SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2591

As Amended by House Committee on Taxation

Brief*

HB 2591, as amended, would expand the High Performance Incentive Program (HPIP) tax credit program in two ways, effective for tax year 2012.

Under certain circumstances, credits claimed by a member of a unitary group of corporations that have been carried forward from previous tax years could be claimed against the liability of another member of the group. In order to be eligible, a corporation must have filed a certificate of intent to place into service a qualified business facility investment of at least $10 million; and create at least 50 new jobs that satisfy a specific set of average wage requirements. In each of the first seven years a qualifying corporation is eligible to share the credits with members of its unitary family, the maximum amount of carry-forward credits that could be utilized is 15 percent--unless the extant credits were scheduled to sunset in less than seven years, in which case a formula would allow them to be claimed in equal percentages in excess of 15 percent. New HPIP credits earned by a qualifying corporation beginning in tax year 2012 could be applied immediately against the liability of other members of the unitary family. "Clawback" language would stipulate that failure to comply with the investment and job creation requirements within 36 months of the agreement with the Secretary of Commerce (or up to 54 months if a separate agreement had been signed) would mandate that a corporation remit to the state an amount equal to credits that had been applied against the liability of other members of its unitary group.

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*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

A second provision would repeal a provision enacted in 2011 that increased the HPIP minimum investment threshold in five urban counties (Douglas, Johnson, Sedgwick, Shawnee, and Wyandotte) from $50,000 to $1 million.

Background

The original bill dealt only with sharing of HPIP credits being carried forward. The House Taxation Committee amended the bill to provide specific time limitations relative to the clawback provision; and to repeal the increased minimum investment threshold for the five urban counties which had already gone into effect for tax year 2012.

The Department of Revenue indicated verbally that the amended version of the bill would be expected to reduce corporation income tax receipts as follows:

($ in millions)

FY 2013	$	(2.00)
FY 2014		(2.10)
FY 2015		(2.21)
FY 2016		(2.32)
FY 2017		(2.43)
5-yr total	$	(11.05)