

SESSION OF 2006

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 388**

As Agreed to March 28, 2006

Brief*

SB 388, as amended, would establish a biodiesel fuel producer production incentive in the amount of \$.30 for each gallon of biodiesel fuel sold by a Kansas qualified biodiesel fuel producer, as defined by the bill. The incentive would be payable to a producer from the Kansas Qualified Biodiesel Fuel Producer Incentive Fund (Incentive Fund) which would be created by the bill in the state treasury.

The bill would require the Director of Accounts and Reports to transfer \$437,500 on April 1, 2007 from the State Economic Development Initiatives Fund (EDIF) to the Incentive Fund. Also, on July 1, 2007, and every quarter thereafter, the Director of Accounts and Reports would transfer \$875,000 from the EDIF to the Incentive Fund. The Secretary of Revenue would make the payments to the producers upon a filing by the producer of a form furnished by the Department of Revenue. Moneys remaining in the Fund upon expiration of the act would be credited by the State Treasurer to the EDIF. In the event funds from the EDIF are insufficient, then funds would be transferred from the State General Fund.

The bill would authorize the Secretary of Revenue to adopt rules and regulations necessary to administer the provisions of the bill. Those rules and regulations would include the development of a procedure for the payment of the production incentive on a pro rata basis.

Finally, the bill would provide for a sunset of the incentive program on July 1, 2016.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. The conference committee summary report may be accessed on the Internet at <http://www.kslegislature.org>

Conference Committee Action

The Conference Committee agreed to:

- Define the terms Kansas qualified biodiesel fuel producers, secretary (Department of Revenue), and Kansas qualified biodiesel fuel producer incentive fund;
- Fund the Incentive Fund from the State General Fund in the event funds are not sufficient from the Economic Development Initiatives Fund; and
- Add the word “state” before the term “Economic Development Initiatives Fund.”

Background

SB 388 was one of a series of bills recommended by the Select Joint Committee on Energy. That Committee recommended a number of bills to provide incentives for the production and use of alternative fuels, including biodiesel and ethanol.

Proponents of the bill before the Senate Committee on Agriculture included representatives of the Kansas Soybean Association; Northeast Kansas Bioenergy, LLC; NCKP, LCC; U.S. Bio Energy; Kan Agri Energy, LLC; and the Kansas Farm Bureau. Representative Mitch Holmes also appeared in support of the bill. Also appearing was a spokesperson from the Kansas Department of Transportation who appeared offering a neutral position on the bill. Appearing in opposition to the bill were representative of the League of Kansas Municipalities and the Kansas Association of Counties. Both of the opponents expressed concern with the bill in its original form which would have an impact on the amount of money going to the Special City and County Highway Fund (SCCHF).

The Senate Committee on Agriculture amended the bill to extend the sunset date for one year (from 2015 until 2016; to direct the money for the biodiesel producer incentive come directly from the State Highway Fund so that there would be no impact on the SCCHF; and to begin the transfer of moneys on April 1, 2007 in the amount of \$437,500 to the Fund and to make the full \$875,000 transfer each quarter begin on July 1, 2007 and continue at the beginning of each quarter thereafter.

The Senate Committee of the Whole amended the bill to create the Kansas Qualified Biodiesel Fuel Producers Incentive Fund.

Conferees appearing before the House Transportation Committee included the same conferees that appeared before the Senate Transportation Committee except for Representative Mitch Holmes.

The House Transportation Committee amendment would transfer \$875,000 from the State Economic Development Initiatives Fund instead of the State Highway Fund to the Kansas Qualified Biodiesel Producer Incentives Fund.

The House Committee of the Whole amendment would provide that on April 1, 2007, the Director of Accounts and Reports would transfer \$437,500 from the Economic Development Initiatives Fund rather than the State Highway Fund to the Kansas Qualified biodiesel Fuel Producers Incentives Fund.

The original fiscal note on the original bill indicates that the Department of Revenue estimates that the bill would decrease state revenues by \$3.5 million, including \$2,322,950 from the State Highway Fund and \$1,177,050 from the Special City and County Highway Fund in FY 2007 and each subsequent year through FY 2015. The agency indicates it would require an additional 0.50 FTE position to administer the program at an expense of \$36,662, including \$27,591 for salaries and wages and \$2,695 for workstation setup. The Department states that passage of this bill would require new forms, instructions, and notice requirements at an estimated cost of \$6,376. To formulate these estimates, the Department of Revenue reviewed data from the Ethanol Producers Incentive currently authorized by statute. Any fiscal effect associated with enactment of SB 388 is not accounted for in *The FY 2007 Governor's Budget Report*.