

SESSION OF 2006

SUPPLEMENTAL NOTE ON SENATE BILL NO. 389

As Further Amended by Senate Committee on
Assessment and Taxation

Brief*

SB 389 would create an income tax credit for expenditures made for construction of a qualified biofuels mixing facility located in Kansas beginning with tax years commencing after December 31, 2005. The credit would be limited to an amount equal to 40 percent of the total amount expended for construction of such facility, but not to exceed \$200,000. The bill would limit the total amount of credit allowed to \$2,000,000 for any one fiscal year. Credits could be carried forward for up to three years.

An additional provision would stipulate that expenditures used to qualify for the qualified biofuels mixing facility credit could not be used to qualify for any other type of Kansas income tax credit.

Under the bill, a "qualified biofuels mixing facility" would mean the property which is directly related to the blending of biofuels with petroleum-based fuels resulting in a product intended for use or offered for sale as a fuel for engines prior to delivery to a retail facility. Each qualified biofuels mixing facility would be required to have at least one tank for ethanol or one tank for biodiesel. Under the bill, "biofuels" would include ethanol and biodiesel. A taxpayer could only claim the credit one time for ethanol; and one time for biodiesel.

Background

This bill was introduced by the Committee on Agriculture at the request of the 2005 Select Joint Committee on Energy. The Select Joint Committee recommended a number of bills with respect to energy-related issues which currently are being considered by the 2006 Legislature.

At the hearing on the bill, representatives of the Kansas Soybean

*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>

Association and the Kansas Farm Bureau appeared in support of the bill. There were no opponents to the bill.

The Senate Committee on Agriculture amended the bill to increase the total amount of the taxpayer credit from \$160,000 to \$200,000; limit the total amount of credits claimed with the state to \$2,000,000 per year; require that each facility have at least one tank for ethanol or one tank for biodiesel; add the definitions for ethanol and biodiesel; and define the term "biofuels" to mean ethanol or biodiesel.

The Senate Assessment and Taxation Committee amended the bill to clarify that the credit could only be claimed for expenditures associated with construction of the facilities; to eliminate the ability of taxpayers to transfer the credits; to prohibit taxpayers from also claiming other income tax credits for the same expenditures; and to clarify that a taxpayer could only claim the credit one time for ethanol and one time for biodiesel.

The Department of Revenue said that it was in the process of reevaluating the fiscal note in the wake of amendments by both committees.