

South Carolina Board of Economic Advisors

Statement of Estimated State Revenue Impact

Date: April 13, 2010 (As amended April 12, 2010 by the Senate Sales & Income Tax Subcommittee)

Bill Number: H.B. 4478

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Committee Requesting Impact: Senate Finance Committee

Bill Summary

A BILL TO ENACT THE "SOUTH CAROLINA ECONOMIC DEVELOPMENT COMPETITIVENESS ACT OF 2010" INCLUDING PROVISIONS TO AMEND SECTION 2-75-30, AS AMENDED, RELATING TO RESEARCH CENTERS OF EXCELLENCE MATCHING ENDOWMENTS, SO AS TO FURTHER PROVIDE FOR THE PROCESS AND PROCEDURES FOR AWARDING ENDOWMENTS AND FOR THE APPLICABILITY OF MATCHING REQUIREMENTS; TO AMEND SECTION 2-75-50, AS AMENDED, RELATING TO APPLICATION REQUIREMENTS FOR AN AWARD FROM THE CENTERS OF EXCELLENCE MATCHING ENDOWMENT, SO AS TO CLARIFY WHAT THE CONTENTS OF AN APPLICATION TO THE REVIEW BOARD MUST CONTAIN; TO AMEND SECTION 4-12-30, AS AMENDED, RELATING TO FEES IN LIEU OF TAXES, SO AS TO INCREASE THE NUMBER OF YEARS A FEE IS AVAILABLE AND TO DELETE A PROVISION THAT REQUIRES THE FAIR MARKET VALUE OF THE PROPERTY ESTABLISHED FOR THE FIRST YEAR OF THE FEE TO REMAIN THE FAIR MARKET VALUE OF THE REAL PROPERTY FOR THE LIFE OF THE FEE; TO AMEND SECTION 4-29-67, AS AMENDED, RELATING TO INDUSTRIAL DEVELOPMENT PROJECTS REQUIRING A FEE IN LIEU OF PROPERTY TAXES AGREEMENT, SO AS TO ADD CERTAIN DEFINITIONS, TO FURTHER PROVIDE FOR THE MINIMUM LEVEL OF INVESTMENT FOR A QUALIFIED NUCLEAR PLANT FACILITY, TO PROVIDE FOR THE TIMELINE WHEN THE SPONSOR MUST ENTER INTO AN INITIAL LEASE AGREEMENT WITH THE COUNTY IN REGARD TO A QUALIFIED NUCLEAR PLANT FACILITY, AND THE TIMELINES WHEN THE SPONSOR MUST MEET MINIMUM INVESTMENT REQUIREMENTS IN THE CASE OF A QUALIFIED NUCLEAR PLANT FACILITY AND PLACE THE PROJECT INTO SERVICE, AND TO DELETE A PROVISION REQUIRING THE FAIR MARKET VALUE OF THE PROPERTY ESTABLISHED FOR THE FIRST YEAR OF THE FEE TO REMAIN THE FAIR MARKET VALUE OF THE PROPERTY FOR THE LIFE OF THE FEE; TO AMEND SECTION 4-29-68, AS AMENDED, RELATING TO SPECIAL SOURCE REVENUE BONDS WHICH MAY BE ISSUED BASED ON THE RECEIPT OF CERTAIN REVENUES, SO AS TO SPECIFY THAT ONE OF THE PURPOSES FOR THE ISSUANCE OF THESE BONDS IS TO PAY FOR THE COST OF PERSONAL PROPERTY INCLUDING MACHINERY AND EQUIPMENT; BY ADDING CHAPTER 18 TO TITLE 11 SO AS TO ESTABLISH MECHANISMS AND PROCEDURES FOR THE ALLOCATION, REALLOCATION, AND ISSUANCE OF FEDERAL RECOVERY ZONE BONDS; TO AMEND SECTION 4-29-10, AS AMENDED, RELATING TO DEFINITIONS IN REGARD TO INDUSTRIAL DEVELOPMENT PROJECTS, SO AS TO REVISE THE DEFINITION OF "PROJECT" TO INCLUDE RECOVERY ZONE PROPERTY AS DEFINED BY FEDERAL LAW; TO AMEND SECTION 12-6-530, RELATING TO THE CORPORATE INCOME TAX, SO AS TO REDUCE THE RATE OF THE CORPORATE INCOME TAX FROM FIVE PERCENT ANNUALLY TO ZERO BEGINNING IN 2011 OVER A TEN-YEAR PERIOD IN INTERVALS OF ONE-HALF PERCENT PER YEAR; TO AMEND SECTION 12-6-3360, AS AMENDED, RELATING TO JOB TAX CREDITS, SO AS TO REVISE THE DESIGNATION TERMINOLOGY FOR COUNTIES COMING WITHIN SPECIFIC CLASSIFICATIONS, TO FURTHER PROVIDE FOR THE CRITERIA FOR DETERMINING HOW COUNTIES FALL WITHIN CERTAIN TIERS, AND TO REVISE SPECIFIC TERMS OR DEFINITIONS USED FOR PURPOSES OF THIS SECTION; TO AMEND SECTION 12-6-3375, AS AMENDED, RELATING TO TAX CREDITS FOR PORT CARGO VOLUME INCREASES, SO AS TO REVISE THE MANNER IN WHICH TAX CREDIT ALLOCATIONS ARE DETERMINED AND THE AMOUNT OF THE CREDITS WHICH MAY BE ALLOCATED TO A QUALIFYING TAXPAYER; TO AMEND SECTION 12-10-30, AS AMENDED, RELATING TO DEFINITIONS UNDER THE ENTERPRISE ZONE ACT OF 1995, SO AS TO REVISE THE DEFINITIONS OF "EMPLOYEE" AND "PROJECT"; TO AMEND SECTION 12-10-50, AS AMENDED, RELATING TO QUALIFICATIONS FOR BENEFITS UNDER THE ENTERPRISE ZONE ACT OF 1995, SO AS TO REVISE THESE QUALIFICATIONS AND TO FURTHER PROVIDE FOR WHAT A BUSINESS MUST DO TO MEET THESE QUALIFICATIONS; TO AMEND SECTION 12-10-60, AS AMENDED, RELATING TO REVITALIZATION AGREEMENTS UNDER THE ENTERPRISE ZONE ACT OF 1995, SO AS TO FURTHER PROVIDE FOR THE TERMS, CONDITIONS, AND APPLICATION OF THESE REVITALIZATION AGREEMENTS, PROVIDE FOR WHEN SUCH AN AGREEMENT MUST BE EXECUTED, AND PERMIT THE ASSIGNMENT OF ENTERPRISE PROGRAM BENEFITS UNDER CERTAIN CONDITIONS; TO AMEND SECTION 12-10-80, AS AMENDED, RELATING TO JOB DEVELOPMENT CREDITS UNDER THE ENTERPRISE ZONE ACT OF 1995, SO AS TO EXPAND ELIGIBLE EXPENDITURES WHICH QUALIFY FOR THE CREDIT, TO CAP THE AMOUNT OF THE CREDITS PER JOB PER YEAR, TO REVISE CERTAIN TERMINOLOGY TO CONFORM TO EARLIER CHANGES HEREIN, TO FURTHER PROVIDE FOR THE CIRCUMSTANCES WHEN THESE CREDITS MAY BE CLAIMED AND THE MANNER OF THE DETERMINATION OF CERTAIN FACTORS NECESSARY TO QUALIFY FOR THE CREDITS, AND TO PROVIDE FOR THE SUSPENSION OF THE CREDITS UNDER CERTAIN CONDITIONS AND FOR WHEN THE CREDITS MAY BE CLAIMED;

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TO AMEND SECTION 12-10-85, AS AMENDED, RELATING TO THE PURPOSE AND USE OF STATE RURAL INFRASTRUCTURE FUNDS, SO AS TO REVISE THE PURPOSES FOR WHICH THESE FUNDS MAY BE USED AND THEIR AVAILABILITY; TO AMEND SECTION 12-14-20, RELATING TO THE PURPOSES OF THE ECONOMIC IMPACT ZONE COMMUNITY DEVELOPMENT ACT OF 1995, SO AS TO REVISE THESE PURPOSES; TO AMEND SECTION 12-14-60, AS AMENDED, RELATING TO INVESTMENT TAX CREDITS UNDER THE ECONOMIC IMPACT ZONE COMMUNITY DEVELOPMENT ACT OF 1995, SO AS TO REVISE THE AMOUNT OF THE CREDITS, THE QUALIFYING CRITERIA FOR THE CREDITS, AND FOR THE APPLICABILITY OF CERTAIN PROVISIONS TO THESE CREDITS; TO AMEND SECTION 12-15-10, RELATING TO THE CITATION OF THE SOUTH CAROLINA LIFE SCIENCES ACT, SO AS TO CHANGE THE CITATION; TO AMEND SECTION 12-15-20, RELATING TO DEFINITIONS UNDER THE RENAMED LIFE SCIENCES AND RENEWABLE ENERGY MANUFACTURING ACT, SO AS TO DEFINE THE TERM "RENEWABLE ENERGY MANUFACTURING FACILITY"; TO AMEND SECTION 12-15-30, RELATING TO QUALIFICATIONS OF CERTAIN EXPENSES UNDER THE ENTERPRISE ZONE ACT, PROCEDURES FOR WAIVERS, AND THE DURATION OF THESE PROVISIONS, SO AS TO EXPAND THE TYPES OF FACILITIES THAT QUALIFY AND THE DURATION OF THESE PROVISIONS; TO AMEND SECTION 12-15-40, RELATING TO INCOME TAX ALLOCATION AND APPORTIONMENT AGREEMENTS BETWEEN THE DEPARTMENT OF REVENUE AND TAXPAYERS ESTABLISHING A LIFE SCIENCES FACILITY, SO AS TO EXPAND THE TYPES OF FACILITIES TO WHICH THIS PROVISION APPLIES; TO AMEND SECTION 12-20-105, AS AMENDED, RELATING TO CREDITS AGAINST ITS CORPORATE LICENSE TAX LIABILITY FOR A COMPANY WHO PAYS CASH FOR INFRASTRUCTURE FOR AN ELIGIBLE PROJECT, SO AS TO FURTHER PROVIDE FOR THE ELIGIBILITY FOR THE CREDIT UNDER CERTAIN CIRCUMSTANCES OR THE CONTINUATION OF THE CREDIT; TO AMEND SECTION 12-28-2910, AS AMENDED, RELATING TO THE SOUTH CAROLINA COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT, SO AS TO AUTHORIZE THE COUNCIL TO EXPEND CERTAIN FUNDS FOR SPECIFIED PURPOSES UNDER SPECIFIED CONDITIONS; TO AMEND SECTION 12-37-930, RELATING TO VALUATION OF PROPERTY FOR PROPERTY TAX PURPOSES AND DEPRECIATION ALLOWANCES FOR MANUFACTURERS, MACHINERY, AND EQUIPMENT, SO AS TO INCLUDE MACHINERY AND EQUIPMENT OF A RENEWABLE ENERGY MANUFACTURING FACILITY WITHIN THE DEPRECIATION ALLOWANCES ALLOWED FOR MACHINERY AND EQUIPMENT OF A LIFE SCIENCES FACILITY, AND TO DEFINE WHAT IS A QUALIFYING FACILITY; TO AMEND SECTION 12-43-220, AS AMENDED, RELATING TO CLASSIFICATION OF REAL PROPERTY FOR AD VALOREM TAX PURPOSES, SO AS TO PROVIDE THAT REAL PROPERTY OWNED BY OR LEASED TO A MANUFACTURER AND USED PRIMARILY RATHER THAN EXCLUSIVELY FOR WAREHOUSING AND WHOLESALE DISTRIBUTION IS NOT CONSIDERED USED BY THE MANUFACTURER IN THE CONDUCT OF ITS BUSINESS FOR PROPERTY TAX CLASSIFICATION PURPOSES; TO AMEND SECTION 12-44-30, AS AMENDED, RELATING TO DEFINITIONS IN REGARD TO THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO REVISE CERTAIN DEFINITIONS AND ADD CERTAIN DEFINITIONS; TO AMEND SECTION 12-44-40, AS AMENDED, RELATING TO THE REQUIRED FEE AGREEMENT BETWEEN THE SPONSOR AND THE COUNTY UNDER THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO PROVIDE THE TIME WITHIN WHICH A SPONSOR HAS TO ENTER INTO A FEE AGREEMENT IN REGARD TO A QUALIFIED NUCLEAR PLANT FACILITY; TO AMEND SECTION 12-44-50, AS AMENDED, RELATING TO THE REQUIREMENT OF A FEE AGREEMENT UNDER THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO DELETE A PROVISION THAT REQUIRES THE FAIR MARKET VALUE OF THE PROPERTY ESTABLISHED FOR THE FIRST YEAR OF THE FEE TO REMAIN THE FAIR MARKET VALUE OF THE PROPERTY FOR THE LIFE OF THE FEE; TO AMEND SECTION 12-44-130, AS AMENDED, RELATING TO MINIMUM INVESTMENTS TO QUALIFY FOR A FEE AND OTHER REQUIREMENTS, SO AS TO CORRECT A REFERENCE; AND TO REPEAL SECTION 12-6-3450 RELATING TO AN INCOME TAX CREDIT FOR PERSONS TERMINATED FROM EMPLOYMENT AS A RESULT OF THE CLOSING OR REALIGNMENT OF A FEDERAL MILITARY INSTALLATION, SECTION 12-10-88 RELATING TO REDEVELOPMENT FEES IN REGARD TO CLOSED OR REALIGNED MILITARY INSTALLATIONS, SECTIONS 12-14-30, 12-14-40, 12-14-50, AND 12-14-70 RELATING TO ECONOMIC IMPACT ZONES AND ALLOWABLE DEDUCTIONS AGAINST SOUTH CAROLINA TAXABLE INCOME IN REGARD TO THESE ECONOMIC IMPACT ZONES.

REVENUE IMPACT ^{1/}

In total, this amended bill would reduce General Fund revenue by an estimated \$301,000 in FY2010-11. This amended bill would reduce General Fund corporate license tax revenue by an estimated \$240,000 in FY2010-11, would reduce General Fund income tax, bank tax, corporate license tax, and insurance premium license tax revenue by an estimated \$21,000 in FY2010-11, and also would reduce General Fund income tax revenue by an estimated \$40,000 in FY2010-11.

Explanation of Amendment (April 12, 2010) – By the Sales & Income Tax Subcommittee

The following renumbered sections of H.B.4478 would affect state General Fund revenue. This

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amendment would strike all after the enacting words and insert the following:

Section 17. This section would amend Section 12-6-3375 to allow a taxpayer which uses state port facilities and increases its port cargo volume at these facilities a minimum of five percent in a single calendar year over its base year port cargo volume to claim a credit against employee withholding. Currently, pursuant to Section 12-6-3375, a taxpayer engaged in manufacturing, warehousing, or distribution which uses port facilities in this State and which increases its port cargo volume at these facilities by a minimum of five percent in a single calendar year over its base year port cargo volume is eligible to claim a credit against income taxes in an amount determined by the Coordinating Council for Economic Development. The maximum amount of tax credits allowed to all qualifying taxpayers may not exceed \$8,000,000. This section would expand the scope of the credits for existing taxpayers to allow an eligible taxpayer to claim a credit against withholdings of its employees not to exceed \$4,000,000 against the current cap of \$8,000,000 for all taxpayers. Because this section does not change the existing tax credit limit that has been accounted for in the Board of Economic Advisors' General Fund revenue estimate made on February 11, 2010, this section is not expected to affect state General Fund income tax revenue in FY2010-11.

Section 19. This section would amend Section 12-20-105, as last amended by Act 313 of 2008, to include among qualifying projects eligible for a nonrefundable income tax credit "incubator buildings whose ownership is retained by the county, political subdivision, or agency of the state." The tax credit is equal to the amount paid in cash for infrastructure improvements for an eligible project against a taxpayer's corporation license tax liability up to a maximum aggregate credit of \$300,000 in any tax year by a single company. The credits allowed may not reduce the corporate license tax liability of the company below zero. Any excess tax credit earned during a taxable year may be carried forward to the next taxable year. An eligible project may be an office, business, commercial, or industrial park, or a combination of these, used exclusively for economic development. Since economic development incubators for small, start-up companies are presently located in the state, we expect the provisions of this section to be used. Based on our experience with tax credit carry forwards, we expect that twenty percent will not be used because of the tax liability limitation. Multiplying \$300,000 of tax credits by eighty percent that would be applied against tax liability would reduce state General Fund corporate license tax revenue by an estimated \$240,000 in FY2010-11.

Section 23. The following code sections are repealed: Sections 12-6-3450 (individual income tax credit for closed or realigned military institutions), 12-14-30 (eligible military installations that experienced a loss of 3,000 federal military jobs after December 31, 1990), 12-14-40 (determination of economic impact zone by the Budget & Control Board), 12-14-50 (a 20 percent income tax deduction for economic impact zone stock), and 12-14-70 (definition of economic impact zone).

This section was amended to maintain Section 12-10-88 (redevelopment fees – five percent of individual income tax withholdings by military employers) that was repealed in earlier versions of the bill. Section 12-10-88 allows for the retention of job development fees for the Redevelopment Authorities located at the Charleston Naval Complex, the Savannah River Site, and the Myrtle Beach Air Force Base. Based on information provided by the Department of Revenue, the state refunded \$4,324,492 to these Redevelopment Authorities in FY2008-09. Specifically, the Charleston Naval Complex received \$1,920,953, the Savannah River Site received \$2,052,640, and the Myrtle Beach Air Force Base received \$350,899. This section is not expected to affect state General Fund revenue in FY2010-11.

Section 24. This section would add Section 12-6-3586 granting a tax credit equal to thirty-five percent

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of the costs of solar energy equipment used for water heating, space heating or cooling, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat placed into service by a taxpayer. The credit may be claimed against a taxpayer's individual income, corporate income, bank tax, license fees, or insurance premiums taxes, or any combination of them. This bill also provides ceilings on the amount of credit that can be claimed per installation. For solar energy equipment placed into service for residential purposes, the ceilings range from \$1,400 to \$10,500 based upon the purpose of the solar energy equipment. Any unused credits may be carried forward for ten taxable years. The tax credit may not exceed one-half of a taxpayer's tax liability for a taxable year. Currently, Section 12-6-3587 allows an income tax credit equal to twenty-five percent for not only the costs of purchasing certain solar energy system, but also allows the income tax credit to be applied to installation costs. The income tax credit pursuant to Section 12-6-3587 is capped at \$3,500 per facility. According to a database of solar installations in South Carolina compiled by the South Carolina Energy Office, approximately 300 solar heating and photovoltaic systems, or an average of 100 solar energy systems per year, were installed in South Carolina between 2007 and 2009. Based upon an analysis of the solar installations in South Carolina using estimated costs of solar energy equipment, it is estimated that twenty-five percent of taxpayers that install solar energy equipment would benefit more from the thirty-five percent income tax credit allowed under this bill than the existing twenty-five percent income tax credit. According to the Department of Revenue, 100 taxpayers claimed the solar energy tax credit for a total of \$211,992 in credits, or \$2,100 per taxpayer, in 2008. If the same number of taxpayers claims the solar energy credit in 2011, and twenty-five percent of those taxpayers claim the thirty-five percent tax credit under this bill instead of the existing twenty-five percent income tax credit, the amount of credits claimed is expected to increase by \$21,000. We estimate, therefore, that this section will reduce General Fund by an estimated \$21,000 in FY2010-11.

Section 25. This section would add Section 12-6-3588 to enact the "South Carolina Renewable Energy Tax Incentive Program" to encourage business investment and employment opportunities by providing tax incentives to companies in the solar, wind, geothermal, and other renewable energy industries who are expanding or locating in South Carolina. Beginning in 2010, a taxpayer is allowed a nonrefundable tax credit of 10% of the total qualifying investments in plant and equipment for renewable energy operations. The taxpayer must meet the following conditions: manufacture renewable energy systems and components in South Carolina for solar, wind, geothermal, or other renewable energy uses, invest at least \$500,000 in the year the tax credit is claimed, have created one and one-half fulltime jobs for every \$500,000 of capital investment that pays at least 125% of the state average annual median wage. Tax credits may be earned for a five year period beginning January 1, 2010, and ending December 31, 2015. A taxpayer's total credit for all qualifying expenditures must not exceed \$500,000 for any year and \$5,000,000 for all years. Any unused credits may be carried forward for 15 years after the tax year in which a qualified expenditure was made. The qualifying expenditures must be approved by the Department of Commerce, and the tax credit must be approved by the State Energy Office upon application by the taxpayer by January 31st for qualifying expenditures made by December 31st of the previous year. The State Energy Office must notify the taxpayer of the amount of the approved tax credit by March 1st of each year. Also, the Department of Commerce must certify to the State Energy Office that the taxpayer has met the job creation requirements.

Because there are presently renewable energy companies located in the State contributing tax revenue, we estimate that one taxpayer will place into service renewable energy equipment with costs of at least \$500,000, and qualify, therefore, for the ten percent nonrefundable income tax credit under this section. Based on our experience with tax credit carry forwards, we expect that twenty percent will not be used because of the tax liability limitation. Multiplying \$500,000 of qualified investments by a nonrefundable income tax credit of ten percent and by eighty percent that would be applied against tax

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liability would reduce state General Fund income tax revenue by an estimated \$40,000 in FY2010-11.

Section 35. The effective date of bill was amended to take effect on January 1, 2011, except for Section 6, Section 8, Section 9, Section 15, Section 23, Section 24, and Section 25 which take effect upon approval by the Governor.

Explanation of Amendment (March 4, 2010) – By the House of Representatives

The following sections of H.B.4478 would affect state General Fund revenue.

Section 11. This section would amend Section 12-6-530 that beginning with the year 2013, the current corporate income tax rate of five percent is to be reduced by one-half percent per year until the rate reaches zero for the year 2022 and thereafter. The preliminary General Fund corporate income tax revenue estimate as of February 11, 2010 is \$167,893,717 for FY2010-11. This section would reduce General Fund corporation income tax revenue by an estimated \$16,789,372 in FY2013-14, and additional \$16,789,372 each fiscal year thereafter until the corporation income tax is wholly eliminated in FY2022-23.

Section 11A. This section adds language to require that one-half of all income taxes paid by resident and nonresident shareholders of an “S” corporation that make a capital investment in any industry of at least \$500,000,000 at a single site and hire at least 400 new employees must be paid by the State Treasurer to the Coordinating Council for Economic Development (Council). The income taxes are capped at \$5,000,000 each year for a period of five years. The county or municipality where the project is located may apply to the Council for grants from the fund by submitting a grant application. The Council shall determine the amount of monies to be received by each of the eligible counties or municipalities. All monies must be used for public infrastructure improvements which directly support the project. This section would allow the State Treasurer to transfer up to \$5,000,000 from the General Fund to the Coordinating Council for Economic Development. This amendment would reduce General Fund individual income tax revenue an estimated \$5,000,000 in FY2010-11, and each fiscal year thereafter through FY2014-15.

Section 13. This section would amend Section 12-6-3375 to allow a taxpayer which uses state port facilities and increases its port cargo volume at these facilities a minimum of five percent in a single calendar year over its base year port cargo volume to claim a credit against employee withholding. Currently, pursuant to Section 12-6-3375, a taxpayer engaged in manufacturing, warehousing, or distribution which uses port facilities in this State and which increases its port cargo volume at these facilities by a minimum of five percent in a single calendar year over its base year port cargo volume is eligible to claim a credit against income taxes in an amount determined by the Coordinating Council for Economic Development. The maximum amount of tax credits allowed to all qualifying taxpayers may not exceed \$8,000,000. This section would expand the scope of the credits for existing taxpayers to allow an eligible taxpayer to claim a credit against withholdings of its employees not to exceed \$4,000,000 against the current cap of \$8,000,000 for all taxpayers. This section would also amend Section 12-6-3375 to change the state agency that determines the eligibility of a company to claim a tax credit for increasing port cargo traffic at state port facilities from the Coordinating Council for Economic Development to the State Ports Authority Board. Because this section does not change the existing tax credit limit that has been accounted for in the Board of Economic Advisors’ General Fund revenue estimate made on February 11, 2010, this section is not expected to affect state General Fund income tax revenue in FY2010-11.

Section 15A. This section would grant a tax credit equal to thirty-five percent of the costs of solar

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energy equipment used for water heating, space heating or cooling, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat placed into service by a taxpayer. The credit may be claimed against a taxpayer's individual income, corporate income, bank tax, license fees, or insurance premiums taxes, or any combination of them. This bill also provides ceilings on the amount of credit that can be claimed per installation. For solar energy equipment placed into service for residential purposes, the ceilings range from \$1,400 to \$10,500 based upon the purpose of the solar energy equipment. For solar energy systems placed into service for any other purpose than residential, the ceiling amount equals \$2,500,000 and must be taken in five equal annual installments. Any unused credits may be carried forward for taxable years six through fifteen succeeding the year the equipment was placed into service. The tax credit may not exceed one-half of a taxpayer's tax liability for a taxable year. Currently, Section 12-6-3587 allows an income tax credit equal to twenty-five percent for not only the costs of purchasing certain solar energy system, but also allows the income tax credit to be applied to installation costs. The income tax credit pursuant to Section 12-6-3587 is capped at \$3,500 per facility. According to a database of solar installations in South Carolina compiled by the South Carolina Energy Office, approximately 300 solar heating and photovoltaic systems, or an average of 100 solar energy systems per year, were installed in South Carolina between 2007 and 2009. Based upon an analysis of the solar installations in South Carolina using estimated costs of solar energy equipment, it is estimated that twenty-five percent of taxpayers that install solar energy equipment would benefit more from the thirty-five percent income tax credit allowed under this bill than the existing twenty-five percent income tax credit. According to the Department of Revenue, 100 taxpayers claimed the solar energy tax credit for a total of \$211,992 in credits, or \$2,100 per taxpayer, in 2008. If the same number of taxpayers claims the solar energy credit in 2011, and twenty-five percent of those taxpayers claim the thirty-five percent tax credit under this bill instead of the existing twenty-five percent income tax credit, the amount of credits claimed is expected to increase by \$21,000. We also estimate that one taxpayer will place into service solar energy equipment with costs of at least \$7,000,000, and qualify, therefore, for the \$2,500,000 maximum tax credit allowed under this bill. Based on our experience with tax credit carry forwards, we expect that twenty percent will not be used because of the tax liability limitation. Adjusting for the fact that the tax credit is to be taken in five equal annual installments, multiplying \$500,000 of tax credits by eighty percent that would be applied against tax liability, and reducing it by the fifty percent tax liability limitation would reduce state General Fund income tax, bank tax, license fees, and insurance premium tax revenue by an estimated \$200,000 in FY2010-11. In total, we estimate that this section will reduce General Fund by an estimated \$221,000 in FY2010-11.

Section 16. This section would add Section 12-6-3588 to enact the "South Carolina Renewable Energy Tax Incentive Program" to encourage business investment and employment opportunities by providing tax incentives to companies in the solar, wind, geothermal, and other renewable energy industries who are expanding or locating in South Carolina. Beginning in 2010, a taxpayer is allowed a nonrefundable tax credit of 10% of the total qualifying investments in plant and equipment for renewable energy operations. The taxpayer must meet the following conditions: manufacture renewable energy systems and components in South Carolina for solar, wind, geothermal, or other renewable energy uses, invest at least \$500,000 in the year the tax credit is claimed, have created one and one-half fulltime jobs for every \$500,000 of capital investment that pays at least 125% of the state average annual median wage. Tax credits may be earned for a five year period beginning January 1, 2010, and ending December 31, 2015. A taxpayer's total credit for all qualifying expenditures must not exceed \$500,000 for any year and \$5,000,000 for all years. Any unused credits may be carried forward for 15 years after the tax year in which a qualified expenditure was made. The qualifying expenditures must be approved by the Department of Commerce, and the tax credit must be approved by the State Energy Office upon application by the taxpayer by January 31st for qualifying expenditures made by December 31st of the

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previous year. The State Energy Office must notify the taxpayer of the amount of the approved tax credit by March 1st of each year. Also, the Department of Commerce must certify to the State Energy Office that the taxpayer has met the job creation requirements.

Because there are presently renewable energy companies located in the State contributing tax revenue, we estimate that one taxpayer will place into service renewable energy equipment with costs of at least \$500,000, and qualify, therefore, for the ten percent nonrefundable income tax credit under this section. Based on our experience with tax credit carry forwards, we expect that twenty percent will not be used because of the tax liability limitation. Multiplying \$500,000 of qualified investments by a nonrefundable income tax credit of ten percent and by eighty percent that would be applied against tax liability would reduce state General Fund income tax revenue by an estimated \$40,000 in FY2010-11.

Section 28. This section would amend Section 12-20-105, as last amended by Act 313 of 2008, to include among qualifying projects eligible for a nonrefundable income tax credit “incubator buildings whose ownership is retained by the county, political subdivision, or agency of the state.” The tax credit is equal to the amount paid in cash for infrastructure improvements for an eligible project against a taxpayer’s corporation license tax liability up to a maximum aggregate credit of \$300,000 in any tax year by a single company. The credits allowed may not reduce the corporate license tax liability of the company below zero. Any excess tax credit earned during a taxable year may be carried forward to the next taxable year. An eligible project may be an office, business, commercial, or industrial park, or a combination of these, used exclusively for economic development. Since economic development incubators for small, start-up companies are presently located in the state, we expect the provisions of this section to be used. Based on our experience with tax credit carry forwards, we expect that twenty percent will not be used because of the tax liability limitation. Multiplying \$300,000 of tax credits by eighty percent that would be applied against tax liability would reduce state General Fund corporate license tax revenue by an estimated \$240,000 in FY2010-11.

Section 37. This section would amend Section 12-6-3631-(B)(1)(b) and (c), as last amended by Act 261 of 2008, to allow a taxpayer for taxable years beginning after 2007, and before 2012, a credit against income taxes for qualified expenditures for research and development of demethylation of glycerin byproduct from biodiesel production. According to a University of Georgia study on the use of byproducts from the biofuels industry, demethylated glycerin is a byproduct of biodiesel production that may be used as an alternate source of fat in broiler diets – chicken feed. A taxpayer would be allowed a nonrefundable income tax credit equal to twenty-five percent of qualified expenditures for research and development. A taxpayer’s total credit in all years must not exceed \$100,000 and any unused credits may be carried forward for five years after the tax year in which a qualified expenditure was made. Because this industry is in its infancy and the technology is unproven, this amendment, therefore, is not expected to affect state General Fund revenue in FY2010-11.

Section 38. The following code sections are repealed: Sections 12-6-3450 (individual income tax credit for closed or realigned military institutions), 12-14-30 (eligible military installations that experienced a loss of 3,000 federal military jobs after December 31, 1990), 12-14-40 (determination of economic impact zone by the Budget & Control Board), 12-14-50 (a 20 percent income tax deduction for economic impact zone stock), and 12-14-70 (definition of economic impact zone).

This section was amended to maintain Section 12-10-88 (redevelopment fees – five percent of individual income tax withholdings by military employers) that was repealed in earlier versions of the bill. Section 12-10-88 allows for the retention of job development fees for the Redevelopment Authorities located at the Charleston Naval Complex, the Savannah River Site, and the Myrtle Beach

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Air Force Base. Based on information provided by the Department of Revenue, the state refunded \$4,324,492 to these Redevelopment Authorities in FY2008-09. Specifically, the Charleston Naval Complex received \$1,920,953, the Savannah River Site received \$2,052,640, and the Myrtle Beach Air Force Base received \$350,899. This section is not expected to affect state General Fund revenue in FY2010-11.

Section 39. The effective date of bill was amended to take effect on January 1, 2011, except for Section 8, Section 10, Section 15, Section 16, Section 32, Section 33, and Section 37 which take effect upon approval by the Governor.

Explanation of Amendment (February 17, 2010) – By the House Ways & Means Committee
The following amendments to H.B.4478 would affect state General Fund revenue.

Amendment 1. This amendment would strike all after the enacting words and insert the following:

Section 11. This section would amend Section 12-6-530 that beginning with the year 2011, the current corporate income tax rate of five percent is to be reduced by one-half percent per year until the rate reaches zero for the year 2020 and thereafter. The preliminary General Fund corporate income tax revenue estimate as of February 11, 2010 is \$167,893,717 for FY2010-11. This section would reduce General Fund corporation income tax revenue by an estimated \$16,789,372 in FY2011-12, and additional \$16,789,372 each fiscal year thereafter until the corporation income tax is wholly eliminated in FY2020-21.

Section 12. This section adds language to require that one-half of all income taxes paid by resident and nonresident shareholders of an "S" corporation that make a capital investment in any industry of at least \$500,000,000 at a single site and hire at least 400 new employees must be paid by the State Treasurer to the Coordinating Council for Economic Development (Council). The income taxes are capped at \$5,000,000 each year for a period of five years. The county or municipality where the project is located may apply to the Council for grants from the fund by submitting a grant application. The Council shall determine the amount of monies to be received by each of the eligible counties or municipalities. All monies must be used for public infrastructure improvements which directly support the project. This amendment would allow the State Treasurer to transfer up to \$5,000,000 from the General Fund to the Coordinating Council for Economic Development. This amendment would reduce General Fund individual income tax revenue an estimated \$5,000,000 in FY2010-11, and each fiscal year thereafter through FY2014-15.

Section 14. This section would amend Section 12-6-3375 to allow a taxpayer which uses state port facilities and increases its port cargo volume at these facilities a minimum of five percent in a single calendar year over its base year port cargo volume to claim a credit against employee withholding. Currently, pursuant to Section 12-6-3375, a taxpayer engaged in manufacturing, warehousing, or distribution which uses port facilities in this State and which increases its port cargo volume at these facilities by a minimum of five percent in a single calendar year over its base year port cargo volume is eligible to claim a credit against income taxes in an amount determined by the Coordinating Council for Economic Development. The maximum amount of tax credits allowed to all qualifying taxpayers may not exceed \$8,000,000. This amended language would expand the scope of the credits for existing taxpayers to allow an eligible taxpayer to claim a credit against withholdings of its employees not to exceed \$4,000,000 against the current cap of \$8,000,000 for all taxpayers. Because this amendment does not change the existing tax credit limit that has been accounted for in the Board of Economic Advisors' General Fund revenue estimate made on February 11, 2010, this amendment is not expected

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to affect state General Fund income tax revenue in FY2010-11.

Section 35. The following code sections are repealed: Sections 12-6-3450 (individual income tax credit for closed or realigned military institutions), 12-10-88 (redevelopment fees – five percent of individual income tax withholdings by military employers), 12-14-30 (eligible military installations that experienced a loss of 3,000 federal military jobs after December 31, 1990), 12-14-40 (determination of economic impact zone by the Budget & Control Board), 12-14-50 (a 20 percent income tax deduction for economic impact zone stock), and 12-14-70 (definition of economic impact zone).

The repeal of Section 12-10-88 would reallocate job development fees from the Redevelopment Authorities located at the Charleston Naval Complex, the Savannah River Site, and the Myrtle Beach Air Force Base to the state General Fund. Based on information provided by the Department of Revenue, the state refunded \$4,324,492 to these Redevelopment Authorities in FY2008-09. Specifically, the Charleston Naval Complex received \$1,920,953, the Savannah River Site received \$2,052,640, and the Myrtle Beach Air Force Base received \$350,899. Since the effective date of the amended bill is January 1, 2011, the repeal of Section 12-10-88 would increase General Fund individual income tax withholding by one-half of an estimated \$4,324,492 of redevelopment fees, or an estimated \$2,162,246, in FY2010-11.

Section 36. The effective date of bill was amended to take effect on January 1, 2011, except for Section 8, Section 10, Section 30, and Section 31 which take effect upon approval by the Governor.

The following amendments are in reference to the “strike and insert” Amendment 1 above.

Amendment 1A.

Section 14. This section would amend Section 12-6-3375 to change the state agency that determines the eligibility of a company to claim a tax credit for increasing port cargo traffic at state port facilities from the Coordinating Council for Economic Development to the State Ports Authority Board. This change is not expected to affect state General Fund revenue in FY2010-11.

Amendment 2. This amendment would grant a tax credit equal to thirty-five percent of the costs of solar energy equipment used for water heating, space heating or cooling, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat placed into service by a taxpayer. The credit may be claimed against a taxpayer’s individual income, corporate income, bank tax, license fees, or insurance premiums taxes, or any combination of them. This bill also provides ceilings on the amount of credit that can be claimed per installation. For solar energy equipment placed into service for residential purposes, the ceilings range from \$1,400 to \$10,500 based upon the purpose of the solar energy equipment. For solar energy systems placed into service for any other purpose than residential, the ceiling amount equals \$2,500,000 and must be taken in five equal annual installments. Any unused credits may be carried forward for taxable years six through fifteen succeeding the year the equipment was placed into service. The tax credit may not exceed one-half of a taxpayer’s tax liability for a taxable year. Currently, Section 12-6-3587 allows an income tax credit equal to twenty-five percent for not only the costs of purchasing certain solar energy system, but also allows the income tax credit to be applied to installation costs. The income tax credit pursuant to Section 12-6-3587 is capped at \$3,500 per facility. According to a database of solar installations in South Carolina compiled by the South Carolina Energy Office, approximately 300 solar heating and photovoltaic systems, or an average of 100 solar energy systems per year, were installed in South Carolina between 2007 and 2009. Based upon an analysis of the solar installations in South Carolina using estimated costs of solar energy equipment, it is estimated that twenty-five percent of

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taxpayers that install solar energy equipment would benefit more from the thirty-five percent income tax credit allowed under this bill than the existing twenty-five percent income tax credit. According to the Department of Revenue, 100 taxpayers claimed the solar energy tax credit for a total of \$211,992 in credits, or \$2,100 per taxpayer, in 2008. If the same number of taxpayers claims the solar energy credit in 2011, and twenty-five percent of those taxpayers claim the thirty-five percent tax credit under this bill instead of the existing twenty-five percent income tax credit, the amount of credits claimed is expected to increase by \$21,000. We also estimate that one taxpayer will place into service solar energy equipment with costs of at least \$7,000,000, and qualify, therefore, for the \$2,500,000 maximum tax credit allowed under this bill. Based on our experience with tax credit carry forwards, we expect that twenty percent will not be used because of the tax liability limitation. Adjusting for the fact that the tax credit is to be taken in five equal annual installments, multiplying \$500,000 of tax credits by eighty percent that would be applied against tax liability, and reducing it by the fifty percent tax liability limitation would reduce state General Fund income tax, bank tax, license fees, and insurance premium tax revenue by an estimated \$200,000 in FY2010-11. In total, we estimate that this bill will reduce General Fund by an estimated \$221,000 in FY2010-11.

Amendment 6. This amendment would add Section 12-6-3588 to enact the “South Carolina Renewable Energy Tax Incentive Program” to encourage business investment and employment opportunities by providing tax incentives to companies in the solar, wind, geothermal, and other renewable energy industries who are expanding or locating in South Carolina. Beginning in 2010, a taxpayer is allowed a nonrefundable tax credit of 10% of the total qualifying investments in plant and equipment for renewable energy operations. The taxpayer must meet the following conditions: manufacture renewable energy systems and components in South Carolina for solar, wind, geothermal, or other renewable energy uses, invest at least \$500,000 in the year the tax credit is claimed, have created one and one-half fulltime jobs for every \$500,000 of capital investment that pays at least 125% of the state average annual median wage. Tax credits may be earned for a five year period beginning January 1, 2010, and ending December 31, 2015. A taxpayer’s total credit for all qualifying expenditures must not exceed \$500,000 for any year and \$5,000,000 for all years. Any unused credits may be carried forward for 15 years after the tax year in which a qualified expenditure was made. The qualifying expenditures must be approved by the Department of Commerce, and the tax credit must be approved by the State Energy Office upon application by the taxpayer by January 31st for qualifying expenditures made by December 31st of the previous year. The State Energy Office must notify the taxpayer of the amount of the approved tax credit by March 1st of each year. Also, the Department of Commerce must certify to the State Energy Office that the taxpayer has met the job creation requirements.

Because there are presently renewable energy companies located in the State contributing tax revenue, we estimate that one taxpayer will place into service renewable energy equipment with costs of at least \$500,000, and qualify, therefore, for the ten percent nonrefundable income tax credit under this bill. Based on our experience with tax credit carry forwards, we expect that twenty percent will not be used because of the tax liability limitation. Multiplying \$500,000 of qualified investments by a nonrefundable income tax credit of ten percent and by eighty percent that would be applied against tax liability would reduce state General Fund income tax revenue by an estimated \$40,000 in FY2010-11.

Amendment 8. This amendment would amend Section 12-6-3631-(B)(1)(b) and (c), as last amended by Act 261 of 2008, to allow a taxpayer for taxable years beginning after 2007, and before 2012, a credit against income taxes for qualified expenditures for research and development of demethylation of glycerin byproduct from biodiesel production. According to a University of Georgia study on the use of byproducts from the biofuels industry, demethylated glycerin is a byproduct of biodiesel production that may be used as an alternate source of fat in broiler diets – chicken feed. A taxpayer would be

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allowed a nonrefundable income tax credit equal to twenty-five percent of qualified expenditures for research and development. A taxpayer's total credit in all years must not exceed \$100,000 and any unused credits may be carried forward for five years after the tax year in which a qualified expenditure was made. Because this industry is in its infancy and the technology is unproven, this amendment, therefore, is not expected to affect state General Fund revenue in FY2010-11.

Amendment 9. This amendment would amend Section 12-20-105, as last amended by Act 313 of 2008, to include among qualifying projects eligible for a nonrefundable income tax credit "incubator buildings whose ownership is retained by the county, political subdivision, or agency of the state." The tax credit is equal to the amount paid in cash for infrastructure improvements for an eligible project against a taxpayer's corporation license tax liability up to a maximum aggregate credit of \$300,000 in any tax year by a single company. The credits allowed may not reduce the corporate license tax liability of the company below zero. Any excess tax credit earned during a taxable year may be carried forward to the next taxable year. An eligible project may be an office, business, commercial, or industrial park, or a combination of these, used exclusively for economic development. Since economic development incubators for small, start-up companies are presently located in the state, we expect the provisions of this section to be used. Based on our experience with tax credit carry forwards, we expect that twenty percent will not be used because of the tax liability limitation. Multiplying \$300,000 of tax credits by eighty percent that would be applied against tax liability would reduce state General Fund corporate license tax revenue by an estimated \$240,000 in FY2010-11.

Explanation of Bill filed January 28, 2010

The following sections of H.B.4478 would affect state General Fund revenue.

Section 9. This section would amend Section 12-6-530 that beginning with the year 2011, the current corporate income tax rate of five percent is to be reduced by one-half percent per year until the rate reaches zero for the year 2020 and thereafter. The preliminary General Fund corporate income tax revenue estimate as of February 11, 2010 is \$167,893,717 for FY2010-11. This section would reduce General Fund corporation income tax revenue by an estimated \$16,789,372 in FY2011-12, and additional \$16,789,372 each fiscal year thereafter until the corporation income tax is wholly eliminated in FY2020-21.

Section 10. This section would amend Section 12-6-3360, as last amended by Act 116 of 2007, to delete all provisions that allow an increase in tier designations in ranking counties for the purpose of qualifying for job tax credits. Currently under law, counties may be ranked one or two tiers higher than they would otherwise qualify if, for example, less than five percent of a county's workforce is in manufacturing or a county has a population under twenty-five thousand. This section also amends Section 12-6-3360(A) by deleting retail and service-related businesses in least developed counties and under-developed counties that are not traversed by an interstate highway, general contractors, and banks as types of businesses that qualify for job tax credits and prevents the use of jobs tax credits among these taxpayers. Additionally, this section amend Section 12-6-3360(M) by deleting a provision that expanded the definition of a "new job" for purposes of job tax credits to include taxpayers that purchased, as of March 12, 2004, the assets of an existing company that is under Chapter 11 of the U.S. Bankruptcy Code and provided job tax credits to the taxpayer for the employees of the facility. Under the provisions of this bill, new jobs created by taxpayers operating the types of businesses deleted by this bill would no longer be entitled to job tax credits. Since this section changes the jobs tax credit county designations for companies in the future, this section, therefore, is not expected to affect current jobs tax credits and General Fund income tax revenues in FY10-11.

Section 11. This section would amend Section 12-6-3375 to allow a taxpayer which uses state port facilities and increases its port cargo volume at these facilities a minimum of five percent in a single calendar year over its base year port cargo volume to claim a credit against employee withholding. Currently, pursuant to Section 12-6-3375, a taxpayer engaged in manufacturing, warehousing, or distribution which uses port facilities in this State and which increases its port cargo volume at these facilities by a minimum of five percent in a single calendar year over its

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base year port cargo volume is eligible to claim a tax credit in the amount determined by the Coordinating Council for Economic Development. The maximum amount of tax credits allowed to all qualifying taxpayers may not exceed \$8,000,000. This amended language would allow an eligible taxpayer to claim a credit against withholdings of its employees not to exceed \$4,000,000. Because this amendment expands the scope of the credits for existing taxpayers, this credit would reduce state General Fund income tax withholding revenue by an estimated \$4,000,000 in FY2010-11.

Section 20. This section would amend Section 12-15-20 to allow a “renewable energy manufacturing facility” of solar and wind equipment and manufacturers of qualifying advanced lithium and ion batteries for alternative energy motor vehicles to become eligible for job tax credits after meeting minimum capital investment and job requirements and approval by the Coordinating Council for Economic Development. Since these types of companies are not presently located in South Carolina and are not included in the Board of Economic Advisors revenue estimate, this section is not expected to impact General Fund revenue in FY2010-11.

Section 31. The following code sections are repealed: Sections 12-6-3450 (individual income tax credit for closed or realigned military institutions), 12-10-88 (redevelopment fees – five percent of individual income tax withholdings by military employers), 12-14-30 (eligible military installations that experienced a loss of 3,000 federal military jobs after December 31, 1990), 12-14-40 (determination of economic impact zone by the Budget & Control Board), 12-14-50 (a 20 percent income tax deduction for economic impact zone stock), and 12-14-70 (definition of economic impact zone).

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Section 32. This act takes effect upon approval by the Governor.

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

William C. Gillespie, Ph.D.
Chief Economist

Analysts: Ball / Martin

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