

SESSION OF 2011

SUPPLEMENTAL NOTE ON SENATE BILL NO. 12

As Amended by Senate Committee of the Whole

Brief*

SB 12 would allow an individual debtor in a bankruptcy proceeding to exempt the debtor's right to an Earned Income Tax Credit (EITC) for one tax year. The bill states that its language shall not limit the availability of the EITC for payment of child support or spousal maintenance.

Background

According to the Internal Revenue Service, the EITC is a refundable federal income tax credit for low to moderate income working individuals and families. Congress originally approved the tax credit legislation in 1975 in part to offset the burden of social security taxes and to provide an incentive to work. When the EITC exceeds the amount of taxes owed, it results in a tax refund to those who claim and qualify for the credit.

To qualify, a claimant must meet certain requirements and file a tax return, even if they did not earn enough money to have a filing requirement. A claimant may file an amended return and obtain an EITC for up to the past 3 years if he or she has not already obtained the EITC for those years.

As introduced, SB 12 would have allowed a debtor to exempt his or her right to an EITC without limitation on the tax year for which the EITC was claimed.

*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>

In the Senate Judiciary Committee, Senator John Vratil, a representative of Kansas Legal Services, and several attorneys who handle bankruptcy cases provided testimony in support of the bill. No opponents provided testimony.

The Committee amended the bill to specify that a debtor could exempt no more than the maximum credit allowed to the debtor for the current tax year. The Committee recommended the bill be passed as amended.

The Senate Committee of the Whole amended the bill to state the exemption would be allowed for “one” tax year, rather than “the current” tax year.

The fiscal note on the bill, as introduced, states the Department of Revenue indicates the bill would have no fiscal effect on state revenues.