

SESSION OF 2009

**SUPPLEMENTAL NOTE ON HOUSE
SUBSTITUTE FOR SENATE BILL NO. 98**

As Recommended by House Committee on
Taxation

Brief*

House Sub. for SB 98 would clarify that agricultural land is to be use-valued for Kansas estate tax purposes, regardless of whether such land was held directly by decedents or was held in non-publicly traded legal entities, including certain partnerships, corporations, limited liability companies, or limited liability partnerships.

The clarification of the use-valuation provisions also would be retroactive relative to estates of decedents dying after December 31, 2006.

Background

The Kansas Department of Revenue opined that the Kansas Estate Tax Act enacted in 2006 authorized the use-valuation of agricultural land for estate tax purposes only for that land held directly by decedents.

Proponents, who included the Kansas Livestock Association and Kansas Farm Bureau, said that they believed legislative intent in 2006 had been to extend the use-value treatment to all agricultural land.

A fiscal note indicated that the bill would be expected to reduce receipts by about \$0.53 million, which would include refunds paid relative to the bill's retroactive provisions.

*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 estate tax currently is scheduled to sunset effective for estates of decedents dying on and after January 1, 2010.

The original bill would have amended KSA 79-3220 to clarify deadlines applicable to filing income tax refund claims. The Department of Revenue supported that version of the legislation, noting that if a Kansas Court of Appeals ruling which is currently being appealed were to be upheld (and if a second Kansas Court of Tax Appeals were to be found to have statewide application), individual income tax receipts would be reduced by \$5.0 million absent enactment of the original bill.

The House Taxation Committee amended the bill to remove its original provisions, insert the provisions of HB 2379 (including some technical amendments), and recommend that a substitute bill be created.