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February 9, 2012

Senate Committee on Assessment and Taxation

Testimony in Support of Senate Bill 386

Presented by Richard Cram

Senator Les Donovan and Members of the Committee:

Senate Bill 386 would correct an omission in 2011 Senate Bill 196 by amending K.S.A. 79-32,153 to repeal the original business and job development credit, effective starting in Tax Year 2012, as was intended to be accomplished in 2011 Senate Bill 196.

2011 Senate Bill 196 provided the new Kansas expensing deduction, effective Tax Year 2012, as well as the new job creation fund. In order to offset the negative fiscal impact of the new Kansas expensing deduction and generate additional revenue savings to build up the new job creation fund, 2011 Senate Bill 196 made several changes to the income tax credit and sales tax exemption statutes:

1. The business and job development credit was repealed. The provisions in the enhanced business and job development credit statute, K.S.A. 79-32,160a, were amended to repeal the credit effective Tax Year 2012. However, due to error, the original business and job development credit statute, K.S.A. 79-32,153, was not amended to repeal that credit, effective Tax Year 2012.
2. The minimum investment threshold for the High Performance Incentive Program (HPIP) investment tax credit at K.S.A. 79-32,160a(e) was increased to $1 million for projects located in Douglas, Johnson, Sedgwick, Shawnee, and Wyandotte Counties.
3. The business machinery and equipment tax credit for property taxes paid, at K.S.A. 79-32,206, was repealed effective Tax Year 2012.
4. The enterprise zone sales tax exemption, K.S.A. 79-3606(cc), was repealed, effective Tax Year 2012, except for projects qualifying for the HPIP credit.
5. The KEOIF program at Department of Commerce was repealed, effective in 2012.

The revenue savings from repeal of these provisions in 2011 Senate Bill 196 effective for Tax Year 2012 were projected to offset the cost of the new Kansas expensing deduction and generate $5.3 million in revenue for the new job creation fund in FY 2012, and $46.35 million in revenue for the fund in FY 2013. The Conference Committee Report Brief on House Substitute for Senate Bill No. 196 is attached for reference.

Sn. Assmnt & Tax
2-9-12

Attachment # 2

The Department's fiscal note on House Substitute for Senate Bill 196, as Amended by House Committee of the Whole (a predecessor to the enrolled bill), is attached. The Department's fiscal note provided that $5 million in revenue savings would be generated by repeal of the business and job development credit in FY 2013. This estimate was based on repeal of both the original business and job development credit, K.S.A. 79-32,153, and well as the enhanced business and job development credit, K.S.A. 79-32,160a, although the legislation only amended K.S.A. 79-32,160a.

If the error in 2011 Senate Bill 196 is not corrected to amend K.S.A. 79-32,153 and repeal the original business and job development credit effective for Tax Year 2012, then the intent of Senate Bill 196 will not be accomplished, and insufficient revenue savings will be generated for the new job creation fund. The Department estimates that only $2.5 million in revenue savings would be generated, instead of $5.0 million, as estimated for full repeal of the both the original and enhanced business and job development credit. This will mean less revenue will be available for the new job creation fund.

The purpose of 2011 Senate Bill 196 is to provide a new Kansas expensing deduction to all businesses and eliminate certain tax benefits available to only a few businesses. Leaving the original business and job development at K.S.A. 79-32,153 on the books would be in conflict with that purpose, particularly when it was intended to be repealed as of Tax Year 2012 as part of 2011 Senate Bill 196.

The Department's fiscal note for Senate Bill 386 is provided.

SESSION OF 2011

CONFERENCE COMMITTEE REPORT BRIEF ON HOUSE SUBSTITUTE FOR SENATE BILL NO. 196

As Agreed to March 28, 2011

Brief*

House Sub. for SB 196 would provide a new state income tax deduction known as "expensing" for certain qualified investments; repeal or phase out a number of existing state income tax credit and sales tax exemptions; repeal the Kansas Economic Opportunity Initiative Fund (KEOIF); and create a new fund, the Job Creation Program Fund (JCPF).

Finally, an additional provision would provide a new individual income tax checkoff for the Kansas Hometown Heroes Fund.

Expensing Provisions

One section of the bill allows taxpayers to claim an expense deduction from Kansas net income before expensing or recapture for the cost of certain machinery and equipment depreciable under Section 168 of the federal Internal Revenue Code and certain canned software defined under Section 197 placed into service beginning in tax year 2012. The property must be located in Kansas to qualify for expensing. A member of a unitary group of corporations filing a combined report may, under certain circumstances, take the expense deduction for an investment made by another member of the group.

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* Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at http://www.kslegislature.org/klrd

Any amount of excess expensing deduction would be treated as a net operating loss for state income tax purposes.

Any property sold during the applicable recovery period defined by federal law or relocated outside the state during such period would be subject to have a portion of its expense deduction "recaptured" for Kansas income tax purposes.

Taxpayers electing to expense qualified investments would be prohibited from also claiming a number of existing tax incentives that might otherwise apply to such investments, including tax credits for the high performance incentive program (HPIP); research and development; alternative fueled vehicles; swine facility improvements; historic preservation; carbon dioxide capture equipment; film production; refineries; oil or gas pipelines; integrated coal or coke gasification nitrogen fertilizer plants; biomass-to-energy plants; integrated coal gasification power plants; renewable electric cogeneration facilities; and biofuel storage and blending equipment. Taxpayers claiming expensing also would be prohibited from claiming accelerated depreciation otherwise available for the latter seven of these investment purposes.

Repeal or Modification of Existing Tax Incentives

Beginning in tax year 2012, income tax credits could no longer be earned pursuant to the Kansas Enterprise Zone Act; and the Job Expansion and Investment Credit Act.

Transitional language would authorize certain extant credits earned under both programs in tax year 2011 or previous years to continue to be carried forward.

Provisions relating to HPIP income tax credits would be modified such that beginning in tax year 2012, the current $50,000 minimum investment threshold in five urban counties (Douglas, Johnson, Sedgwick, Shawnee, and Wyandotte) would be increased to $1 million. All HPIP related tax incentives also would be required to be reviewed prior to January 1, 2017.

Another income tax credit relative to property taxes paid on commercial and industrial machinery and equipment would be repealed beginning in tax year 2012.

A sales tax exemption relative to projects that qualify for the business and job development income tax credit program would be repealed on January 1, 2012.

Job Creation Program Fund

The bill further would create the Job Creation Program Fund (JCPF), which would be administered by the Secretary of Commerce, in consultation with the Secretary of Revenue and the Governor, to promote job creation and economic development by funding projects related to: the major expansion of an existing Kansas commercial enterprise; potential relocation to Kansas of a major employer; the award of a significant grant which has a financial matching requirement; the potential departure from the state or substantial reduction of operations of an existing employer; training or retraining activities; the potential closure or substantial reduction of a major state or federal institution; projects in counties with at least a 10 percent population decline over the last decade; or other "unique" economic development opportunities.

The two percent of withholding tax receipts under current law that is earmarked for the Investments in Major Projects and Comprehensive Training (IMPACT) program would begin becoming earmarked for the JCPF on July 1, 2012, except that transitional language generally would provide that current debt services for the IMPACT program repayment fund be met, as well as administrative costs associated with the IMPACT Program Services Fund.

Various statutes relating to another program, KEOIF, also would be repealed on January 1, 2012.

Additional language would require the Secretary of Revenue to estimate annually beginning on July 1, 2012 the amount of net savings realized under the provisions of the bill in anticipation of such amount being appropriated to the JCPF. The Secretary of Commerce also would be required to report annually on JCPF expenditures and the cost-effectiveness of such expenditures.

Income Tax Checkoff Provisions

A new income tax checkoff program would be placed on the state individual income tax form whereby taxpayers could voluntarily contribute to the Kansas Hometown Heroes Fund. All moneys deposited in such fund would be required to be used solely for the purpose of funding continued operations of the veteran services program of the Kansas Commission on Veterans' Affairs.

Conference Committee Action

The Conference Committee agreed to remove the PEAK provisions; utilize House-passed language that would require all HPIP-related tax incentives to be reviewed prior to January 1, 2017 (as opposed to Senate-passed language from the original bill that would have prevented any new HPIP credits from being earned after January 1, 2017); accept a House-passed amendment relative to the HPIP qualifying threshold for Leavenworth County; accept a House-passed amendment relative to the income tax checkoff program; reinsert a Senate-passed amendment regarding JCPF reporting requirements for the Secretary of Commerce; and reinsert some technical Senate-passed amendments relating to the IMPACT-JCPF transition period.

Background

The original bill would have increased the HPIP qualifying minimum investment threshold in all 105 counties to $5 million beginning in 2012. The Senate Assessment and Taxation Committee amendments included leaving the threshold at $50,000 in 99 counties while reducing the proposed increase to only $1 million in six urban counties (Douglas, Johnson, Leavenworth, Sedgwick, Shawnee, and Wyandotte).

The Senate Committee of the Whole amended the bill to add technical language relating to the phase out of the IMPACT program; and to add the JCPF reporting requirements for the Secretary of Commerce.

The House Taxation Committee on March 14 amended the bill to strip its original contents; insert similar but not identical provisions of expensing legislation which had previously been approved by that committee in HB 2317; insert the provisions of Sub. for HB 2220 relating to proposed expansion of the Promoting Employment Across Kansas (PEAK) program; and recommended that a substitute bill be created.

The House Committee of the Whole on March 17 added the income tax checkoff; and removed Leavenworth County from the list of urban counties whose HPIP qualifying threshold would be increased to $1 million.

The original bill was requested for introduction by the Governor and supported by the Secretary of Revenue and the Secretary of Commerce. A number of conferees applauded the proposed expensing provisions but expressed concern about elimination of existing tax credit and incentive programs.

The latest fiscal notes available from the Department of Revenue indicate that the expensing related provisions of the bill would be expected to increase State General Fund (SGF) receipts by $2.874 million in FY 2012 and by $39.490 million in FY 2013; increase State Highway Fund (SHF) receipts by $1.126 million in FY 2012 and by $5.560 million in FY 2013; and increase Economic Development Initiatives Fund (EDIF) available revenues by $1.3 million for both fiscal years as a result of the proposed repeal of the KEOIF program. The net provisions from this part of the bill therefore would produce an additional $5.3 million of available resources in FY 2012 and an additional $46.350 million in available resources in FY 2013. As noted previously, these net amounts–notwithstanding the fact that the monies would be in three separate funds–are contemplated being designated for ultimate appropriation to the JCPF. The following table summarizes that portion of the fiscal note provisions:

($ in millions)

	FY 2012	FY 2013
State General Fund		
Expensing	$ (6.000)	$ (47.400)
Sunset Ent. Zone, Job Exp. Credits	0.000	5.000
HPIP Credit Changes	0.000	0.950
Repeal Mach./EQ. Prop. Tax Credits	0.000	37.000
Repeal Sales Tax Exemptions	8.874	43.940
Total SGF Impact	**$ 2.874**	**$ 39.490**
State Highway Fund		
Repeal Sales Tax Exemptions	$ 1.126	$ 5.560
Eco. Dev. Initiatives Fund		
Repeal KEOIF	$ 1.300	$ 1.300
Net All Funds Impact	**$ 5.300**	**$ 46.350**

The Department of Revenue also indicated that the new checkoff program would necessitate an additional $68,000 of administrative costs in FY 2012.

MEMORANDUM

To: Mr. Steve Anderson, Director
Division of Budget

From: Kansas Department of Revenue

Date: 03/28/2011

Subject: Senate Bill 196
Amended by House Committee of the Whole

Brief of Bill

35House Substitute for Senate Bill 196, as amended by house committee of the whole, in new section one creates the job creation program fund. Expenditures from the fund shall be for the purpose of promoting job creation and economic development by funding projects related to: (1) Major expansion of an existing Kansas commercial enterprise; (2)potential location in Kansas of the operations of major employer; (3)award of a significant federal or private sector grant which has a financial matching requirement; (4)potential departure from Kansas or the substantial reduction of the operations of a major Kansas employer; (5)training or retraining activities for employees in Kansas companies; (6)potential closure or substantial reduction of the operations of a major state or federal institution; (7)projects in counties with at least a 10% population decline during the period from 2000 to 2010; or (8)other unique economic development opportunities.

All expenditures from the fund shall be made in accordance with appropriation acts on vouchers approved by the secretary of commerce.

New Section 2 provides that for tax years beginning after December 31, 2011 taxpayers may elect to take an expense deduction from Kansas net income before expensing or recapture for the cost of tangible property placed in service during the taxable year. Property eligible for depreciation under MACRS in section 168, except residential rental property, nonresidential real property, any railroad grading or tunnel bore or any other property with an applicable recovery period in excess of 25 years and computer software as defined in section 197(e)(3)(B). If an election is made the amount of the expense deduction shall equal the difference between the depreciable amount for federal purposes and the amount of bonus depreciation claimed under section 168(k) but without regard to any expense deduction for property under section 179. The election shall be made by the due date of the return and shall be irrevocable. If the section 179 expense deduction has been made for federal income tax purposes, the applicable factor to be utilized is in the IRC section 168 column of the table provide in subsection (f) of this bill.

If the amount of expense deduction exceeds the taxpayer's net income before expensing and recapture, the excess shall be treated as a Kansas net operating loss.

If the property is sold and would cause recapture under federal rule, then the expense deduction shall be subject to recapture and treated as Kansas taxable income.

The situs of the property shall be the physical location of the property. If the property is mobile, the situs shall be the physical location of the business operations from where the property is used or based.

Any member of a unitary group may elect to take an expense deduction for an investment made by any member of the group, provided that the amount calculated may only be deducted from Kansas net income before expensing or recapture allocated to Kansas by such member making the election.

If a taxpayer elects to expense any investment under this bill, the taxpayer shall not be eligible for any tax credit, accelerated depreciation, or deduction for such investment. The credits are the high performance incentive program credit, research and development credit, alternative fuel vehicle credit, swine facility improvement credit, historic preservation credit, refinery credit or accelerated depreciation; oil or gas pipeline or accelerated depreciation; integrated coal or coke gasification nitrogen fertilizer plant credit or accelerated depreciation; biomass-to-energy plant credit or accelerated depreciation; integrated coal gasification power plant credit; renewable electric cogeneration facility credit or accelerated depreciation; biofuel storage and blending equipment credit or accelerated depreciation; carbon dioxide capture equipment credit; or film production credit.

New Section 3 provides that after December 31, 2011, no credits may be earned through the Kansas enterprise zone act or the job expansion and investment tax credit act.

New Section 4 creates a individual income tax checkoff program for the Kansas hometown heroes fund.

All moneys deposited in the hometown heroes fund shall be used solely for funding the continued operations of the veteran services program of the Kansas commission on veteran affairs.

Section 5 amends K.S.A. 74-50,104 to provide that any project funded by the job creation program fund does not qualify for funding under this section.

Section 6 amends K.S.A. 74-50,106 to provide that any project funded by the job creation program fund does not qualify for funding under this section.

Section 7 amends K.S.A. 74-50,107 to provide that beginning on July 1, 2011, 2% of withholding collections be credited as follows: 1) an amount necessary to meet obligations of the debt services for the IMPACT program repayment fund; 2) an amount to the IMPACT program services fund for administration; and)3 any remaining amounts to the job creation program fund.

Beginning July 1, 2012 on an annual basis, the secretary of revenue shall estimate the net savings realized from the elimination, modification or limitation of credits, deduction or program as compared to the expensing deduction. The savings shall be transferred to the job creation program fund.

Section 8 amends K.S.A. 74-50,109 to provide that any unencumbered balance in the IMPACT program repayment fund to the IMPACT program services fund or the job creation program fund.

Section 9 amends K.S.A. 74-50,110 to provide that no bonds shall be issued for IMPACT projects after December 31, 2011.

Section 10 amends K.S.A. 74-50,111 provides that the secretary of commerce shall report annually the activities of the department related to the administration of the job creation program fund.

Section 11 amends K.S.A. 74-50,210 to make a technical amendment to sections in the PEAK act passed in the 2010 session, K.S.A. 74-50,210 through K.S.A. 74-50,219.

Section 12 amends K.S.A. 74-50,211 to provide that a qualified company also includes, any not-for-profit corporation which locates a regional, national or international headquarters in the state of Kansas.

A definition of a "retained job" is also added. A retained job means an existing job which will be lost without participation by the employer in the PEAK act. A "small business" means a qualified company located in Kansas that has fewer than 100 employees.

Section 13 amends K.S.A. 74-50,212 to allow a third party employer, either related or unrelated, to serve as the legal employer of the new employees providing services to the qualified company and such services are performed in Kansas and the third party employer and the new employees are subject to the Kansas withholding and estimated tax act.

This section is also amended to allow the average wage to be used in determining if a qualified company is eligible to retain 95% of the withholding taxes. Also, the employer can retain 95% of withholding taxes for all new jobs, not just those equal to or above the wage threshold (as under current law), and the employer will retain such withholding for the maximum stated term length, eliminating discretion by the Secretary of Commerce to reduce that term length.

Effective January 1, 2012, any qualified company that retains employees of an existing business unit located in Kansas shall be eligible to retain the withholding taxes for a period of five years.

Effective January 1, 2012, the Secretary of Commerce may provide benefits of PEAK for situations where it is deemed necessary that the state provide incentives for a company or its operations to remain in Kansas so as to keep its retained jobs. The secretary shall establish and verify that a prospective company has competitive alternatives that it is seriously considering and that the company's relocation is imminent. The secretary shall assess whether the retention is important to the economic vitality of the state, the area where the operations are located or whether the retention is important to a particular industry due to factors such as the quantity, quality or pay of the retained jobs.

The secretary may use PEAK in conjunction with other economic development programs to develop a retention package.

A small business shall be able to retain 95% of the Kansas small business withholding taxes for up to five years for each additional employee, if that employee represents an increase in the Kansas employment for the previous ten year period.

The provisions of this act in effect prior to the effective date of this bill shall apply to employers who have entered into agreements with the secretary prior to July 1, 2011. The provisions of this act shall apply to employers who enter into agreements on and after July 1, 2011.

Section 14 amends K.S. A. 74-50,213 to eliminate the $4.8 million per fiscal year cap on PEAK expenditures for expansions of businesses already located in Kansas.

New Section 15 would allow an income tax credit equal to the resident individual's income tax liability for the owner of a qualified company which meets the qualifications under K.S.A. 7-50,212(b)(1) (relocate jobs from an out-of-state facility, office, operation to Kansas). The maximum refund amount shall be equal to the amount withheld, payments other than wages, or paid as estimated taxes. This provision is effective for all tax years beginning after December 31, 2010.

Section 16 amends K.S.A. 79-32,160 to allow the business and job development income tax credit for tax years commencing before January 1, 2012. For HPIP credits starting in Tax Year 2012, for a qualified business facility investment in Douglas, Johnson, Leavenworth, Sedgwick, Shawnee or Wyandotte counties, the current $50,000 minimum investment threshold is increased to $1 million, and the credit applies to qualifying investment in excess of $1 million. Any taxpayer who has filed a certificate of intent to invest in a qualified business facility in Douglas, Johnson, Sedgwick, Shawnee or Wyandotte county prior to December 31, 2011, and commences investments prior to December 31, 2013, may claim credits under K.S.A. 74-50,131, 74-50,132, and subsection (e) of 79-32,160a. The Secretaries of Commerce and Revenue are authorized address transition situations during 2012.

Section 17 amends K.S.A. 79-32,206 business machinery and equipment tax credit for property taxes paid would no longer apply starting in Tax Year 2012.

Section 18 amends K.S.A. 79-3606 to provide that this sales tax exemption would end effective January 1, 2012 for projects qualifying for the business and job development credit, which will end in Tax Year 2012. The enterprise zone sales tax exemption for HPIP-qualified projects will end as of January 1, 2017, to coincide with the sunset of the HPIP credit.

New Section 19 provides that prior to January 1, 2017, the standing committee on assessment and taxation of the senate and the standing committee on taxation of the house of representatives shall review the income tax credit cost effectiveness report prepared by the department of revenue and other relevant information to determine whether the credits provided in 74-50,132 and subsection (e) of 79-32,160a and the exemption provided in (cc) of K.S.A. 79-3606 shall continue in effect or be repealed.

Section 21 repeals K.S.A. 74-50,151 and 74-50,152 effective January 1, 2012.

The effective date of this bill is on publication in the statute book.

Fiscal Impact

Passage of this bill would reduce fiscal year 2012 state general fund revenues by about $10.0 million and fiscal year 2013 state general fund revenues by about $20.5 million. The job creation program fund would receive about $5.3 million in fiscal year 2012 and $46.4 million in fiscal year 2013.

State general fund is not impacted by the provisions in the bill related to "Expensing", contained in sections 1-3, 5-10 and sections 16-21. The table below shows the estimated impact to the job creation program fund.

		Fiscal Years			
	2012	2013	2014	2015	2016
Expensing	$ (6.00)	$ (47.40)	$ (42.00)	$ (40.00)	$ (45.00)
B&J credit	$ -	$ 5.00	$ 5.15	$ 5.30	$ 5.46
HPIP investment	$ -	$ 0.95	$ 0.98	$ 1.01	$ 1.04
E-Zone	$ 10.00	$ 49.50	$ 50.99	$ 52.51	$ 54.09
B&M credit	$ -	$ 37.00	$ 36.00	$ 35.00	$ 34.00
KEIOF	$ 1.30	$ 1.30	$ 1.30	$ 1.30	$ 1.30
Total	$ 5.30	$ 46.35	$ 52.41	$ 55.13	$ 50.89

New Sections 1 and 2:

Implement Kansas expensing deduction @5% discount rate:

FY 2012	FY 2013
($6) million	($47.4) million

Sections 11 - 15 contain amendments to PEAK, the table below summarizes the impact to the state general fund by fiscal year:

Fiscal Year	Fiscal Impact	
2012	$	(10.0)
2013	$	(20.5)
2014	$	(31.0)
2015	$	(41.5)
2016	$	(52.0)

Provisions in the bill broaden the qualifications of PEAK to include not-for-profit companies, retained jobs, allowing any third party employer to be eligible, and allows 95% of withholding for all new employees to qualify if all the jobs meet the median or average county wage.

Kansas small business with fewer than 100 employees would be eligible for PEAK to the extent the additional employees represent an increase over their highest employment level of the previous ten years.

The bill also allows Kansas resident owners of qualified companies who materially participate in business activities an income exemption of Kansas source income received from the qualified business.

Based on information received from Department of Commerce, it is estimated that the fiscal impact of this bill would reduce fiscal year 2012 state general fund receipts by about $10.0 million and $20.5 million in fiscal year 2013. The estimate impact is shown below:

Allowing PEAK employers to retain 95% of withholding on all new jobs, instead of only for jobs above county median wage is estimated to cost about $2.0 million. Based on information provided from Department of Commerce on existing and pending contracts and offers, we are projecting that new PEAK contracts under the current law would be entered into during FY 2012 that would involve retainage of an estimated $10 million in employer withholding taxes by participating PEAK employers. We would assume that allowing employers to retain withholding for all new jobs instead of only for those above county median wage, as under current law, would expand the amount of withholding tax being retained under these contracts by 20%, or $2 million.

Giving the employer the option of using county average wage instead of county median wage in qualifying for PEAK is estimated to cost about $1.0 million. We are assuming this would expand the amount of withholding tax being retained under new PEAK contracts entered into during FY 2012 by 10%, or $1 million.

Accelerating to July 1, 2011 the date by which employers in PEAK contracts involving expansion of qualifying existing businesses in Kansas could begin retaining withholding tax is estimated to cost about $1.5 million in FY 2012. Under current law, for employers in PEAK contracts involving expansions of existing Kansas businesses, they are not eligible to begin retaining any withholding tax on qualifying jobs until beginning January 1, 2012. If that date is accelerated by 6 months, based on information from Department of Commerce on the amount of existing or anticipated PEAK employers that would be eligible to retain such withholding tax starting July 1, 2011 instead of waiting until January 1, 2012, an additional $1.5 million in employer withholding taxes from PEAK contracts for existing Kansas business expansion projects would be retained by employers for the period July 1, 2011 to December 31, 2011. Without the change being made by HB 2220, this revenue would not have been retained by those employers.

Allowing small businesses showing increase in employment over previous 10-year high to participate in PEAK is estimated to cost about $.5 million. This is the estimated additional withholding tax to be retained by small businesses participating in PEAK during FY 2012 who otherwise would not have met the PEAK criteria under current law.

Allowing retention projects to qualify for PEAK, starting January 1, 2012, is estimated to cost about $5.0 million. The estimate for adding retention projects to PEAK is based on the average size of retention projects that Department of Commerce has dealt with since 2005. The average size was in excess of $10 million in withholding taxes per fiscal year. Since eligibility would not start until January 1, 2012, that estimate can be cut in half for FY 2012.

In the out years after FY 2012, due to the fact that the qualifying employer gets to retain the withholding from the new jobs over a multiple year period, assuming there will be a similar volume of new PEAK contracts entered into each year with the full fiscal year impact of adding the retention projects to PEAK (estimated to add an additional $10 million to the fiscal note each fiscal year for the years the employer can retain the withholding, and an additional $.5 million per fiscal year for the small business PEAK expansion provision), the fiscal impact is estimated as follows:

Section 12:

Repeal B&J credit effective TY 2012:

FY 2012	FY 2013
minimal	$5 million

Raise minimum investment threshold for HPIP to $1 million and provide 10% credit only for amount of investment exceeding $1 million, effective TY 2012, for qualified investment in Douglas, Johnson, Leavenworth, Sedgwick, Shawnee or Wyandotte counties:

FY 2012	FY 2013
minimal	$1.0 million

The House floor amendment to SB 196 removed Leavenworth County from the $1 million minimum investment threshold for HPIP, and that would reduce the FY 2013 revenue savings from $1 million to $.95 million.

Section 13:

Repeal BM&E refundable credit effective TY 2012

FY 2012	FY 2013
$0	$37 million

Section 14:

Repeal enterprise zone sales tax exemption for B&J starting Jan. 1, 2012

FY 2012	FY 2013
$10 million	$49.5 million

Section 15:
Repeal KEOIF effective Jan. 1, 2012

FY 2012	FY 2013
$1.3 million	$1.3 million

Net Total Revenue Savings to be made available for job creation program fund:

FY 2012	FY 2013
$5.3 million	$46.35 million

Administrative Impact

The estimated costs necessary to implement this bill are $205,960 in fiscal year 2012. Those costs include about $62,520, or 2,084 hours, of programming time. The estimated user testing resources necessary to implement the bill are $15,100, or 520 hours, for testing the new programs. Also requested is 1 CR Specialist with annual costs of $55,500 and one time costs of $5,200.

The estimated costs associated with New Section 4, the hometown heroes income tax checkoff, necessary to implement this bill are $67,640 in fiscal year 2012. Those costs include about $41,640, or 1,388 hours, of programming time. The estimated user testing resources necessary to implement the bill are $26,000, or 880 hours, for testing the new programs.

Administrative Problems and Comments

Taxpayer/Customer Impact

Legal Impact

2012 Senate Bill 386a Fiscal Note

Introduced as a Senate Bill

Brief of Bill

2012 Senate Bill 386, as introduced, relates to business and job development credit. The bill would amend K.S.A. 2011 Supp. 79-32,153 to eliminate the business and job development credit for tax year 2012 and thereafter. In the 2011 legislative session the legislature passed Senate Bill 196, which included the repeal the business and job development (B&J) credit for tax year 2012 and thereafter. The amendment needed to K.S.A. 79-32,153 to accomplish the repeal was erroneously omitted. This bill would correct this error.

The bill shall be effective after its publication in Kansas statute book.

Fiscal Impact

In the 2011 legislative session, the legislature passed Senate Bill 196 to enact the new Kansas expensing deduction, and also repeal several credits and exemptions, including repeal of the business and job development credit for tax year 2012 and thereafter. The department estimated that repealing B&J credit would save the state $5 million annually for tax year 2012 and thereafter. This amendment was supposed to be included in SB 196. Failing to pass this amendment would allow the B&J credit under K.S.A. 79-32,153 to continue, although it was intended to be repealed in 2011 Senate Bill 196. The department estimates that this would reduce the state general fund by $2.5 million for FY 2013 and thereafter. Passage of this bill would be fiscally neutral to state revenue, because the revenue savings from repeal of the business and job development credit were already taken into account in the fiscal note for 2011 Senate Bill 196 last year.

Administrative Impact

None.

Administrative Problems and Comments

None.

Taxpayer/Customer Impact

None.

Legal Impact

None.

Approved By:

Nick Jordan
Secretary of Revenue