

Testimony of TransCanada
Submitted by Ron Gaches
Before the House Taxation Committee
In opposition to HB 2350: Imposing PILOTS on certain Pipeline Property
Monday, February 6, 2012

Thank you Chairman Carlson and members of the Committee for this opportunity to comment on the merits of HB 2350, a proposal to impose a payment in lieu of tax on certain pipeline property exempt from property taxation.

From the description of the targeted property contained in section one of the bill, it appears that the mandatory PILOTS are intended to apply to the Keystone pipeline that we call the Cushing Extension. This pipeline runs from Steel City, Nebraska to Cushing, Oklahoma and traverses six Kansas counties, Washington, Clay, Dickinson, Marion, Butler and Cowley for a total of approximately 210 miles within our state. This pipeline was the subject of a targeted 10-year property tax abatement passed by the legislature in 2006.

The property tax abatement authority was part of a multi-faceted bill called the Kansas Energy Development Act that contained numerous income tax credits, income tax deductions and property tax abatements to stimulate a wide assortment of energy related investments. In addition to the property tax abatements available to qualifying pipeline projects, other energy facilities that received benefits from the bill were oil refineries, integrated coal or coke gasification nitrogen fertilizer plants, cellulosic alcohol plants and integrated coal gasification power plants.

The bill had very strong support in the Legislature and passed the House by a vote of 105 in favor, 15 opposed and 5 not voting, and the Senate by a vote of 36 in favor, 2 opposed and 2 not voting, and was ultimately signed by Governor Sebelius.

The property tax abatement targeted at the Keystone Pipeline Cushing Extension was originally an idea of Representative Carl Holmes who knew that TransCanada had a pipeline project called Keystone designed to bring Canadian crude oil from Calgary, Canada to the ConocoPhillips refinery in Wood River, Illinois and a crude oil tank farm in Patoka, Illinois. The pipeline cuts across the four counties in the northeast corner of Kansas before heading through Missouri to Illinois. It was Representative Holmes' belief that a 10-year property tax abatement would help to persuade TransCanada to build an extension from Steel City, Nebraska to Cushing, Oklahoma. Cushing is a major crude oil hub for the central plains states and all three Kansas

refineries have dedicated pipelines from Cushing to their facilities. Kansas does not currently produce enough oil to satisfy the needs of the three Kansas refineries.

TransCanada committed to construction of the Cushing Extension in the summer of 2006. Construction was completed in 2010 and the first crude oil deliveries to Cushing took place on February 8, 2011. Two of the three Kansas refineries, NCRA in McPherson and CVR Energy in Coffeyville, are currently taking delivery of crude oil from Canada that is transported by the Keystone pipeline to the Cushing hub.

The application for the property tax abatement for the Keystone Cushing Extension is currently before the Kansas Court of Tax Appeals, which is the body that has to determine that the pipeline meets the criteria for tax abatement specified in the 2006 Act.

The capital investment in Kansas for the Cushing Extension will be submitted soon to FERC and is between \$500 – 600 million. This does not include the cost of the Keystone Mainline that cuts across the northeast corner of the state. If HB 2350 becomes law and is applicable to our project the annual payments in lieu of taxes will be approximately \$15 – 18 million.

It seems inappropriate for the State of Kansas to offer a property tax abatement to attract a half billion dollar investment that will have a useful life of perhaps as much as 100 years and then, following completion of the investment, impose a payment in lieu of taxes that is roughly equal to or greater than what the property taxes would be. Clearly, my client can't pick up the pipeline and move it. We have long-term contracts with many crude oil shippers that have to be fulfilled, so we're clearly captive to the State. I think there is an underlying fairness standard here that the bill proposes to violate.

In addition, passage of this bill might send an alarming message to other companies that have made investments in Kansas based on inducements from the Kansas Energy Development Act or as a result of any other state incentive. Based on these considerations we urge you to oppose passage of HB 2350.



