SESSION OF 2006

SUPPLEMENTAL NOTE ON SUBSTITUTE FOR SENATE BILL NO. 488

As Amended by Senate Committee of the Whole

Brief*

Sub. for SB 488 would make a number of property tax related changes to current law; would provide counties with new sales tax authority; would provide for a partial restoration of local ad valorem tax reduction fund (LAVTRF) transfers; and would enact a significant expansion of the High Performance Incentive Program (HPIP) income tax credit.

Machinery and Equipment Property Tax Provisions

The bill would provide a property tax exemption for:

- Certain commercial and industrial, railroad, and telecommunications machinery and equipment; acquired by qualified purchase or lease after June 30, 2006 as the result of bona fide transactions not consummated for the purpose of avoiding taxation; and

- Such machinery and equipment transported into the state after June 30, 2006 to expand existing businesses or create new businesses.

Taxpayers receiving such exemptions would not be subject to annual filing requirements with the State Board of Tax Appeals (SBOTA) pursuant to KSA 2005 Supp. 79-213.

Additional language would clarify that the exemption would not be applicable to property acquired pursuant to the exchange of stock securities or transfer of assets from one going concern to another due to a merger or consolidation; and would clarify the circumstances under which property involved in bankruptcy proceedings could qualify.

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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 further expand, effective for tax year 2007, an existing exemption for certain “low-cost” items of machinery, equipment, materials, and supplies by removing from the tax rolls such property with a retail cost when new of greater than $400 but equal to or less than $1,500.

Local Sales Tax Authority

Counties would have the option of imposing a sales tax of up to 0.5 percent pursuant to a publication and protest petition procedure, provided their machinery and equipment property tax receipts had fallen below a certain percentage of the 2005 (base year) receipts.

The Secretary of Revenue would be responsible for making an annual determination as to which counties would be eligible for the new sales tax authority. The new authority would be triggered if tax year 2006 commercial and industrial machinery and equipment property tax receipts were 5 percent or more below tax year 2005 receipts; if such receipts in tax year 2007 receipts were 10 percent or more below the tax year 2005 level; if such receipts in tax year 2008 receipts were 15 percent or more below the tax year 2005 level; if such receipts in tax year 2009 receipts were 20 percent or more below the tax year 2005 level; or if such receipts in tax year 2010 receipts were 25 percent or more below the tax year 2005 level.

The new sales taxes collected would be required to be used for property tax relief and would be distributed to taxing subdivisions located in counties utilizing this authority based on the LAVTRF distribution formula (which provides for distributions to all taxing subdivisions except school districts).

Any such tax imposed would be required to sunset after five years.

LAVTRF Transfers

An additional provision would reinstate LAVTRF transfers from the state to local units in the amounts of $13.5 million in FY 2009; $27.0 million in FY 2010; $40.5 million in FY 2011; and $54.0 million in FY 2012 and thereafter.

Property Tax Credit – Digital TV and Radio

Television broadcasters would be granted a property tax credit equivalent to the amount of property taxes paid on digital television equipment acquired prior to January 1, 2006, times the estimated percentage of non-digital televisions in the United States.

The credit would expire after the FCC has ended the broadcast of analog television signals by all full power commercial television stations in Kansas.

Radio broadcasters also would be granted a property tax credit equivalent to the amount of property taxes paid on digital radio equipment acquired prior to January 1, 2006, times the estimated percentage of non-digital radios in the United States. The credit would expire after tax year 2013 or when 50 percent of radios are capable of receiving digital signals, whichever comes first.

Administration of Hay Barn Property Tax Exemption

An additional provision would exempt taxpayers seeking to claim property tax exemptions for newly constructed hay barns from initial filing requirements with the State Board of Tax Appeals, effectively allowing landowners to claim the hay barn exemption at the local level (similar to the methodology utilized for other agricultural related exemptions).

Use of Preliminary Abstract by Regional Libraries

Another section would require that regional public library districts base the certified property tax levies relative to their budgets on the preliminary abstract of property values submitted to the Property Valuation Division (PVD) pursuant to KSA 79-1604.

Expansion of HPIP Income Tax Credits

The bill also would expand the HPIP program in four ways. The program would be expanded to include additional types of businesses eligible for the credits, including agriculture; forestry and fishing; mining; construction; and retail trade. An additional provision that requires more than 50 percent of a firm's gross revenue to either be from (a) sales outside the state; or (b) to Kansas manufacturing firms also would be replaced with a new requirement that the 50 percent threshold could be reached via a combination of (a) and (b). The bill also would allow HPIP credits to be carried forward indefinitely against the liability of future tax years. Finally, the bill would eliminate the $50,000 minimum investment requirement imposed under current law.

Background

The original bill dealt with the restoration of certain county and city revenue sharing funds in jurisdictions with a sales tax "pull factor" of less than 1.0.

The Senate Assessment and Taxation Committee on May 2 amended the bill to replace its original subject matter with a number of property tax related provisions.

The Senate Committee of the Whole on May 4 amended the bill to increase the exemption for certain low-cost items of machinery and equipment from $1,000 to $1,500; to add the provisions of HB 2581 relating to regional libraries; to add the provisions of SB 597 relating to HPIP tax credit expansion; and to replace a Senate Assessment and Taxation Committee amendment that only would have provided an exemption for 80 percent of the valuation of newly acquired machinery and equipment with a complete exemption for such property.

Based on the latest fiscal notes available, the bill would be expected to have the following impact on the state:

($ in millions)

	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	Total thru FY 2013
Motor carrier property taxes		($0.743)	($2.284)	($3.903)	($5.600)	($7.376)	($8.394)	($28.300)
USD local effort (20 mills)		($9.236)	($16.525)	($22.897)	($27.709)	($31.386)	($34.608)	($142.361)
State building funds (1.5 mills)		($0.692)	($1.239)	($1.717)	($2.078)	($2.353)	($2.595)	($10.674)
Reduction in inc tax credit		$11.343	$19.455	$26.966	$32.545	$36.570	$39.928	$166.807
LAVTRF transfers		$ 0.000	($13.500)	($27.000)	($40.500)	($54.000)	($54.000)	($189.000)
HPIP credit expansion	($17.600)	($18.480)	($19.400)	($20.370)	($21.390)	($22.460)	($23.582)	($143.282)
Net State Impact	**($17.600)**	**($17.808)**	**($33.493)**	**($48.921)**	**($64.732)**	**($81.005)**	**($83.251)**	**($346.810)**