

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Barbara Allen at 10:45 A.M. on March 15, 2006 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Chris Courtwright, Kansas Legislative Research
Martha Dorsey, Kansas Legislative Research
Gordon Self, Revisor of Statutes Office
Judy Swanson, Secretary

Conferees appearing before the committee:

Others attending:

See attached list.

Committee discussion was held on:

HB 2619--Property tax exemption for certain commercial and industrial machinery and equipment, materials and supplies

Sub HB 2525--Property tax exemption for certain telecommunications machinery and equipment and railroad machinery and equipment

Alan Conroy, Director of Legislative Research, provided SGF profiles. (Attachment 1) He explained the figures are based on the assumption of a 4% growth rate in the State. He said the real growth rate for FY06 was over 10%. Senator Donovan requested a SGF profile using a growth rate of 4.5% and new education funding of \$100 million per year for three consecutive years. Senator Lee requested a SGF profile using the same information for Senator Donovan's run, with the addition of the House Floor amendments from **HB 2619**. Senator Apple requested information reflecting additional costs including KPERs bonds, monies borrowed from KDOT, repayment schedules, etc. resulting from decisions the Legislature made in 2001-2004 to balance the budget. Mr. Conroy will have the new runs and information ready by tomorrow's Committee meeting.

Chris Courtwright provided information regarding previously enacted legislation and SGF receipt information. (Attachment 2) He also distributed information on mitigation funding for local units from other states who have exempted M/E from property tax. (Attachment 3) Iowa reimbursed cities based on the loss of property tax revenues for a short time, but state funds were subsequently reduced, and finally eliminated earlier than planned, because of state budgetary pressures. Maine has a constitutional requirement for reimbursement of at least 50 percent relative to any new exemptions.

Chairman Allen thanked KDOR for their assistance in getting reports generated for the Committee.

Senator Apple said both **HB 2619** and **Sub HB 2525** need to be passed to be fair. He stated if **HB 2619** includes cell towers, all new cell towers will be exempt, and existing cell towers will continue to be taxed. Senator Lee said rate-based utilities have the capability of recuperating property taxes lost by passing revenue losses on to subscribers. Senator Donovan said the Governor did not build the M/E exemption into her budget until 2008.

Senator Apple requested information on the cost of raising the de minimus from \$400 to \$1000, and on the cost of raising it to \$1500 and \$2000. Mark Beck, KDOR, said it would cost \$940,000 per year for the increase to \$1000, and he would try to get the cost of the other raises, but it would be cumbersome to get that information quickly.

Richard Cram presented balloon amendments to **SB 389, income taxation, credit for biofuels mixing facilities**. (Attachment 4) He noted Senator Taddiken requested the bill be further amended to limit the tax credits.

Senator Apple moved to amend SB 389 as presented in the balloon and to have the Revisor further amend the

CONTINUATION SHEET

MINUTES OF THE Senate Assessment and Taxation Committee at 10:30 A.M. on March 15, 2006 in Room 519-S of the Capitol.

bill by adding Taddiken's requested amendment. Senator Schmidt seconded the motion, and the motion passed.

Senator Lee moved to report **SB 389**, as amended, favorable for passage. Senator Pine seconded the motion, and the motion passed.

Senator Donovan made a motion to approve the Minutes of the March 13 and March 14 Committee meetings. Senator Schmidt seconded the motion, and the motion passed.

Being no further business, the meeting adjourned at 11:30 a.m.

SENATE
ASSESSMENT & TAXATION COMMITTEE

GUEST LIST

DATE: 3-15-06

NAME	REPRESENTING
Paul Johnson	Ks. Catholic Conference
Judy Henderson	Pawnee County Economic Development Comm.
Kim Barnes	PCEDC
Judy Shaw	Kearney & Associates
Juni Ror	KACCT
Estelle Montgomery	Hein Law Firm
Dorothy Brugh	WIBA
Hal Hudson	NFIB
LARRY R BASR	LKM
BRAD HARRELSON	KFB
BILL Brody	Capitol Speakers
Charles Nicolay	Capitol City Oil Co

\$480.4 million in New K-12 Funding FY 2007- FY 2009 - S.B. 584
 Base Increase in Revenue (February) of \$73.1 million Beginning in FY 2006 (5.4 Percent Composite Growth in FY 08 and FY 09)
 House Machinery and Equipment Tax Reductions as Modified
 Normal Budget Growth in State Expenditures - \$50 Million Annually

STATE GENERAL FUND RECEIPTS, EXPENDITURES AND BALANCES
 AS PROJECTED FY 2005-FY 2009
 In Millions

	Actual FY 2005	Revised FY 2006	Recommended FY 2007	Projected FY 2008	Projected FY 2009
Beginning Balance	\$ 327.5	\$ 478.7	\$ 549.9	\$ 411.7	\$ 17.9
Base Increase in Receipts for Year-to-Date Collections - February	0.0	73.1	73.1	73.1	73.1
House Machinery and Equipment Tax Reductions as Modified	0.0	0.0	0.0	(22.3)	(40.4)
Receipts (November 2005 Consensus - Adjusted)	4,841.3	5,161.5	5,225.1	5,291.0	5,498.7
Adjusted Receipts	4,841.3	5,234.6	5,298.2	5,341.8	5,531.4
Total Available	\$ 5,168.8	\$ 5,713.3	\$ 5,848.1	\$ 5,753.5	\$ 5,549.3
Additional State Expenditures for Normal Growth	-	-	-	50.0	50.0 ✓
K-12 Additional Funding - S.B. 584	-	-	180.4	150.0	150.0
Less All Other Expenditures	4,690.1	5,163.4	5,256.0	5,535.6	5,824.2
Total Expenditures	4,690.1	5,163.4	5,436.4	5,735.6	6,024.2
Ending Balance	\$ 478.7	\$ 549.9	\$ 411.7	\$ 17.9	\$ (474.9)
Ending Balance as a Percentage of Expenditures	10.2%	10.6%	7.6%	0.3%	-7.9%
Receipts in Excess of Expenditures	\$ 151.2	\$ 71.2	\$ (138.2)	\$ (393.8)	\$ (492.8)

- 1) Actual FY 2005 and FY 2006 expenditures as approved by the 2005 Legislature, including \$31.6 million in expenditures shifted forward from FY 2005 to FY 2006. Plus, Governor's recommended net adjustments in FY 2006 expenditures (SRS/Aging caseloads, school finance adjustments, etc.).
- 2) FY 2006 revised receipts and FY 2007 projected receipts reflect the estimates of the Consensus Revenue Estimating Group as of November 3, 2005, as adjusted by the Governor, plus receipts year-to-date (\$73.1 million) above the estimate as a base increase.
- 3) FY 2008 and FY 2009 base receipts assume a 4.0 percent growth; and expenditures include out-year significant obligations (i.e., SRS and Aging caseloads - \$50 million; KPERS employer contribution rate increase - \$29.0 million; KDOT bonds payments \$16.5 million; and KPERS bond increase - \$11.1 million in FY 2008). Plus, \$50 million base increase in general state expenditures for Regents, State employee salary increases, inmate population increases, etc.
- 4) Machinery and equipment tax reduction as passed by the House - HB 2525 and HB 2619 - modified.

Prepared at the Request and Direction of Senator Barbara Allen

\$480.4 million in New K-12 Funding FY 2007- FY 2009 - S.B. 584
Base Increase in Revenue (February) of \$73.1 million Beginning in FY 2006 (5.4 Percent Composite Growth in FY 08 and FY 09)
House Machinery and Equipment Tax Reductions as Modified

STATE GENERAL FUND RECEIPTS, EXPENDITURES AND BALANCES
AS PROJECTED FY 2005-FY 2009
In Millions

	Actual FY 2005	Revised FY 2006	Recommended FY 2007	Projected FY 2008	Projected FY 2009
Beginning Balance	\$ 327.5	\$ 478.7	\$ 549.9	\$ 411.7	\$ 67.9
Base Increase in Receipts for Year-to-Date Collections - February	0.0	73.1	73.1	73.1	73.1
House Machinery and Equipment Tax Reductions as Modified	0.0	0.0	0.0	(22.3)	(40.4)
Receipts (November 2005 Consensus - Adjusted)	4,841.3	5,161.5	5,225.1	5,291.0	5,498.7
Adjusted Receipts	4,841.3	5,234.6	5,298.2	5,341.8	5,531.4
Total Available	\$ 5,168.8	\$ 5,713.3	\$ 5,848.1	\$ 5,753.5	\$ 5,599.3
K-12 Additional Funding - S.B. 584	-	-	180.4	150.0	150.0
Less All Other Expenditures	4,690.1	5,163.4	5,256.0	5,535.6	5,774.2
Total Expenditures	4,690.1	5,163.4	5,436.4	5,685.6	5,924.2
Ending Balance	\$ 478.7	\$ 549.9	\$ 411.7	\$ 67.9	\$ (324.9)
Ending Balance as a Percentage of Expenditures	10.2%	10.6%	7.6%	1.2%	-5.5%
Receipts in Excess of Expenditures	\$ 151.2	\$ 71.2	\$ (138.2)	\$ (343.8)	\$ (392.8)

- 1) Actual FY 2005 and FY 2006 expenditures as approved by the 2005 Legislature, including \$31.6 million in expenditures shifted forward from FY 2005 to FY 2006. Plus, Governor's recommended net adjustments in FY 2006 expenditures (SRS/Aging caseloads, school finance adjustments, etc.).
- 2) FY 2006 revised receipts and FY 2007 projected receipts reflect the estimates of the Consensus Revenue Estimating Group as of November 3, 2005, as adjusted by the Governor, plus receipts year-to-date (\$73.1 million) above the estimate as a base increase.
- 3) FY 2008 and FY 2009 base receipts assume a 4.0 percent growth; and expenditures include out-year significant obligations (i.e., SRS and Aging caseloads - \$50 million; KPERS employer contribution rate increase - \$29.0 million; KDOT bonds payments \$16.5 million; and KPERS bond increase - \$11.1 million in FY 2008). State expenditures other those areas specifically mentioned are frozen at the FY 2007 level for FY 2008 and FY 2009.
- 4) Machinery and equipment tax reduction as passed by the House - HB 2525 and HB 2619 - modified.

Prepared at the Request and Direction of Senator Barbara Allen

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MEMORANDUM

March 15, 2006

To: Senate Assessment and Taxation Committee
From: Chris W. Courtwright, Principal Economist
Re: Previously Enacted Legislation and SGF Receipts

* Legislation enacted in 2004 relating to the amount of sales and use taxes deposited in the SGF versus the SHF is expected to reduce FY 2008 SGF receipts from these sources by a combined \$43.5 million below FY 2007 receipts. Given a 3.5 percent growth assumption, FY 2008 SGF receipts will be \$168.0 million less than they would have been if the 2004 legislation had not been enacted. *

* Legislation enacted in 2002 that conforms the Kansas estate tax exemption threshold with the federal exemption threshold and eliminates the Kansas tax altogether in 2010 is expected to reduce receipts by \$9 million in FY 2008; \$20 million in FY 2009; \$37 million in FY 2010; \$47 million in FY 2011; and \$52 million in FY 2012. (SB 365, passed by the Senate, reaffirms the policy decision with respect to these fiscal impacts while at the same time creating a stand-alone estate tax for three years.)

* Legislation enacted in 2002 that also increased the tax credit for property taxes paid on commercial and industrial machinery and equipment is expected to reduce receipts by \$5.0 million in FY 2008; \$5.8 million in FY 2009; and \$6.7 million in FY 2010.

* Legislation enacted in 2005 will reduce the amount of water tax receipts deposited in the SGF by \$2.6 million in both FY 2008 and FY 2009; and by \$2.7 million in FY 2010.

Additional legislation enacted in 2005 will reduce severance tax receipts to the SGF by \$5.2 million in FY 2009 and \$7.5 million in FY 2010.

MEMORANDUM

March 15, 2006

To: Senate Assessment and Taxation Committee
From: Chris W. Courtwright, Principal Economist
Re: Mitigation Funding for Local Units

* Iowa in the mid 1990s apparently began exempting all new machinery and equipment purchases from property tax while retaining the tax on existing property, similar to the proposal in HB 2619. According to Iowa League of Cities, reimbursement funds for cities based on the loss of property tax revenues were provided for a short time but were subsequently reduced and finally eliminated earlier than had been planned because of state budgetary pressures.

* Maine has a constitutional requirement for a reimbursement of at least 50 percent relative to any new exemptions. A proposal this year to exempt business machinery and equipment from property taxes in Maine is also under consideration this year. According to the Maine Municipalities Association, a statewide tax survey shows that most of the public opposes the exemption because of concerns over property tax shifts. The municipalities are arguing to have the Maine Legislature consider the exemption only as part a larger change in the overall state and local tax structure.

* Kansas mitigation strategies – Slider vs. LAVTRF. The attached table shows the distribution of \$28.238 million through the property tax slider provisions of HB 2619 and through the LAVTRF formula. The slider monies would be subsequently distributed to all taxing subdivisions. The LAVTRF monies would be subsequently distributed to all taxing subdivisions other than school districts.

Kansas Department of Revenue
Office of Policy and Research

County Name	2005 Assessed Valuation	CY 2004 Population Certified 7/1/05	LAVTRF Ratio	Distribution Amount \$28,238,376	Mitigation Distribution ** \$28,238,376
Allen	\$ 79,488,947	13,949	0.00434	\$ 122,673	\$ 171,145
Anderson	\$ 67,034,996	8,191	0.00281	\$ 79,482	\$ 22,823
Atchison	\$ 113,923,684	16,848	0.00548	\$ 154,721	\$ 178,016
Barber	\$ 73,225,639	4,999	0.00214	\$ 60,328	\$ 50,564
Barton	\$ 196,623,885	27,367	0.00905	\$ 255,553	\$ 260,447
Bourbon	\$ 84,953,824	15,066	0.00468	\$ 132,167	\$ 132,755
Brown	\$ 82,094,070	10,362	0.00353	\$ 99,557	\$ 68,458
Butler	\$ 441,998,615	61,828	0.02042	\$ 576,539	\$ 358,202
Chase	\$ 38,675,768	3,068	0.00123	\$ 34,733	\$ 13,358
Chautauqua	\$ 23,937,357	4,178	0.00130	\$ 36,790	\$ 16,024
Cherokee	\$ 131,174,257	21,950	0.00691	\$ 195,265	\$ 142,811
Cheyenne	\$ 40,501,431	2,979	0.00123	\$ 34,804	\$ 9,711
Clark	\$ 37,917,371	2,343	0.00105	\$ 29,591	\$ 14,900
Clay	\$ 62,171,778	8,597	0.00285	\$ 80,427	\$ 35,174
Cloud	\$ 68,626,116	9,779	0.00321	\$ 90,719	\$ 57,899
Coffey	\$ 455,842,283	8,759	0.00799	\$ 225,515	\$ 30,995
Comanche	\$ 42,159,476	1,903	0.00100	\$ 28,190	\$ 8,700
Cowley	\$ 204,004,662	35,772	0.01114	\$ 314,650	\$ 410,764
Crawford	\$ 219,819,386	38,060	0.01189	\$ 335,787	\$ 360,581
Decatur	\$ 31,715,450	3,274	0.00119	\$ 33,569	\$ 13,383
Dickinson	\$ 134,700,485	19,132	0.00629	\$ 177,646	\$ 82,258
Doniphan	\$ 65,515,538	8,062	0.00276	\$ 78,060	\$ 74,214
Douglas	\$ 1,038,091,400	102,786	0.03787	\$ 1,069,408	\$ 806,812
Edwards	\$ 43,639,549	3,308	0.00135	\$ 38,159	\$ 34,493
Elk	\$ 22,581,705	3,117	0.00103	\$ 29,175	\$ 19,634
Ellis	\$ 270,807,578	27,060	0.00994	\$ 280,629	\$ 174,722
Ellsworth	\$ 54,913,571	6,350	0.00222	\$ 62,695	\$ 39,833
Finney	\$ 470,512,179	39,271	0.01543	\$ 435,613	\$ 273,585
Ford	\$ 219,946,113	33,278	0.01076	\$ 303,746	\$ 427,298
Franklin	\$ 177,650,848	26,049	0.00849	\$ 239,769	\$ 132,933
Geary	\$ 133,854,235	25,111	0.00770	\$ 217,455	\$ 179,437
Gove	\$ 38,979,781	2,845	0.00118	\$ 33,348	\$ 17,125
Graham	\$ 42,259,364	2,745	0.00120	\$ 33,877	\$ 10,389
Grant	\$ 345,416,263	7,685	0.00630	\$ 177,916	\$ 37,067
Gray	\$ 64,041,925	5,980	0.00225	\$ 63,551	\$ 26,143
Greeley	\$ 35,431,811	1,415	0.00080	\$ 22,455	\$ 7,506
Greenwood	\$ 57,515,527	7,538	0.00254	\$ 71,618	\$ 31,410
Hamilton	\$ 72,648,427	2,654	0.00157	\$ 44,382	\$ 10,422
Harper	\$ 60,443,860	6,238	0.00227	\$ 63,966	\$ 45,157
Harvey	\$ 219,244,111	33,769	0.01086	\$ 306,784	\$ 222,927
Haskell	\$ 212,379,658	4,272	0.00377	\$ 106,351	\$ 15,565
Hodgeman	\$ 33,440,623	2,089	0.00093	\$ 26,249	\$ 7,942
Jackson	\$ 77,998,743	13,169	0.00414	\$ 116,894	\$ 63,500
Jefferson	\$ 131,678,865	18,906	0.00620	\$ 175,024	\$ 78,133
Jewell	\$ 35,882,835	3,422	0.00128	\$ 36,087	\$ 8,918
Johnson	\$ 7,171,851,084	496,691	0.21092	\$ 5,956,143	\$ 6,536,206
Kearny	\$ 286,362,195	4,515	0.00478	\$ 135,044	\$ 15,480
Kingman	\$ 97,822,789	8,390	0.00326	\$ 92,079	\$ 54,942
Kiowa	\$ 64,410,702	3,084	0.00157	\$ 44,254	\$ 12,098
Labette	\$ 111,921,096	22,269	0.00674	\$ 190,362	\$ 185,686
Lane	\$ 32,801,724	1,950	0.00089	\$ 25,083	\$ 13,006
Leavenworth	\$ 491,118,236	72,439	0.02357	\$ 665,705	\$ 332,619
Lincoln	\$ 34,888,396	3,416	0.00126	\$ 35,683	\$ 23,288
Linn	\$ 161,787,466	9,775	0.00442	\$ 124,770	\$ 38,919
Logan	\$ 40,499,541	2,827	0.00120	\$ 33,783	\$ 13,917

3-2

Kansas Department of Revenue
Office of Policy and Research

County Name	2005 Assessed Valuation	CY 2004 Population Certified 7/1/05	LAVTRF Ratio	Distribution Amount \$28,238,376	Mitigation Distribution ** \$28,238,376
Lyon	\$ 218,162,708	35,717	0.01131	\$ 319,459	\$ 306,616
Marion	\$ 97,646,856	13,010	0.00436	\$ 123,014	\$ 59,955
Marshall	\$ 86,109,471	10,402	0.00359	\$ 101,294	\$ 111,177
McPherson	\$ 290,455,618	29,413	0.01075	\$ 303,604	\$ 492,317
Meade	\$ 106,413,866	4,592	0.00247	\$ 69,737	\$ 11,795
Miami	\$ 313,307,824	29,712	0.01112	\$ 313,970	\$ 133,234
Mitchell	\$ 54,093,702	6,564	0.00226	\$ 63,831	\$ 56,794
Montgomery	\$ 205,706,380	34,975	0.01098	\$ 309,924	\$ 506,142
Morris	\$ 56,391,783	5,977	0.00215	\$ 60,733	\$ 29,510
Morton	\$ 160,018,126	3,269	0.00285	\$ 80,468	\$ 20,693
Nemaha	\$ 77,114,259	10,458	0.00348	\$ 98,380	\$ 83,075
Neosho	\$ 89,926,383	16,555	0.00510	\$ 143,977	\$ 200,633
Ness	\$ 53,189,491	3,080	0.00142	\$ 40,123	\$ 11,092
Norton	\$ 39,807,488	5,799	0.00189	\$ 53,472	\$ 34,029
Osage	\$ 118,232,763	17,091	0.00559	\$ 157,927	\$ 56,125
Osborne	\$ 35,609,420	4,100	0.00144	\$ 40,536	\$ 27,866
Ottawa	\$ 56,636,207	6,175	0.00220	\$ 62,151	\$ 20,466
Pawnee	\$ 54,110,624	6,795	0.00232	\$ 65,387	\$ 25,044
Phillips	\$ 47,865,995	5,583	0.00195	\$ 54,970	\$ 44,405
Pottawatomie	\$ 368,842,391	18,871	0.00926	\$ 261,542	\$ 138,722
Pratt	\$ 99,483,573	9,417	0.00353	\$ 99,577	\$ 86,868
Rawlins	\$ 31,123,637	2,765	0.00106	\$ 29,938	\$ 9,623
Reno	\$ 462,334,743	63,676	0.02112	\$ 596,377	\$ 694,345
Republic	\$ 48,059,471	5,224	0.00186	\$ 52,632	\$ 26,962
Rice	\$ 100,041,673	10,497	0.00379	\$ 107,028	\$ 73,417
Riley	\$ 368,396,042	63,069	0.01976	\$ 557,943	\$ 239,373
Rooks	\$ 60,887,283	5,386	0.00207	\$ 58,412	\$ 23,296
Rush	\$ 35,386,001	3,466	0.00128	\$ 36,200	\$ 36,747
Russell	\$ 69,707,062	6,978	0.00256	\$ 72,320	\$ 55,994
Saline	\$ 470,197,690	53,943	0.01891	\$ 533,946	\$ 646,797
Scott	\$ 71,727,927	4,691	0.00204	\$ 57,714	\$ 20,582
Sedgwick	\$ 3,608,117,774	463,802	0.15695	\$ 4,431,881	\$ 5,016,406
Seward	\$ 267,620,682	23,237	0.00899	\$ 253,811	\$ 174,998
Shawnee	\$ 1,427,520,824	171,716	0.05929	\$ 1,674,371	\$ 2,109,007
Sheridan	\$ 33,509,739	2,614	0.00106	\$ 29,797	\$ 9,686
Sherman	\$ 62,001,706	6,218	0.00228	\$ 64,402	\$ 46,893
Smith	\$ 35,998,758	4,179	0.00146	\$ 41,209	\$ 19,833
Stafford	\$ 64,285,561	4,512	0.00190	\$ 53,790	\$ 16,902
Stanton	\$ 102,902,175	2,374	0.00190	\$ 53,570	\$ 8,815
Stevens	\$ 354,980,725	5,520	0.00591	\$ 166,887	\$ 25,847
Sumner	\$ 161,163,972	25,272	0.00809	\$ 228,525	\$ 207,605
Thomas	\$ 78,959,399	7,801	0.00288	\$ 81,227	\$ 75,106
Trego	\$ 37,527,059	3,158	0.00124	\$ 34,917	\$ 15,552
Wabaunsee	\$ 62,587,452	6,938	0.00246	\$ 69,447	\$ 45,020
Wallace	\$ 28,650,993	1,579	0.00075	\$ 21,075	\$ 5,643
Washington	\$ 56,394,616	6,107	0.00218	\$ 61,606	\$ 20,044
Wichita	\$ 32,157,702	2,360	0.00098	\$ 27,598	\$ 23,919
Wilson	\$ 69,865,679	9,946	0.00327	\$ 92,293	\$ 101,618
Woodson	\$ 28,210,937	3,553	0.00121	\$ 34,160	\$ 15,284
Wyandotte	\$ 1,110,992,382	156,487	0.05158	\$ 1,456,403	\$ 3,606,205
Totals	\$ 27,019,361,810	2,735,502	1.00000	\$ 28,238,376	\$ 28,238,376

Formula states population makes up 65% and valuation 35% of the amount to the county.

** Mitigation distribution is based on county CI/ME tax as a % of the state total.

3-3

Get Saddleback's amendment

As Amended by Senate Committee

Session of 2006

SENATE BILL No. 389

By Committee on Agriculture
(By request of Select Joint Committee on Energy)

1-18

11 AN ACT concerning income taxation; relating to credits; biofuels mixing
12 facility.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. (a) Any taxpayer who makes expenditures for a qualified
16 biofuels mixing facility located in Kansas and placed in service on and
17 after January 1, 2006, shall be allowed a credit against the income tax
18 imposed by article 32 of chapter 79 of the Kansas Statutes Annotated, an
19 amount equal to 40% of the total amount expended for each qualified
20 biofuels mixing facility, but not to exceed ~~\$160,000~~ **\$200,000** for each
21 mixing facility. **In no event shall the total amount of credits allowed**
22 **under this section exceed \$2,000,000 for any one fiscal year.**

23 (b) The tax credit under subsection (a) shall be deducted from the
24 taxpayer's income tax liability for the taxable year in which the expendi-
25 tures are made by the taxpayer. If the amount of the tax credit exceeds
26 the taxpayer's income tax liability for the taxable year, the amount which
27 exceeds the tax liability may be carried over for deduction from the tax-
28 payer's income tax liability in the next succeeding taxable year or years
29 until the total amount of the tax credit has been deducted from tax lia-
30 bility, except that no such tax credits shall be carried over for deduction
31 after the third taxable year succeeding the taxable year in which the ex-
32 penditures are made.

33 ~~(c) Any person, hereinafter designated the assignor, may sell, assign,~~
34 ~~convey or otherwise transfer tax credits allowed and earned pursuant to~~
35 ~~subsection (a). The taxpayer acquiring credits, hereinafter designated the~~
36 ~~assignee, may use the amount of the acquired credits to offset up to 100%~~
37 ~~of its income, privilege or premiums tax liability for the taxable year in~~
38 ~~which such acquisition was made. Unused credit amounts claimed by the~~
39 ~~assignee may be carried forward for up to five years, except that all such~~
40 ~~amounts shall be claimed within 10 years following the tax year in which~~
41 ~~the qualified credits were allowed. The assignor shall enter into a written~~
42 ~~agreement with the assignee establishing the terms and conditions of the~~
43 ~~agreement and shall perfect such transfer by notifying the department of~~

construction of

construction of

Expenditures used to qualify for this credit may not be used to qualify for any other type of Kansas income tax credit.

delete sub paragraph (c)

1 ~~revenue in writing within 90 calendar days following the effective date of~~
 2 ~~the transfer and shall provide any information as may be required by the~~
 3 ~~department of revenue and carry out the provisions of this section. The~~
 4 ~~amount received by the assignor of such tax credit shall be taxable as~~
 5 ~~income of the assignor, and the excess of the value of such credit over~~
 6 ~~the amount paid by the assignee for such credit shall be taxable as income~~
 7 ~~of the assignee.~~

8 (d) As used in this section:

9 (1) ~~Biofuels~~ **Qualified biofuels** mixing facility” means the property
 10 which is directly related to the blending of biofuels with petroleum-based
 11 fuels resulting in a product intended for use or offered for sale as a fuel
 12 for engines **prior to delivery to a retail facility. Each qualified bio-**
 13 **fuels mixing facility shall have at least one tank for ethanol or one**
 14 **tank for biodiesel;** *no more than*

15 (2) “biofuels” shall include, but not limited to, ethanol and biodiesel;

16 (3) **“biodiesel” means mono-alkyl esters derived from vegetable**
 17 **oil, recycled cooking oil or animal fat and shall conform with the**
 18 **specification D6751-02, issued March 2002, by the American soci-**
 19 **ety of testing and materials or a later version as adopted by rules**
 20 **and regulations;**

21 (4) **“ethanol” means denatured fuel ethanol that meets ASTM**
 22 **4806-99;**

23 ~~(5)~~ (5) “taxpayer” means any person who makes expenditures for a
 24 qualified biofuels mixing facility;

25 ~~(6)~~ (6) “person” means every natural person, association, partnership,
 26 limited liability company, limited partnership or corporation.

27 (e) The provisions of this section shall apply to all taxable years com-
 28 mencing after December 31, 2005.

29 Sec. 2. This act shall take effect and be in force from and after its
 30 publication in the statute book.