SESSION OF 2010

SUPPLEMENTAL NOTE ON SENATE BILL NO. 430

As Amended by House Committee on Taxation

Brief*

SB 430, as amended, would make several changes to legislation approved in 2009 designed to provide a 10 percent "haircut" for various income tax credits.

The bill would make a number of technical corrections involving the distinction between "refundable" and "nonrefundable" credits relative to the 10 percent reduction for tax years 2009 and 2010; and further clarify the tax treatment of two different credits (for contributions for deferred maintenance at certain educational institutions and for capital investments relative to certain declared disasters), which may at different times be both refundable and non-refundable.

The bill also would repeal a specific $3.75 million cap for FY 2011 that had been imposed on historic preservation income tax credits.

Additionally, for tax year 2010, the bill would replace the 10 percent haircut for regional foundation tax credits enacted last year with a specific 10 percent reduction (from $2.0 million to $1.8 million per year) in a statutory cap for FY 2011 that had existed prior to 2009. The 10 percent haircut that had been applicable for Kansas Center for Entrepreneurship contribution credits similarly would be replaced with a specific 10 percent reduction (from $2.0 million to $1.8 million) for FY 2011.

Finally, additional language would clarify that the portion of angel investor tax credits that had been subject to the haircut

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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 provisions in tax years 2009 and 2010 could be carried forward to future tax years.

Background

A refundable tax credit provides a refund to taxpayers of any amount of credit in excess of their liability. A nonrefundable credit does not allow taxpayers to claim a refund to the extent of any excess credit beyond their liability.

The Department of Revenue said that the 10 percent haircut legislation approved in 2009 was intended to list all nonrefundable credits in subsection (a) of KSA 2009 Supp. 79-32,264; and all refundable credits in subsection (b). The original bill was requested for introduction by the Department and dealt with the technical corrections between refundable and non-refundable credits.

The Senate Assessment and Taxation Committee had amended the bill to replace retroactive to tax year 2009 (FY 2010) the specific dollar cap for historic preservation credits with the more general haircut provisions; and to replace for tax year 2010 for the regional foundation credits the more general haircut provisions with a specific dollar cap for FY 2011.

The House Taxation Committee amended the bill to restore the current law cap for FY 2010 for historic preservation credits and to eliminate that cap altogether for FY 2011. The House Committee also added the provisions relating to the Center for Entrepreneurship and angel investor credits.

Relative to the bill's original provisions, representatives of the Department indicated that they were administering the refundable and non-refundable haircut provisions under current law based on their understanding of legislative intent behind the 2009 legislation. The fiscal note indicated that if the original SB 430 were not to be enacted to reflect that intent, FY 2010 receipts would decrease by $0.535 million and FY 2011 receipts would decrease by a similar amount.

The fiscal impact of the Senate Assessment and Taxation Committee amendments was not immediately known as of February 11. A revised fiscal note from the Department of Revenue received on February 16 indicated that the Senate Assessment and Taxation Committee amendment relative to the historic preservation credits would be expected to reduce FY 2011 receipts by $5.7 million.

The latest fiscal note information from the Department of Revenue relative to the House Taxation Committee version indicates that the bill would be expected to reduce FY 2011 receipts by $6.85 million. Of this amount, $6.75 million is attributable to the historic preservation credit provision; and $0.1 million is attributable to the Center for Entrepreneurship provision.