SENATE TAXATION
EXHIBIT NO. 3
DATE 3-27-07
BILL NO. SB-105

Corrected
SESSION OF 2007

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2419

As Amended by House Committee on
Energy and Utilities

Brief*

HB 2419, as amended, would create the Carbon Dioxide Reduction Act. The Act would provide incentives for the sequestration of carbon dioxide through underground storage. The Act also would provide for regulation of underground carbon dioxide facilities.

The Kansas Corporation Commission (KCC) would be responsible for administering the regulatory aspects of the Act. On or before July 2008, the KCC would be required to establish in rules and regulation requirements, procedures and standards for the safe and secure injection and maintenance of underground storage of carbon dioxide. In addition, the KCC would be authorized to develop rules and regulations establishing fees for permitting, monitoring and inspecting carbon dioxide injector wells and underground storage. Rules and regulation authorized by the Act would apply to existing underground carbon storage in addition to wells that may be established in the future.

Under the bill, fees collected would be remitted to the Carbon Dioxide and Underground Storage Fund. The KCC would be authorized to enter property or facilities to prevent the escape of carbon dioxide into the atmosphere or prevention of pollution of soils and water of the state. The penalty for violation of the Carbon Dioxide Reduction Act would be $10,000 per violation per day.

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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

The bill would provide incentives by allowing any carbon dioxide capture, sequestration and utilization property and any electric generation unit which captures and sequesters all carbon dioxide and other emissions to be exempt from all property taxes for a period of five taxable years following completion of construction or installation of the property. Carbon dioxide capture, sequestration or utilization property is defined in the bill as machinery, or equipment used to capture carbon dioxide or to convert carbon dioxide into one or more products; carbon dioxide injection wells; and machinery and equipment used to recover carbon dioxide from sequestration. The bill would provide for accelerated depreciation of carbon dioxide capture, sequestration or utilization machinery and equipment. Such equipment, located in Kansas, would be depreciated for income tax purposes over a 10 year period (55 percent the first year and 5 percent each of the subsequent nine years). The exemption and the deduction would be available beginning with tax year 2008.

Background

HB 2419 was introduced by the House Committee on Energy and Utilities. Representatives from the National Institute for Strategic Technology Acquisition and Commercialization (NISTAC), Sunflower Electric Power Corporation, and the Kansas Chapter of the Sierra Club presented testimony in support of the bill at the House Committee hearing. Written testimony in support of HB 2419 was submitted by a representative of the Association of Ethanol Producers. Representatives from the KCC and Westar testified as neutral conferees.

The House Committee amended the bill by changing the date by which the Kansas Corporation Commission would have to establish rules and regulations from January 1, 2008, to July 1, 2008. The Committee also amended the bill to allow the tax incentives for equipment used to convert carbon dioxide into products, for carbon dioxide utilization equipment used to recover carbon dioxide from sequestration, and certain electric

generation units. Finally, the Committee amended the bill to provide that defined carbon dioxide capture sequestration or utilization to include any equipment and machinery which is located in the State of Kansas and is used to capture carbon dioxide from industrial and anthropogenic sources or to convert carbon dioxide into one or more products and used to inject carbon dioxide into carbon injection wells or used to recover carbon dioxide from sequestration.

The Division of the Budget's fiscal note on HB 2419 states that the bill would reduce State General Fund revenues, reduce the receipts to two state building funds, and increase state aid to school districts beginning in FY 2011.

The new income tax deduction would result in reductions to the State General Fund from FY 2011 through 2013. Beginning in FY 2014, the deduction is expected to increase State General Fund revenues. The effect on the State General Fund (SGF) is estimated to be:

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
SGF	($150,000)	($150,000)	($150,000)	$40,000	$70,000

The bill would decrease property tax revenues by creating a tax exemption. Two state building funds would be directly impacted by enactment of bill: the Educational Building Fund (EBF) and the State Institutions Building Fund (SIBF). The Department of Revenue estimates the following impact by fiscal year beginning in FY 2011:

	FY 2011	FY 2012	FY 2013
EBF	($6,670)	($6,670)	($6,670)
SIBF	($3,330)	($3,330)	($3,330)
Total	($10,000)	($10,000)	($10,000)

Additionally, the fiscal note states that the bill would impact state expenditures for aid to school districts. To the extent that school districts receive less property tax revenue through the state's uniform mill levy as a result of the property tax deduction, the state would provide more state aid through the school finance formula. The Department of Revenue estimates the increased state expenditures for aid to schools as follows:

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
School Aid	$90,000	$80,000	$70,000	$60,000	$60,000

The KCC would be authorized assess fees to support its regulatory responsibilities under the bill. Any fiscal effect associated with the passage of HB 2419 is not reflected in *The FY 2008 Governor's Budget Report.*