South Carolina Board of Economic Advisors
Statement of Estimated State Revenue Reduce

Date: October 27, 2009 (As amended October 27, 2009 by the Senate Finance Committee)

Bill Number: H.B. 3130

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Committee Requesting Reduce: Senate Finance Committee

Bill Summary
A bill to amend the Code of Laws of South Carolina, 1976, to provide for major economic development in this state by amending Section 12-6-2320 of the 1976 code, relating to the allocation and apportionment of a taxpayer's income, to provide that the Department of Revenue may enter into an agreement with a taxpayer if the taxpayer is planning a new facility in this state and invests at least seven hundred fifty million dollars in real or personal property or both in a single county in this state and creates at least three thousand eight hundred full-time new jobs; to amend Section 12-36-2120, relating to sales tax exemptions, to exempt fuel sold to certain manufacturers for certain purposes, to exempt computer equipment used in conjunction with a manufacturing facility where the taxpayer invests at least seven hundred fifty million dollars and creates at least three thousand eight hundred full-time new jobs in this state over a seven-year period, and to exempt construction materials where the taxpayer invests at least seven hundred fifty million dollars and creates at least three thousand eight hundred full-time new jobs in this state over a seven-year period; to amend Chapter 41, Title 11 of the 1976 code, relating to the State General Obligation Economic Development Bond Act, to revise the findings of the Act, to authorize the issuance of additional economic development bonds, and to prescribe the limitations applicable to the issuance of these economic development bonds.

REVENUE REDUCE [1/]
This bill, as amended, is not expected to reduce state General Fund sales and use tax or state General Fund income tax revenue in FY2009-10.

Explanation of Amendment (October 27, 2009) – By the Senate Finance Committee
The Senate Finance Committee amended the bill by striking all after the enacting words and inserting the following language:

Section 1. This section would amend Section 12-6-2320(B) to allow a taxpayer that creates at least 3,800 new full-time jobs and invests at least $750,000,000 in real or personal property, or both, in a single county to enter into an agreement with the Department of Revenue (DOR) to establish the allocation and apportionment of a taxpayer's income for a period not to exceed ten years. The taxpayer would have seven years from the date it notifies the DOR of its intention to use this provision to make the required investment and create the required number of jobs. If the taxpayer fails to meet the job and investment requirements, the DOR may assess any tax due for failure to meet the requirements to maintain 3,800 new full-time jobs and $750,000,000 in capital investment. If at any time the taxpayer fails to maintain the required number of jobs and level of capital investment in subsequent years, the DOR may assess any tax due for that specific year. This section is effective on November 1, 2009, and only applies to a taxpayer entering into an agreement prior to October 31, 2015. Since we are not currently collecting any tax revenue from a manufacturer that meets these criteria, this section is not expected to reduce state General Fund revenue in FY2009-10.

Section 2(e). This section would amend Section 12-36-2120(9) to extend a sales and use tax exemption on the fuel sold to a manufacturer for the generation of motive power for test flights of aircraft by the manufacturer of the aircraft. The sales and use tax exemption is only provided to a manufacturer that invests at least $750,000,000 in real or personal property, or both, at a single manufacturing facility during a seven year period, and creates at least 3,800 new full-time jobs at a single manufacturing facility during a seven year period.

Section 2(f). A sales and use tax exemption is also extended to the fuel sold to the manufacturer of the aircraft used in the transportation of the aircraft prior to its completion from one facility of the manufacturer of the aircraft to another facility of the manufacturer of the aircraft. The sales tax exemption does not apply to the transportation of major component parts for construction or assembly of the aircraft, or to the transportation of personnel. The sales and use tax exemption is only provided to a manufacturer that invests at least $750,000,000 in real or personal property, or both, at a single manufacturing facility during a seven year period, and creates at least 3,800 new full-time jobs at a single manufacturing facility during a seven year period.

The taxpayer would notify the DOR the first month it uses the sales tax exemption and has seven years from the date it notifies the DOR of its intention to use this provision to make the required investment and create the required number of jobs. If the taxpayer fails to meet the job and investment requirements, the DOR may assess any tax due on fuel purchased tax free for failure to meet the requirements to maintain 3,800 new full-time jobs and $750,000,000 in capital investment. If at any time the taxpayer fails to maintain the required number of jobs and level of capital investment in subsequent years, the DOR may assess any tax due for that specific year. This section is effective on November 1, 2009, and only applies to a taxpayer that notifies the DOR of its intention to utilize this sales tax exemption prior to October 31, 2015. Since we are not currently collecting any tax revenue from a manufacturer that meets these criteria, this section is not expected to reduce state General Fund revenue in FY2009-10.

Section 3. This section would amend Section 12-36-2120(65) to extend a sales and use tax exemption for computer equipment used in connection with a technology intensive facility as defined in Section 12-6-3360(M)(14)(b). The sales and use tax exemption is only provided for computer equipment used in connection with a manufacturing facility where a taxpayer invests at least $750,000,000 in real or personal property, or both, at a single manufacturing facility during a seven year period, and creates at least 3,800 new full-time jobs at a single manufacturing facility during a seven year period. This sales tax exemption begins from the start of the investment in or construction of the technology intensive facility or manufacturing facility. Within six months after the fifth anniversary of the taxpayer's first use of this exemption, the taxpayer must notify in writing that it has or has not met the investment and job requirements. Upon DOR certification that all job and investment requirements have been met, all subsequent purchases of or investments in computer equipment, including replacement of original equipment, shall qualify for the sales tax exemption. If at any time the taxpayer fails to maintain the required number of jobs and level of capital investment in subsequent years, the DOR may assess any tax due for that specific year. This section is effective on November 1, 2009, and only applies to a taxpayer that notifies the DOR of its intention to utilize this sales tax exemption prior to October 31, 2015. Since we are not currently collecting any tax revenue from a manufacturer that meets these criteria, this section is not expected to reduce state General Fund revenue in FY2009-10.

Section 4. This section amends Section 12-36-2120(67) to fully exempt construction materials used in the construction of a new or expanded single manufacturing facility beginning November 1, 2009. The sales and use tax exemption is only provided to a manufacturer that invests at least

$750,000,000 in real or personal property, or both, at a single manufacturing facility during a seven year period, and creates at least 3,800 new full-time jobs at a single manufacturing facility during a seven year period. If the taxpayer fails to meet the investment required, the DOR may assess any tax due on construction materials that were purchased tax free. This section is effective on November 1, 2009, and only applies to a taxpayer that notifies the DOR of its intention to utilize this sales tax exemption prior to October 31, 2015. Since we are not currently collecting any tax revenue from a manufacturer that meets these criteria, this section is not expected to reduce state General Fund revenue in FY2009-10.

Section 5. This section amends Section 11-41-20 to allow the General Assembly to authorize an additional amount of general obligation debt pursuant to Article X, Section 13(5) of the South Carolina Constitution, provided that no more than a total of $170,000,000 of proceeds may be used for any one project regardless of available capacity. Since this section borrows funds, it is not expected to reduce state General Fund revenue in FY2009-10.

Section 6. The sections presented in this Act constitute one subject as required by Article III, Section 17 of the South Carolina Constitution, and that a common purpose or relationship exists among the sections.

Section 7. This section contains severability language that if any portion of this act is found to be unconstitutional or invalid, the constitutionality or validity of the remaining portions of this act are held to be valid and effective.

Section 8. This act takes effect upon the approval by the Governor.

/s/ WILLIAM C. GILLESPIE, PH.D.
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Chief Economist

Analyst: Martin

[1/] This statement meets the requirement of Section 2-7-71 for a state revenue reduce by the BEA, or Section 2-7-76 for a local revenue reduce or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.