COMMITTEE REPORT

March 30, 2011

**S. 690**

Introduced by Senator Leatherman

S. Printed 3/30/11--S.

Read the first time March 15, 2011.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (S. 690) to reenact Section 12‑6‑60, Code of Laws of South Carolina, 1976, relating to determinations for income tax and corporate license fee, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT 1/**

This bill is not expected to affect state general fund income tax revenue or corporation license fee revenue in FY2011-12.

**Explanation**

Act 157 of 2005 provided for the repeal of the Section 12-6-60 for tax years beginning five years after the date of enactment. Act 157 was enacted June 16, 2005 and applied for taxable years beginning January 1, 2006. This bill would reenact Section 12-6-60 in its original form for another five taxable years until January 1, 2016. Act 157 defines the treatment of nexus for distribution facilities in the state. Nexus is considered to be a situation in which a business has a presence in a state where the selling of goods and services takes place and is responsible for remitting taxes for the privilege of doing business in the state. Section 12-6-60 would not allow a distribution facility to be considered a fixed place of business in South Carolina for the purposes of nexus. A distribution facility is defined in Section 12-6-3360 as an establishment where shipments of tangible personal property are processed for delivery to customers. The term does not include an establishment where retail sales of tangible personal property are made to retail customers on more than twelve days a year except for a facility which processes customer sales orders by mail, telephone, or electronic means, if the facility also processes shipments of tangible personal property to customers and if at least seventy-five percent of the dollar amount of goods sold through the facility are sold to customers outside of South Carolina. Because a distribution facility meeting these criteria would not have nexus in the state, there would be no basis for the levying of income taxes on the establishment or the taxpayer who owns or leases the establishment. Since this bill would be a continuation of existing legislation and would not change the revenue forecast of the Board of Economic Advisors, this bill, therefore, is not expected to affect general fund revenue in FY2011-12. This act takes effect January 1, 2011.

*Approved By:*

William C. Gillespie

Board of Economic Advisors

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.

**A** **BILL**

TO REENACT SECTION 12‑6‑60, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DETERMINATIONS FOR INCOME TAX AND CORPORATE LICENSE FEE PURPOSES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 12‑6‑60, as added by Section 1 of Act 157 of 2005, is reenacted in its original form until January 1, 2016, at which time it is repealed.

SECTION 2. This section takes effect January 1, 2011.

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