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Steven J. Anderson, CPA, MBA, Director

Sam Brownback, Governor

March 21, 2012

The Honorable Les Donovan, Chairperson
Senate Committee on Assessment and Taxation
Statehouse, Room 123-E
Topeka, Kansas 66612

Dear Senator Donovan:

SUBJECT: Fiscal Note for SB 467 by Senate Committee on Ways and Means

In accordance with KSA 75-3715a, the following fiscal note concerning SB 467 is respectfully submitted to your committee.

SB 467 would amend the High Performance Incentive Program (HPIP) Tax Credit to allow members of a unitary group to share unused HPIP tax credits under certain conditions. To be able to share the unused carry forward HPIP tax credit, the corporation must meet the following conditions:

1. Be a member of a unitary group filing a combined report;

2. Have filed a certificate of intent on or after October 1, 2011 and prior to June 30, 2013 to place in service a qualified business facility investment of at least $10.0 million and create a minimum of 50 new jobs that satisfy certain wage requirements at a qualified business facility after October 1, 2011; and

3. Have entered into an agreement with the Secretary of Commerce that includes a "clawback" provision that would allow the state to recover the amount of the tax credits if the business fails to comply with the capital investment and employment requirements within 36 months of the agreement. The agreement could be extended to a total of 54 with the approval of the Secretary of Commerce.

The bill would allow a corporation to use up to 15.0 percent of its carry forward HPIP tax credits earned prior to January 1, 2012 to apply against the tax liability of any member or members of the unitary group in a tax year and in the following six tax years. The bill would allow HPIP tax credits earned by the qualifying corporation after January 1, 2012 to be applied against the tax liability of any member or members of the unitary group in the tax year that the credits were earned. The bill would reduce the HPIP investment threshold for Douglas, Johnson, Sedgwick, Shawnee, and Wyandotte Counties from $1.0 million to $50,000. The bill also includes technical amendments to the HPIP tax credit and job expansion and investment tax credit.

Estimated State Fiscal Effect				
	FY 2012 SGF	FY 2012 All Funds	FY 2013 SGF	FY 2013 All Funds
Revenue	--	--	($2,000,000)	($2,000,000)
Expenditure	--	--	$118,800	$118,800
FTE Pos.	--	--	--	--

The Department of Revenue estimates that SB 467 would decrease State General Fund revenues by $2.0 million in FY 2013. The decrease in revenues and how the November 4, 2011 consensus revenue estimate for FY 2013 would be affected are shown in the following table:

Effect on FY 2013 Consensus Revenue Estimates
(Dollars in Thousands)

Receipt Description	Consensus Revenue Estimates (Nov. 4, 2011)	Change in Revenue FY 2013	Proposed Adjusted CRE FY 2013
Motor Carrier	$ 21,000	$ --	$ 21,000
Income Taxes:			
Individual	3,065,000	--	3,065,000
Corporate	240,000	(2,000)	238,000
Financial Institutions	24,000	--	24,000
Excise Taxes:			
Retail Sales	2,200,000	--	2,200,000
Compensating Use	335,000	--	335,000
Cigarette	92,000	--	92,000
Corporate Franchise	6,000	--	6,000
Severance	102,800	--	102,800
All Other Excise Taxes	96,000	--	96,000
Other Taxes	141,000	--	141,000
Total Taxes	$6,322,800	($ 2,000)	$6,320,800
Other Revenues:			
Interest	$ 7,400	$ --	$ 7,400
Transfers	(90,300)	--	(90,300)
Agency Earnings	51,500	--	51,500
Total Other Revenues	($ 31,400)	$ --	($ 31,400)
Total Receipts	$6,291,400	($ 2,000)	$6,289,400

The fiscal effect to state revenues during subsequent years would be as follows:

	FY 2014	FY 2015	FY 2016	FY 2017
State General Fund	($2,000,000)	($2,000,000)	($2,000,000)	($2,000,000)

To formulate these estimates, the Department of Revenue reviewed data on the HPIP tax credit program and information provided by the unitary group intended to be the beneficiary of this proposal. The Department estimates that allowing a unitary group to share carry forward HPIP tax credits would increase the amount of HPIP tax credits claimed by $1.0 million for tax year 2012 and beyond, which would reduce State General Fund revenues by $1.0 million for FY 2013 and beyond. Reducing the HPIP investment threshold for Douglas, Johnson, Sedgwick, Shawnee, and Wyandotte Counties from $1.0 million to $50,000 is estimated to decrease State General Fund revenues by $1.0 million for tax year 2012 and beyond, which would reduce State General Fund revenues by $1.0 million for FY 2013 and beyond. Therefore, the net fiscal effect of this bill would reduce State General Fund revenues by $2.0 million in FY 2013 and each future fiscal year.

The Department of Revenue indicates that the bill would require $118,800 in administrative costs to update forms and instructions and to create a new process to separately track this variation to the HPIP tax credit. The required programming for this bill by itself (2,720 hours in in-house programming and 1,240 hours of implementation) would be performed by existing staff of the Department of Revenue. However, 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, expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Department of Commerce indicates that it currently operates the HPIP program and that the proposed administrative responsibilities of SB 467 could be implemented within the agency's existing resources and staff levels. Any fiscal effect associated with SB 467 is not reflected in *The FY 2013 Governor's Budget Report*.

Sincerely,

Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Steve Neske, Revenue
Jason Glasrud, Commerce