SESSION OF 2021

SUPPLEMENTAL NOTE ON SENATE BILL NO. 91

As Recommended by Senate Committee on Commerce

Brief*

SB 91 would allow a company to transfer up to 50 percent of the tax credits received from the High Performance Incentive Program (HPIP) to another company or individual per year. Transferability would be allowed only for projects placed into service on or after January 1, 2021. In the event a transferee's tax liability is less than the amount transferred, the transferee would be allowed to carry forward the credits for up to 16 years.

The bill would state that in the event the Secretary of Revenue determines a tax credit is not allowable, the taxpayer that originally earned the credit would be liable for the amount that is disallowed.

The bill would also make technical amendments.

Background

The bill was introduced by the Senate Committee on Commerce at the request of a representative of the Department of Commerce.

Senate Committee on Commerce

In the Senate Committee hearing, **proponent** testimony was provided by representatives of the Department of

*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

Commerce, Kansas Chamber of Commerce, League of Kansas Municipalities, and Overland Park Chamber of Commerce. The proponents generally stated HPIP is an effective program and transferability of tax credits is necessary to compete with other states with similar transferability provisions.

The Wichita Regional Chamber of Commerce provided written-only **proponent** testimony.

Opponent written-only testimony was provided by a representative of the Kansas Policy Institute. The representative stated HPIP benefited a small subset of companies and hindered the ability to enact a broad-based tax reduction.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, the bill has the potential to decrease state revenues to the State General Fund (SGF) by $16.5 million for FY 2022. The Department of Revenue indicates enactment of the bill would require $222,611 from the SGF in FY 2022 to implement the bill and to modify the automated tax system and 2.0 new full-time equivalent positions to manage the transferability of the tax credit and answer questions from taxpayers. The Department of Commerce indicates the agency is currently responsible for certifying companies that participate in HPIP. The agency may be required to answer questions from companies on the transferability of HPIP; however, those costs could be absorbed within existing staff levels and resources.

Any fiscal effect associated with the bill is not reflected in *The FY 2022 Governor's Budget Report*.

Economic development; tax credit; transferability