REVISED
SESSION OF 2013

SUPPLEMENTAL NOTE ON SENATE BILL NO. 212

<u>As Amended by Senate Committee on Assessment and Taxation</u>

Brief*

SB 212, as amended, would authorize tax credits and deductions for investments made in produced water recycling, storage, and transportation equipment, beginning after December 31, 2012. The credit would be awarded by the Secretary of Commerce as a non-refundable income tax credit, subject to conditions set forth in the agreement, paid in four annual installments beginning in the year the equipment is in service. Annual installment amounts exceeding the taxpayer's income tax liability would be carried forward for deduction from the taxpayer's income tax liability due the following taxable year, up to the 14th taxable year.

If the qualified investment is made by or transferred to a pass-through entity, the tax credit in excess of the entity's tax liability could be transferred to shareholders or partners in proportion to their respective shares. If the qualified investment is owned by two or more co-owners, the credit would be given in proportion to the owners' shares.

A taxpayer alternatively could elect to file with the Department of Revenue for a tax deduction with respect to the amortization of the amortizable costs of produced water recycling, storage, and transportation equipment based on a period of ten years. The amortization deduction would be 55 percent of the amortizable cost in the first year and 5 percent for the following nine taxable years.

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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

Background

At the bill's hearing in the Senate Committee on Assessment and Taxation, representatives from the Kansas Petroleum Council, Shell Oil, and ISI Environmental provided testimony in support of the bill, and a representative from the Kansas Water Office provided neutral testimony. There was no opposition testimony.

The Committee made three amendments to the bill. The first amendment changed the credit amount from 25 percent to 20 percent of the taxpayer's qualified investment for the first $100.0 million invested rather than the first $250.0 million invested; it further amended the credit amount to 15 percent of any qualified investment greater than $100.0 million rather than $250.0 million. Secondly, the Committee clarified the definition of qualified equipment to pertain only to that which is used primarily for the purposes of recycling water. Finally, the Committee added language clarifying that a taxpayer could not qualify for both the income tax credit and tax deduction for any qualified investment.

The fiscal note from the Division of the Budget indicated that, based on the assumption that one business makes a $250.0 million qualified investment and the income tax liability is equal to $3.0 million, then the bill, as amended, would reduce state revenue by $3.0 million in FY 2014 and the following 14 years. It is anticipated that the credits awarded would more than offset any tax liability, so the accelerated depreciation provisions would not have any fiscal impact.

($ in millions)

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	5-yr total
SGF	$ (3.00)	$ (3.00)	$ (3.00)	$ (3.00)	$ (3.00)	$ (15.00)