

February 9, 2021

The Honorable Robert Olsen, Chairperson
Senate Committee on Commerce
Statehouse, Room 236A-E
Topeka, Kansas 66612

Dear Senator Olsen:

SUBJECT: Fiscal Note for SB 91 by Senate Committee on Commerce

In accordance with KSA 75-3715a, the following fiscal note concerning SB 91 is respectfully submitted to your committee.

Under current law, the High Performance Incentive Program (HPIP) provides certified companies a 10.0 percent non-refundable income tax credit for eligible capital investments that exceed \$50,000 (\$1.0 million in five metro counties) that can be carried forward for the next 16 tax years as long as the company is recertified in the tax year that the carry forward is used. SB 91 would allow taxpayers to transfer up to 50.0 percent of HPIP tax credits for projects placed into service on and after January 1, 2021, to one or more individuals or entities. The transferred tax credits would be required to be claimed in the same year as the transfer and the remaining tax credits for the original taxpayer would be allowed to be carried forward for up to 16 tax years. The taxpayer or transferee would be required to notify the Department of Revenue about the tax credit transfer. If the HPIP tax credits are later disallowed in whole or in part, the original taxpayer would be liable for repayment to the state.

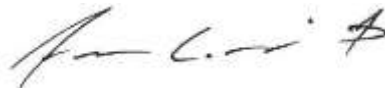
Estimated State Fiscal Effect				
	FY 2021 SGF	FY 2021 All Funds	FY 2022 SGF	FY 2022 All Funds
Revenue	--	--	(\$16,507,155)	(\$16,507,155)
Expenditure	--	--	\$222,611	\$222,611
FTE Pos.	--	--	--	2.00

The Department of Revenue estimates that SB 91 would decrease State General Fund revenues by approximately \$16,507,155 in FY 2022. The Department indicates that similar results would also occur in future fiscal years. To formulate these estimates, the Department of Revenue reviewed data on the HPIP tax credit including the amount of new credits claimed each year and the amount tax credits that get carried forward each year. The amount of HPIP tax credits claimed vary each year depending on the amount of capital investment in that year and the amount of tax credits that were carried forward from the previous that tax year. For example, the Department of Revenue allowed 333 taxpayers to claim \$41,160,829 in HPIP tax credits in tax year 2017 and 306 taxpayers were able to claim \$74,146,410 in HPIP tax credits in tax year 2018. On average, taxpayers would be able claim an additional \$16,507,155 in HPIP tax credits if taxpayers would be able to transfer up to 50.0 percent of these tax credits in the first year instead of waiting to claim the HPIP tax credit in future tax years.

The Department of Revenue indicates that the bill would require \$222,611 from the State General Fund in FY 2022 to implement the bill and to modify the automated tax system. The bill would require 2.00 new FTE positions to manage the transferability of this tax credit and to answer questions from taxpayers. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue. In addition, if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, additional expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Department of Commerce indicates that it is currently responsible for certifying companies that participate in the HPIP tax credit program. The Department may be required to answer questions from companies on the transferability of the HPIP tax credit; however, those costs could be absorbed within existing staff levels and resources. Any fiscal effect associated with SB 91 is not reflected in *The FY 2022 Governor's Budget Report*.

Sincerely,



Adam Proffitt
Director of the Budget

cc: Lynn Robinson, Department of Revenue
Sherry Rentfro, Department of Commerce