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Steven J. Anderson, CPA, MBA, Director

Sam Brownback, Governor

March 12, 2013

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 212 by Senate Committee on Assessment and Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning SB 212 is respectfully submitted to your committee.

SB 212 would allow a non-refundable income tax credit for qualifying expenditures for produced water recycling, storage, and transportation equipment. The tax credit would be 25.0 percent of the first $250.0 million in qualified expenditures for produced water recycling, storage, and transportation equipment. The tax credit would be reduced to 15.0 percent for qualified expenditures above $250.0 million. The amount of tax credits awarded would be claimed over a four-year period in four equal installments. If the tax credits exceed the taxpayer's income tax liability, then the tax credits could be carried forward for up to 14 years. The bill would allow that if the qualified investment is made by or transferred to a pass-through entity and the tax credits allowed for a taxable year is greater than the entity's tax liability, then the shareholders, partners, or members of the entity would be allowed to claim the excess tax credits. The tax credit would be available beginning in tax year 2013.

The Department of Commerce would be required to manage this tax credit program and would be authorized to write rules and regulations. The taxpayer would be required to enter into an agreement with the Secretary of Commerce in order to receive the tax credits. The bill would also provide a special amortization deduction schedule from Kansas adjusted gross income for qualifying expenditures for produced water recycling, storage and transportation equipment. The taxpayer making the qualified investment would be allowed to deduct 55.0 percent of the amortizable cost for the first taxable year and 5.0 percent for the next nine taxable years. The qualified expenditures could not be used to also qualify for any other Kansas income tax credit programs.

Estimated State Fiscal Effect				
	FY 2013 SGF	FY 2013 All Funds	FY 2014 SGF	FY 2014 All Funds
Revenue	--	--	($3,000,000)	($3,000,000)
Expenditure	--	--	$243,093	$243,093
FTE Pos.	--	--	--	--

The Department of Revenue estimates that SB 212 would decrease State General Fund revenues by approximately $3.0 million in FY 2014. The decrease in revenues and how the November 6, 2012 consensus revenue estimate for FY 2014 would be affected are shown in the following table:

Effect on FY 2014 Consensus Revenue Estimates
(Dollars in Thousands)

Receipt Description	Consensus Revenue Estimates (Nov. 6, 2012)	Change in Revenue FY 2014	Proposed Adjusted CRE FY 2014
Motor Carrier	$ 39,000	$ --	$ 39,000
Income Taxes:			
Individual	2,385,000	--	2,385,000
Corporate	360,000	(3,000)	357,000
Financial Institutions	30,000	--	30,000
Excise Taxes:			
Retail Sales	1,952,000	--	1,952,000
Compensating Use	303,000	--	303,000
Cigarette	92,000	--	92,000
Corporate Franchise	6,000	--	6,000
Severance	137,400	--	137,400
All Other Excise Taxes	99,600	--	99,600
Other Taxes	151,500	--	151,500
Total Taxes	$5,555,500	($ 3,000)	$5,552,500
Other Revenues:			
Interest	$ 9,700	$ --	$ 9,700
Transfers	(155,900)	--	(155,900)
Agency Earnings	55,000	--	55,000
Total Other Revenues	($ 91,200)	$ --	($ 91,200)
Total Receipts	$5,464,300	($ 3,000)	$5,461,300

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

	FY 2015	FY 2016	FY 2017	FY 2018
State General Fund	($3,000,000)	($3,000,000)	($3,000,000)	($3,000,000)

To formulate these estimates, the Department of Revenue reviewed data on produced water recycling, storage, and transportation equipment. The Department assumes that only one business will make an investment of $250.0 million in qualifying equipment in tax year 2013 and that the equipment will be placed in service in the same tax year. The amount of tax credit is equal to 25.0 percent of the $250.0 million investment, or about $62.5 million. This amount would be awarded in four equal annual installments starting tax year in 2013, with each installment valued at $15,625,000. The Department assumes that the business will not have sufficient tax liability to fully use this amount of tax credits and that any unused tax credits would be carried forward for the next 14 years. The Department estimates that the company would have an annual tax liability of approximately $3.0 million, which would reduce State General Fund revenues by $3.0 million in FY 2014 and in each of the following 14 fiscal years.

The bill also provides for accelerated depreciation for the qualified investment. Because it is anticipated that the tax credits awarded would more than offset any tax liability, the accelerated depreciation provisions are not estimated to have any fiscal effect on state revenues.

The Department indicates that the bill would require $243,093 from the State General Fund in FY 2014 to implement the bill and to modify the automated tax system. The required programming for this bill by itself 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 indicates that the bill would require $59,890 from the State General Fund in FY 2015 and each future fiscal year for reoccurring administrative costs.

The Department of Commerce was also contacted for information related to this bill, but no response has yet been received. The Division of the Budget notes that the Department of Commerce currently reviews and evaluates applications for other tax credits. If the Department determines that the costs associated with implementing this bill cannot be absorbed within existing resources, a revised fiscal note will be prepared. Any fiscal effect associated with SB 212 is not reflected in *The FY 2014 Governor's Budget Report*.

Sincerely,

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

cc: Steve Neske, Revenue
Dan Lara, Commerce
Tom Day, KCC
Aaron Dunkel, KDHE