of plant 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 12-year (beginning with purchase or the start of construction) property tax exemption for a new ICGPP or nuclear generating facility or the expansion of a plant's or facility's capacity by at least 10 percent.
- Exempt new nuclear generating facilities built within five miles of an existing nuclear facility from the power plant siting act.
- Kansas Development Financing Authority (K DFA) financing assistance for projects provided with tax incentives under other provisions of the bill.

## **Background**

HB 2904 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 2904 reflects the recommendations of the Subcommittee, with an additional amendment made by the House Taxation 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.
- Exclude from the property tax exemption transmission equipment and other real and personal property at the plant site.
- Remove the specific adjustment of the income tax credit by the amount of Kansas coal used at an ICGPP. (The original bill would have taken into account, in the calculation of the tax credit, the percentage of Kansas coal used at the plant as compared to the amount of Kansas coal determined prudent by the Kansas Corporation Commission.)
- Make technical changes.

In addition, the House Taxation Committee amended the bill to require the income tax credit to be forfeited if the ICGPP (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 2904 is expected to result in a \$1.29 million fiscal impact in FY 2013 (*i.e.*, \$1.29 million in income and property tax revenues that will not be realized). This estimate assumes hypothetically that construction of a \$100 million integrated coal gasification plant will begin in FY 2008 and be completed in FY 2013.