HOUSE AMENDMENT

THIS AMENDMENT ADOPTED

DRAFFIN/MORGAN
FEBRUARY 8, 2010

CLERK OF THE HOUSE

REP. WHITE PROPOSES THE FOLLOWING AMENDMENT NO. TO H. 4478 (COUNCIL\AGM\19837SD10):

REFERENCE IS TO THE BILL AS INTRODUCED.

AMEND THE BILL, AS AND IF AMENDED, BY STRIKING ALL AFTER THE ENACTING WORDS AND INSERTING:

/ SECTION 1. THIS ACT IS KNOWN AND MAY BE CITED AS THE "SOUTH CAROLINA ECONOMIC DEVELOPMENT COMPETITIVENESS ACT OF 2010".

SECTION 2.A. SECTION 2-75-30 OF THE 1976 CODE, AS LAST AMENDED BY ACT 355 OF 2008, IS FURTHER AMENDED TO READ:

"SECTION 2-75-30. (A) THERE IS CREATED THE CENTERS OF EXCELLENCE MATCHING ENDOWMENT. THE ENDOWMENT MUST BE FUNDED ANNUALLY BY APPROPRIATIONS FROM THE SOUTH CAROLINA EDUCATION LOTTERY ACCOUNT IN AN AMOUNT EQUAL TO THIRTY MILLION DOLLARS ANNUALLY, EXCEPT THAT ENDOWMENT APPROPRIATIONS MAY NOT BE FUNDED UNTIL ALL STATE-SUPPORTED SCHOLARSHIPS ARE FULLY FUNDED AND ONLY IF EIGHTY PERCENT OF THE TOTAL STATE APPROPRIATIONS HAVE BEEN AWARDED BY THE REVIEW BOARD AS OF JUNE THIRTIETH OF THE PREVIOUS FISCAL YEAR. TWO-THIRDS OF THE ENDOWMENT SHALL BE AWARDED BY THE REVIEW BOARD AND ONE-THIRD BY THE COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT. THE TOTAL STATE APPROPRIATED FUNDING AMOUNT SHALL INCLUDE FUNDS THAT HAVE BEEN RETURNED TO THE ENDOWMENT DUE TO A DISSOLUTION,

WITHDRAWAL, OR TERMINATION OF A CENTER OF EXCELLENCE. THE FUND MUST BE MANAGED BY THE STATE TREASURER, SUBJECT TO AWARDS FROM THE ENDOWMENT AS PROVIDED IN THIS CHAPTER. INTEREST EARNINGS OF THE ENDOWMENT MUST REMAIN IN THE FUND, AND MAY BE USED AT THE REVIEW BOARD'S DISCRETION FOR ADDITIONAL STATE AWARDS. INTEREST EARNINGS ARE NOT CONSIDERED PART OF THE TOTAL STATE APPROPRIATIONS UNLESS USED BY THE REVIEW BOARD FOR ADDITIONAL STATE AWARDS.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C), AN ENDOWED CHAIR PROPOSAL IS CONSIDERED AWARDED ONCE A FULL REVIEW PROCESS IS COMPLETE AND THE REVIEW BOARD HAS VOTED IN AN AFFIRMATIVE ON EACH PROPOSAL. A FULL REVIEW PROCESS SHALL INCLUDE THE FOLLOWING, BUT IS NOT LIMITED TO:

(1) A TECHNICAL AND SCIENTIFIC REVIEW OF EACH PROPOSAL. THE THREE RESEARCH UNIVERSITIES SHALL WORK WITH THE REVIEW BOARD STAFF TO NOMINATE REVIEWERS. THE REVIEW BOARD STAFF SHALL SELECT NO FEWER THAN FIVE TECHNICAL REVIEWERS TO REVIEW EACH PROPOSAL, AND A MINIMUM OF THREE TECHNICAL AND SCIENTIFIC REVIEWS MUST BE RECEIVED BY THE REVIEW BOARD STAFF FOR EACH PROPOSAL. THE REVIEW BOARD STAFF SHALL DETERMINE AN APPROPRIATE NUMBER OF TECHNICAL REVIEWERS AND SCIENTIFIC AND TECHNICAL REVIEWS. THE REVIEW BOARD STAFF SHALL LIMIT THE NUMBER OF UNIVERSITY-NOMINATED REVIEWERS TO TWO PER PROPOSAL;

(2) AN ON-SITE REVIEW OF EACH PROPOSAL. THE REVIEW BOARD STAFF SHALL CONTRACT WITH A MINIMUM OF FIVE OUT-OF-STATE EXPERT REVIEWERS, TO INCLUDE INDIVIDUALS WITH EXPERTISE IN ECONOMIC DEVELOPMENT AS WELL AS IN APPROPRIATE SCIENTIFIC DISCIPLINES, TO SERVE ON A SITE REVIEW TEAM THAT SHALL VISIT EACH OF THE RESEARCH UNIVERSITIES. THE REVIEW BOARD STAFF SHALL DETERMINE AN APPROPRIATE NUMBER OF EXPERT REVIEWERS. THE ON-SITE REVIEW TEAM SHALL INTERVIEW RELEVANT INVESTIGATORS AND OTHER UNIVERSITY PERSONNEL REGARDING PROPOSALS AND SHALL HAVE ACCESS TO COLLECTED SCIENTIFIC AND TECHNICAL REVIEWS AS WELL AS OTHER MATERIALS GERMANE TO THE PROPOSED PROJECTS. THE ON-SITE REVIEW TEAM SHALL EVALUATE THE PROPOSALS USING AN APPROVED SET OF METRICS; EACH RECOMMENDATION MUST INCLUDE A DETAILED NARRATIVE WHICH EXPLAINS THE ON-SITE REVIEW TEAM'S RECOMMENDATIONS; AND

(3) A PRESENTATION OF FINDINGS. THE ON-SITE REVIEW TEAM SHALL PRESENT ITS FINDINGS TO THE REVIEW BOARD, WHICH SHALL MAKE FINAL DECISIONS ON AWARDS. THE ON-SITE REVIEW TEAM SHALL RECOMMEND AN APPROPRIATE LEVEL OF FUNDING TO ACHIEVE SUCCESSFULLY THE STATED GOALS OF EACH PROJECT. THE REVIEW

BOARD SHALL CONSIDER THESE RECOMMENDATIONS IN DETERMINING AWARD AMOUNTS FOR EACH PROJECT.

(C) THE COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT ANNUALLY MAY AWARD ONE-THIRD OF THE ENDOWMENT BASED UPON ITS OWN REVIEW PROCESS. IT MAY SUBMIT ITS OWN APPLICATION TO THE THREE RESEARCH UNIVERSITIES, ISSUE ITS OWN ANNUAL APPLICATION SOLICITATION, PROVIDE ITS OWN POST-AWARD OVERSIGHT, AND THE PROVISIONS CONTAINED IN SECTIONS 2-75-50 AND 2-75-60 DO NOT APPLY. THE MATCHING REQUIREMENT CONTAINED IN SECTIONS 2-75-90 AND 2-75-110 DO NOT APPLY WHEN THE SECRETARY OF COMMERCE CERTIFIES TO THE REVIEW BOARD THAT THE ENDOWED PROFESSOR WILL DIRECTLY SUPPORT A BUSINESS OR INDUSTRY IN SOUTH CAROLINA WHICH WILL INVEST WITHIN A ONE-YEAR PERIOD AT LEAST ONE HUNDRED MILLION DOLLARS IN CAPITAL INVESTMENT AT A SINGLE SITE AFTER JANUARY 1, 2010.

B. THE COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT MAY ONLY MAKE AWARDS FROM FUNDS APPROPRIATED FROM THE SOUTH CAROLINA LOTTERY ACCOUNT FROM FISCAL YEAR 2011 FORWARD, TOGETHER WITH ANY ACCRUED INTEREST EARNINGS WHICH HAVE NOT ALREADY BEEN AWARDED BY THE REVIEW BOARD. THE COORDINATING COUNCIL'S AWARDS ARE SUBJECT TO THE LIMITATIONS CONTAINED IN SECTION 2-75-30 REGARDING FULL FUNDING OF ALL STATE-SUPPORTED SCHOLARSHIPS."

SECTION 3. SECTION 2-75-50(A) OF THE 1976 CODE, AS LAST AMENDED BY ACT 355 OF 2008, IS FURTHER AMENDED TO READ:

"(A) AN APPLICATION TO THE REVIEW BOARD FOR AN AWARD FROM THE ENDOWMENT SHALL:

(1) PROVIDE TO THE REVIEW BOARD DOCUMENTATION OF PRIVATE MATCHING FUNDS, ON HAND, IN AN AMOUNT EQUAL TO THE AMOUNT FOR WHICH APPLICATION IS MADE;

(2) PROVIDE TO THE REVIEW BOARD DOCUMENTATION THAT ALL MATCHING FUNDS HAVE BEEN COMMITTED AND RAISED EXCLUSIVELY FROM SOURCES OTHER THAN SOUTH CAROLINA TAX DOLLARS, AND THAT THE FUNDS HAVE BEEN COMMITTED AND RAISED AFTER JANUARY 1, 2002;

(3) BE IN AN AMOUNT OF NOT LESS THAN TWO MILLION DOLLARS AND NOT MORE THAN FIVE MILLION DOLLARS;

(4) DOCUMENT THAT THE APPLICATION HAS SIGNIFICANT POTENTIAL TO PROVIDE FOR ENHANCED ECONOMIC DEVELOPMENT FOR THE CITIZENS OF SOUTH CAROLINA IN A SPECIFIED KNOWLEDGE-BASED INDUSTRY OR FIELD OF COMMERCE; AND

(5) PROVIDE SPECIFIC PARTNERING ACTIVITIES WITH OTHER INSTITUTIONS, BUSINESSES, OR THE COMMUNITY."

SECTION 4. SECTION 4-12-30(B)(4)(B) OF THE 1976 CODE, AS LAST AMENDED BY ACT 352 OF 2008, IS FURTHER AMENDED TO READ:

(B) IF THE PROJECT CONSISTS OF A MANUFACTURING, RESEARCH AND DEVELOPMENT, CORPORATE OFFICE, OR DISTRIBUTION FACILITY, AS THOSE TERMS ARE DEFINED IN SECTION 12-6-3360(M), EACH SPONSOR OR SPONSOR AFFILIATE IS NOT REQUIRED TO INVEST THE MINIMUM INVESTMENT REQUIRED BY SUBSECTION (B)(3), IF THE TOTAL INVESTMENT IN THE PROJECT EXCEEDS ~~TEN~~ FIVE MILLION DOLLARS."

SECTION 5.A. SECTION 4-12-30(C)(4) OF THE 1976 CODE, AS LAST AMENDED BY ACT 116 OF 2007, IS FURTHER AMENDED TO READ:

"(4)THE ANNUAL FEE PROVIDED BY SUBSECTION (D)(2) IS AVAILABLE FOR NO MORE THAN ~~TWENTY~~ THIRTY YEARS FOR AN

APPLICABLE PIECE OF PROPERTY. THE SPONSOR MAY APPLY TO THE COUNTY PRIOR TO THE END OF THE ~~TWENTY-YEAR~~ THIRTY-YEAR PERIOD FOR AN EXTENSION OF THE FEE PERIOD FOR UP TO TEN YEARS. THE COUNTY COUNCIL OF THE COUNTY SHALL APPROVE AN EXTENSION BY RESOLUTION UPON A FINDING OF SUBSTANTIAL PUBLIC BENEFIT. A COPY OF THE RESOLUTION SHALL BE DELIVERED TO THE DEPARTMENT WITHIN THIRTY DAYS OF THE DATE THE RESOLUTION WAS ADOPTED. FOR PROJECTS COMPLETED AND PLACED IN SERVICE DURING MORE THAN ONE YEAR, EACH YEAR'S INVESTMENT MAY BE SUBJECT TO THE FEE IN SUBSECTION (D)(2) FOR ~~TWENTY~~ THIRTY YEARS OR, IF EXTENDED AS PROVIDED IN THIS SUBSECTION UP TO ~~THIRTY~~ FORTY YEARS, FOR AN AGGREGATE FEE PERIOD OF UP TO ~~FORTY~~ FIFTY YEARS. FOR THOSE SPONSORS QUALIFYING UNDER SUBSECTION (D)(4), THE ANNUAL FEE IS AVAILABLE FOR NO MORE THAN ~~THIRTY~~ FORTY YEARS FOR AN APPLICABLE PIECE OF PROPERTY AND FOR THOSE PROJECTS PLACED IN SERVICE IN MORE THAN ONE YEAR THE ANNUAL FEE IS AVAILABLE FOR AN AGGREGATE FEE PERIOD OF UP TO ~~FORTY-THREE~~ FIFTY-THREE YEARS, OR FOR THOSE SPONSORS QUALIFYING PURSUANT TO SUBSECTION (C)(3), ~~FORTY-FIVE~~ FIFTY-FIVE YEARS."

B. THIS PROVISION TAKES EFFECT FOR FEE-IN-LIEU AGREEMENTS EXECUTED AFTER JANUARY 1, 2011, PROVIDED THAT A COUNTY MAY AMEND EXISTING FEE-IN-LIEU AGREEMENTS AT ANY TIME PRIOR TO THE EXPIRATION OF THE FEE TO INCORPORATE THE AMENDMENT TO SECTION 4-12-30(C)(4) AS CONTAINED IN SUBSECTION A.

SECTION 6. SECTION 4-12-30(D)(2)(A)(I) OF THE 1976 CODE, AS LAST AMENDED BY ACT 462 OF 1996, IS FURTHER AMENDED TO READ:

"(I) FOR REAL PROPERTY, USING THE ORIGINAL INCOME TAX BASIS FOR SOUTH CAROLINA INCOME TAX PURPOSES WITHOUT REGARD TO DEPRECIATION, IF REAL PROPERTY IS CONSTRUCTED FOR THE FEE

OR IS PURCHASED IN AN ARM'S LENGTH TRANSACTION; OTHERWISE, THE PROPERTY MUST BE REPORTED AT ITS FAIR MARKET VALUE FOR AD VALOREM PROPERTY TAX PURPOSES AS DETERMINED BY APPRAISAL. THE FAIR MARKET VALUE ESTIMATE ESTABLISHED FOR THE FIRST YEAR OF THE FEE REMAINS THE FAIR MARKET VALUE OF THE REAL PROPERTY FOR THE LIFE OF THE FEE. THE COUNTY AND THE SPONSOR OR SPONSOR AFFILIATE MAY INSTEAD PROVIDE IN THE FEE AGREEMENT OR ANY AMENDMENT THERETO THAT ANY REAL PROPERTY SUBJECT TO THE FEE SHALL BE REPORTED AT ITS FAIR MARKET VALUE FOR AD VALOREM PROPERTY TAXES AS DETERMINED BY APPRAISAL AS IF SUCH PROPERTY WERE NOT SUBJECT TO THE FEE; AND"

SECTION 7. SECTION 4-12-30(J)(1)(B) OF THE 1976 CODE, AS LAST AMENDED BY ACT 352 OF 2008, IS FURTHER AMENDED TO READ:

"(B) PROPERTY WHICH HAS BEEN SUBJECT TO SOUTH CAROLINA PROPERTY TAXES, BUT WHICH HAS NEVER BEEN PLACED IN SERVICE IN SOUTH CAROLINA, OR WHICH WAS PLACED IN SERVICE IN SOUTH CAROLINA PURSUANT TO AN INDUCEMENT AGREEMENT OR OTHER PRELIMINARY APPROVAL BY THE COUNTY PRIOR TO EXECUTION OF THE LEASE AGREEMENT PURSUANT TO SUBSECTION (C)(1), MAY QUALIFY FOR THE FEE."

SECTION 8.A. SECTION 4-29-67 OF THE 1976 CODE, AS LAST AMENDED BY ACT 352 OF 2008, IS FURTHER AMENDED TO READ:

"SECTION 4-29-67. (A)(1) AS USED IN THIS SECTION:

(A) 'DEPARTMENT' MEANS THE SOUTH CAROLINA DEPARTMENT OF REVENUE.

(B) 'LEASE AGREEMENT' MEANS AN AGREEMENT BETWEEN THE COUNTY AND A SPONSOR LEASING THE PROPERTY AT THE PROJECT FROM THE COUNTY TO A SPONSOR.

(C) 'PROJECT' MEANS LAND, BUILDINGS, AND OTHER IMPROVEMENTS ON THE LAND INCLUDING WATER, SEWAGE TREATMENT AND DISPOSAL FACILITIES, AIR POLLUTION CONTROL FACILITIES, AND ALL OTHER MACHINERY APPARATUS, EQUIPMENT, OFFICE FACILITIES, AND FURNISHINGS WHICH ARE CONSIDERED NECESSARY, SUITABLE, OR USEFUL BY A SPONSOR. 'PROJECT' ALSO MAY CONSIST OF OR INCLUDE AIRCRAFT HANGERED OR UTILIZING AN AIRPORT IN A COUNTY SO LONG AS THE COUNTY EXPRESSLY CONSENTS TO ITS INCLUSION. AIRCRAFT PREVIOUSLY SUBJECT TO TAXATION IN SOUTH CAROLINA QUALIFY PURSUANT TO THIS PROVISION.

(D) 'QUALIFIED NUCLEAR PLANT FACILITY' MEANS A NUCLEAR ELECTRIC POWER GENERATING PLANT REGULATED BY THE NUCLEAR REGULATORY COMMISSION AND INCLUDES ALL REAL AND PERSONAL PROPERTY INCORPORATED INTO OR ASSOCIATED WITH THE FACILITY LOCATED OR TO BE LOCATED WITHIN THIS STATE WITH A TOTAL MINIMUM LEVEL OF INVESTMENT OF ONE BILLION DOLLARS.

(~~D~~E) 'SPONSOR' MEANS ONE OR MORE ENTITIES WHICH SIGN THE INDUCEMENT AGREEMENT WITH THE COUNTY AND ALSO INCLUDES A SPONSOR AFFILIATE UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE.

(~~E~~F) 'SPONSOR AFFILIATE' MEANS AN ENTITY THAT JOINS WITH, OR IS AN AFFILIATE OF, A SPONSOR AND THAT PARTICIPATES IN THE INVESTMENT IN, OR FINANCING OF, A PROJECT.

(2) NOTWITHSTANDING THE PROVISIONS OF SECTION 4-29-60, AND NOTWITHSTANDING THAT THE SPONSOR DOES NOT REQUEST THE COUNTY TO ISSUE BONDS TO FINANCE THE PROPERTY, THE COUNTY AND A SPONSOR MAY ENTER INTO AN INDUCEMENT AGREEMENT THAT PROVIDES FOR A FEE IN LIEU OF TAXES AS PROVIDED IN THIS SECTION FOR CERTAIN PROPERTY, TITLE TO WHICH IS HELD BY THE COUNTY AND WHICH IS LEASED TO A SPONSOR.

(B) FOR PROPERTY TO QUALIFY FOR THE FEE AS PROVIDED IN SUBSECTION (D)(2):

(1) TITLE TO THE PROPERTY MUST BE HELD BY THE COUNTY. IN THE CASE OF A PROJECT LOCATED IN AN INDUSTRIAL DEVELOPMENT PARK AS DEFINED IN SECTION 4-1-170, TITLE MAY BE HELD BY MORE THAN ONE COUNTY, IF EACH COUNTY IS A MEMBER OF THE INDUSTRIAL DEVELOPMENT PARK. REAL PROPERTY TRANSFERRED TO THE COUNTY THROUGH A LEASE AGREEMENT MUST INCLUDE A LEGAL DESCRIPTION AND PLAT OF THE REAL PROPERTY. PROPERTY TITLED IN THE NAME OF A COUNTY PURSUANT TO THIS SECTION IS CONSIDERED PRIVATELY OWNED FOR PURPOSES OF SECTION 58-3-240.

(2) THE PROJECT MUST BE LOCATED IN A SINGLE COUNTY OR AN INDUSTRIAL DEVELOPMENT PARK AS DEFINED IN SECTION 4-1-170. A PROJECT LOCATED ON A CONTIGUOUS TRACT OF LAND IN MORE THAN ONE COUNTY, BUT NOT IN AN INDUSTRIAL DEVELOPMENT PARK, MAY QUALIFY FOR THE FEE IF:

(A) THE COUNTIES AGREE ON THE TERMS OF THE FEE AND THE DISTRIBUTION OF THE FEE PAYMENT;

(B) THE MINIMUM MILLAGE RATE IS PROVIDED FOR IN THE AGREEMENT; AND

(C) ALL THE COUNTIES ARE PARTIES TO ALL AGREEMENTS ESTABLISHING THE TERMS OF THE FEE.

(3) THE MINIMUM LEVEL OF INVESTMENT IN THE PROJECT MUST BE AT LEAST FORTY- FIVE MILLION DOLLARS AND MUST BE INVESTED WITHIN THE TIME PERIOD PROVIDED IN SUBSECTION (C). IF A COUNTY HAS AN AVERAGE ANNUAL UNEMPLOYMENT RATE OF AT LEAST TWICE THE STATE AVERAGE DURING THE LAST TWENTY-FOUR MONTHS BASED ON DATA AVAILABLE ON THE MOST RECENT NOVEMBER FIRST, THE MINIMUM LEVEL OF INVESTMENT IS ONE MILLION DOLLARS. THE DEPARTMENT SHALL DESIGNATE THESE REDUCED INVESTMENT COUNTIES BY DECEMBER THIRTY-FIRST OF EACH YEAR USING DATA FROM THE SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION AND THE UNITED STATES DEPARTMENT OF COMMERCE. THE DESIGNATIONS ARE EFFECTIVE FOR A SPONSOR WHOSE INDUCEMENT

AGREEMENT IS SIGNED IN THE CALENDAR YEAR FOLLOWING THE COUNTY DESIGNATION. INVESTMENTS MAY INCLUDE AMOUNTS EXPENDED BY A SPONSOR OR SPONSOR AFFILIATE AS A NONRESPONSIBLE PARTY IN A VOLUNTARY CLEANUP CONTRACT ON THE PROPERTY AT THE PROJECT PURSUANT TO ARTICLE 7, CHAPTER 56 OF TITLE 44, THE BROWNFIELDS VOLUNTARY CLEANUP PROGRAM, IF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CERTIFIES COMPLETION OF THE CLEANUP. IF THE AMOUNTS UNDER THE BROWNFIELDS VOLUNTARY CLEANUP PROGRAM EQUAL AT LEAST ONE MILLION DOLLARS, THE INVESTMENT THRESHOLD REQUIREMENT OF THIS SECTION IS MET.

(4)(A) A SPONSOR AND A SPONSOR AFFILIATE MAY QUALIFY FOR THE FEE IF EACH SPONSOR AND SPONSOR AFFILIATE INVESTS THE MINIMUM LEVEL OF INVESTMENT AT THE PROJECT. IF THE PROJECT CONSISTS OF A MANUFACTURING, RESEARCH AND DEVELOPMENT, CORPORATE OFFICE, OR DISTRIBUTION FACILITY AS THOSE TERMS ARE DEFINED IN SECTION 12-6-3360(M) <u>AND INCLUDING A QUALIFIED NUCLEAR PLANT FACILITY AS DEFINED IN SECTION 12-44-30(17)</u>, EACH SPONSOR OR SPONSOR AFFILIATE IS NOT REQUIRED TO INVEST THE MINIMUM INVESTMENT REQUIRED BY SUBSECTION (B)(3) IF THE TOTAL INVESTMENT AT THE PROJECT EXCEEDS FORTY-FIVE MILLION DOLLARS.

(B)(I) INVESTMENTS BY SPONSOR AFFILIATES WITHIN THE TIME PERIODS PROVIDED IN SUBSECTION (C)(1) AND (2) QUALIFY FOR THE FEE REGARDLESS OF WHETHER OR NOT THE SPONSOR AFFILIATE WAS PART OF THE INDUCEMENT AGREEMENT, SO LONG AS SPONSOR AFFILIATES ARE APPROVED SPECIFICALLY BY THE COUNTY AND AGREE TO BE BOUND BY AGREEMENTS WITH THE COUNTY RELATING TO THE FEE; EXCEPT THAT SPONSOR AFFILIATES ARE NOT BOUND BY AGREEMENTS, OR PORTIONS OF AGREEMENTS, TO THE EXTENT THOSE AGREEMENTS DO NOT AFFECT THE COUNTY. THE INVESTMENTS PURSUANT TO THIS SUBSECTION MUST BE AT THE SAME

PROJECT. THE INDUCEMENT AGREEMENT OR THE LEASE AGREEMENT MAY PROVIDE FOR A PROCESS FOR APPROVAL OF SPONSOR AFFILIATES.

(II) THE DEPARTMENT MUST BE NOTIFIED IN WRITING OF ALL SPONSOR AFFILIATES THAT HAVE INVESTMENTS SUBJECT TO THE FEE ON OR BEFORE NINETY DAYS AFTER THE END OF THE CALENDAR YEAR DURING WHICH THE PROJECT OR PERTINENT PHASE OF THE PROJECT IS PLACED IN SERVICE. THE DEPARTMENT MAY EXTEND THIS PERIOD UPON WRITTEN REQUEST. FAILURE TO MEET THIS NOTICE REQUIREMENT DOES NOT AFFECT ADVERSELY THE FEE, BUT A PENALTY OF UP TO TEN THOUSAND DOLLARS A MONTH OR PORTION OF A MONTH WITH THE TOTAL PENALTY NOT TO EXCEED ONE HUNDRED TWENTY THOUSAND DOLLARS MAY BE ASSESSED BY THE DEPARTMENT FOR LATE NOTIFICATION.

(III)A. EXCEPT AS PROVIDED IN SUBSECTION (D)(4) IF, AT ANY TIME, A SPONSOR NO LONGER HAS THE MINIMUM LEVEL OF INVESTMENT AS PROVIDED IN SUBSECTION (B)(3), THAT SPONSOR NO LONGER QUALIFIES FOR THE FEE.

B. EXCEPT AS PROVIDED IN SUBSECTION (Q), IF A SPONSOR QUALIFIES FOR THE FEE PURSUANT TO SUBSECTION (D)(4), THE SPONSOR MUST MAINTAIN THE APPLICABLE LEVEL OF INVESTMENT, WITHOUT REGARD TO DEPRECIATION, AND ANY APPLICABLE JOB REQUIREMENTS PROVIDED IN (D)(4). IF THE SPONSOR FAILS TO MAINTAIN THE APPLICABLE INVESTMENT OR ANY JOB REQUIREMENTS PROVIDED IN (D)(4), IT NO LONGER QUALIFIES FOR THE FEE.

C. EXCEPT AS PROVIDED IN SUBSECTION (Q), IF AN INDUCEMENT AGREEMENT OR A LEASE AGREEMENT PROVIDES FOR AN INVESTMENT ABOVE THE MINIMUM INVESTMENT PROVIDED IN SUBSECTION (B)(3), AND THE SPONSOR FAILS TO MAINTAIN THE INVESTMENT PROVIDED FOR IN THE AGREEMENT, THE SPONSOR NO LONGER QUALIFIES FOR THE FEE.

(C)(1) <u>EXCEPT AS PROVIDED IN SUBSECTION (W)(1),</u> FROM THE END OF THE PROPERTY TAX YEAR IN WHICH THE SPONSOR AND THE COUNTY EXECUTE AN INDUCEMENT AGREEMENT, THE SPONSOR HAS FIVE YEARS IN WHICH TO ENTER INTO AN INITIAL LEASE AGREEMENT WITH THE COUNTY.

(2)(A) FROM THE END OF THE PROPERTY TAX YEAR IN WHICH THE SPONSOR AND THE COUNTY EXECUTE THE INITIAL LEASE AGREEMENT, THE SPONSOR HAS FIVE YEARS IN WHICH TO COMPLETE ITS INVESTMENT FOR PURPOSES OF QUALIFYING FOR THIS SECTION. IF THE SPONSOR DOES NOT ANTICIPATE COMPLETING THE PROJECT WITHIN FIVE YEARS, THE SPONSOR MAY APPLY TO THE COUNTY BEFORE THE END OF THE FIVE-YEAR PERIOD FOR MAKING THE INVESTMENT FOR AN EXTENSION OF TIME TO COMPLETE THE PROJECT. IF THE COUNTY AGREES TO GRANT THE EXTENSION, IT MUST BE IN WRITING, AND A COPY MUST BE DELIVERED TO THE DEPARTMENT WITHIN THIRTY DAYS OF THE DATE THE EXTENSION WAS GRANTED. THE EXTENSION MAY NOT EXCEED FIVE YEARS. IF A PROJECT RECEIVES AN EXTENSION OF LESS THAN FIVE YEARS, THE SPONSOR MAY APPLY TO THE COUNTY BEFORE THE END OF THE EXTENSION PERIOD FOR AN ADDITIONAL EXTENSION OF TIME TO COMPLETE THE PROJECT FOR AN AGGREGATE EXTENSION OF NOT MORE THAN FIVE YEARS. UNLESS APPROVED AS PART OF THE ORIGINAL LEASE DOCUMENTATION, THE COUNTY COUNCIL OF THE COUNTY MAY APPROVE ANY EXTENSION BY RESOLUTION, A COPY OF WHICH MUST BE DELIVERED TO THE DEPARTMENT WITHIN THIRTY DAYS OF THE DATE THE RESOLUTION WAS ADOPTED.

(B) AN EXTENSION OF THE FIVE-YEAR PERIOD IN WHICH TO MEET THE MINIMUM LEVEL OF INVESTMENT IS NOT ALLOWED. IF THE MINIMUM LEVEL OF INVESTMENT IS NOT MET WITHIN FIVE YEARS, ALL PROPERTY COVERED BY THE LEASE AGREEMENT OR AGREEMENTS REVERTS RETROACTIVELY TO THE PAYMENTS REQUIRED BY SECTION 4-29-60. THE DIFFERENCE BETWEEN THE FEE ACTUALLY PAID BY THE

SPONSOR AND THE PAYMENT DUE PURSUANT TO SECTION 4-29-60 IS SUBJECT TO INTEREST, AS PROVIDED IN SECTION 12-54-25(D). TO THE EXTENT NECESSARY TO DETERMINE IF A SPONSOR OR SPONSOR AFFILIATE HAS MET ITS INVESTMENT REQUIREMENTS, ANY STATUTE OF LIMITATION THAT MIGHT APPLY PURSUANT TO SECTION 12-54-85 IS SUSPENDED FOR ALL SPONSORS AND SPONSOR AFFILIATES AND THE DEPARTMENT OR THE COUNTY MAY SEEK TO COLLECT ANY AMOUNTS THAT MAY BE DUE PURSUANT TO THIS SECTION.

(C) UNLESS PROPERTY QUALIFIES AS REPLACEMENT PROPERTY PURSUANT TO A CONTRACT PROVISION ENACTED PURSUANT TO SUBSECTION (F)(2), PROPERTY PLACED IN SERVICE AFTER THE FIVE-YEAR PERIOD, OR THE TEN-YEAR PERIOD IN THE CASE OF A PROJECT WHICH HAS RECEIVED AN EXTENSION, IS NOT PART OF THE FEE AGREEMENT PURSUANT TO SUBSECTION (D)(2) AND IS SUBJECT TO THE PAYMENTS REQUIRED BY SECTION 4-29-60 IF THE COUNTY HAS TITLE TO THE PROPERTY OR AD VALOREM PROPERTY TAXES, IF THE SPONSOR HAS TITLE TO THE PROPERTY.

(D) FOR PURPOSES OF THOSE BUSINESSES QUALIFYING UNDER SUBSECTION (D)(4), THE FIVE-YEAR PERIOD REFERRED TO IN THIS SUBSECTION IS EIGHT YEARS. FOR THOSE SPONSORS WHICH, AFTER QUALIFYING PURSUANT TO SUBSECTION (D)(4), HAVE MORE THAN FIVE HUNDRED MILLION DOLLARS IN CAPITAL INVESTED IN THIS STATE AND EMPLOY MORE THAN ONE THOUSAND PEOPLE IN THIS STATE, THE FIVE-YEAR PERIOD REFERRED TO IN THIS SUBSECTION IS TEN YEARS, AND THE TEN-YEAR PERIOD IS FIFTEEN YEARS.

(3) THE ANNUAL FEE PROVIDED BY SUBSECTION (D)(2) IS AVAILABLE FOR NO MORE THAN ~~TWENTY~~ THIRTY YEARS FOR AN APPLICABLE PIECE OF PROPERTY. THE SPONSOR MAY APPLY TO THE COUNTY PRIOR TO THE END OF THE ~~TWENTY-YEAR~~ THIRTY-YEAR PERIOD FOR AN EXTENSION OF THE FEE PERIOD FOR UP TO TEN YEARS. THE COUNTY COUNCIL OF THE COUNTY MAY APPROVE AN EXTENSION BY RESOLUTION UPON A FINDING OF SUBSTANTIAL PUBLIC BENEFIT. A

COPY OF THE RESOLUTION SHALL BE DELIVERED TO THE DEPARTMENT WITHIN THIRTY DAYS OF THE DATE THE RESOLUTION WAS ADOPTED. FOR PROJECTS WHICH ARE COMPLETED AND PLACED IN SERVICE DURING MORE THAN ONE YEAR, EACH YEAR'S INVESTMENT MAY BE SUBJECT TO THE FEE IN SUBSECTION (D)(2) FOR ~~TWENTY~~ THIRTY YEARS OR, IF EXTENDED AS PROVIDED IN THIS SUBSECTION, UP TO ~~THIRTY~~ FORTY YEARS, FOR AN AGGREGATE MAXIMUM FEE PERIOD OF UP TO ~~FORTY~~ FIFTY YEARS. FOR THOSE SPONSORS QUALIFYING UNDER SUBSECTION (D)(4), THE ANNUAL FEE IS AVAILABLE FOR NO MORE THAN ~~THIRTY~~ FORTY YEARS FOR AN APPLICABLE PIECE OF PROPERTY AND FOR THOSE PROJECTS PLACED IN SERVICE IN MORE THAN ONE YEAR, THE ANNUAL FEE IS AVAILABLE FOR AN AGGREGATE FEE PERIOD OF UP TO ~~FORTY-THREE~~ FIFTY-THREE YEARS OR, FOR THOSE SPONSORS QUALIFYING PURSUANT TO ITEM (2)(D), ~~FORTY-FIVE~~ FIFTY-FIVE YEARS.

(4) DURING THE TIME PERIOD ALLOWED TO MEET THE MINIMUM INVESTMENT LEVEL, THE INVESTOR ANNUALLY MUST INFORM THE APPROPRIATE COUNTY OFFICIAL OF THE TOTAL AMOUNT INVESTED.

(D) THE INDUCEMENT AGREEMENT MUST PROVIDE FOR FEE PAYMENTS, TO THE EXTENT APPLICABLE, AS FOLLOWS:

(1)(A) ANY PROPERTY IS SUBJECT TO AN ANNUAL FEE PAYMENT AS PROVIDED IN SECTION 4-29-60 BEFORE BEING PLACED IN SERVICE.

(B) ANY UNDEVELOPED LAND IS SUBJECT TO AN ANNUAL FEE PAYMENT AS PROVIDED IN SECTION 4-29-60 BEFORE BEING DEVELOPED AND PLACED IN SERVICE. THE TIME DURING WHICH FEE PAYMENTS ARE MADE PURSUANT TO SECTION 4-29-60 IS NOT CONSIDERED PART OF THE MAXIMUM PERIODS PROVIDED IN SUBSECTION (C)(2) AND (3), AND A LEASE IS NOT AN "INITIAL LEASE AGREEMENT" FOR PURPOSES OF THIS SECTION UNTIL THE FIRST DAY OF THE CALENDAR YEAR FOR WHICH A FEE PAYMENT IS DUE PURSUANT TO SUBSECTION (D)(2) IN CONNECTION WITH THE LEASE.

(2) AFTER PROPERTY QUALIFYING PURSUANT TO SUBSECTION (B) IS PLACED IN SERVICE, AN ANNUAL FEE PAYMENT, DETERMINED IN ACCORDANCE WITH ONE OF THE FOLLOWING, IS DUE:

(A) AN ANNUAL PAYMENT IN AN AMOUNT NOT LESS THAN THE PROPERTY TAXES THAT WOULD BE DUE ON THE PROJECT IF IT WERE TAXABLE, BUT USING:

(I) AN ASSESSMENT RATIO OF AT LEAST SIX PERCENT, OR FOUR PERCENT FOR THOSE PROJECTS QUALIFYING PURSUANT TO SUBSECTION (D)(4);

(II) A FIXED MILLAGE RATE AS PROVIDED IN SUBSECTION (G); AND

(III) A FAIR MARKET VALUE ESTIMATE DETERMINED BY THE DEPARTMENT AS FOLLOWS:

A. FOR REAL PROPERTY, USING THE ORIGINAL INCOME TAX BASIS FOR SOUTH CAROLINA INCOME TAX PURPOSES WITHOUT REGARD TO DEPRECIATION. IF REAL PROPERTY IS CONSTRUCTED FOR THE FEE OR IS PURCHASED IN AN ARMS-LENGTH TRANSACTION, USING THE ORIGINAL TAX BASIS, OTHERWISE THE PROPERTY MUST BE REPORTED AT ITS FAIR MARKET VALUE FOR AD VALOREM PROPERTY TAX PURPOSES AS DETERMINED BY APPRAISAL. THE FAIR MARKET VALUE ESTABLISHED FOR THE FIRST YEAR OF THE FEE REMAINS THE FAIR MARKET VALUE FOR THE LIFE OF THE FEE. THE COUNTY AND THE SPONSOR OR SPONSOR AFFILIATE MAY INSTEAD PROVIDE IN THE FEE AGREEMENT OR ANY AMENDMENT THERETO THAT ANY REAL PROPERTY SUBJECT TO THE FEE SHALL BE REPORTED AT ITS FAIR MARKET VALUE FOR AD VALOREM PROPERTY TAXES AS DETERMINED BY APPRAISAL AS IF SUCH PROPERTY WERE NOT SUBJECT TO THE FEE; AND

B. FOR PERSONAL PROPERTY, USING THE ORIGINAL TAX BASIS FOR SOUTH CAROLINA INCOME TAX PURPOSES, LESS DEPRECIATION ALLOWABLE FOR PROPERTY TAX PURPOSES;

EXCEPT THAT THE SPONSOR IS NOT ENTITLED TO ANY EXTRAORDINARY OBSOLESCENCE;

(B) AN ANNUAL PAYMENT BASED ON AN ALTERNATIVE ARRANGEMENT YIELDING A NET PRESENT VALUE OF THE SUM OF THE FEES FOR THE LIFE OF THE AGREEMENT NOT LESS THAN THE NET PRESENT VALUE OF THE FEE SCHEDULE AS CALCULATED PURSUANT TO SUBSECTION (D)(2)(A). NET PRESENT VALUE CALCULATIONS PERFORMED PURSUANT TO THIS SUBSECTION MUST USE A DISCOUNT RATE EQUIVALENT TO THE YIELD IN EFFECT FOR NEW OR EXISTING UNITED STATES TREASURY BONDS OF SIMILAR MATURITY AS PUBLISHED DURING THE MONTH IN WHICH THE INDUCEMENT AGREEMENT IS EXECUTED. IF NO YIELD IS AVAILABLE FOR THE MONTH IN WHICH THE INDUCEMENT AGREEMENT IS EXECUTED, THE LAST PUBLISHED YIELD FOR THE APPROPRIATE MATURITY MUST BE USED. IF THERE ARE NO BONDS OF APPROPRIATE MATURITY AVAILABLE, BONDS OF DIFFERENT MATURITIES MAY BE AVERAGED TO OBTAIN THE APPROPRIATE MATURITY; OR

(C) AN ANNUAL PAYMENT AS PROVIDED IN SUBSECTION (D)(2)(A), EXCEPT THAT EVERY FIFTH YEAR THE APPLICABLE MILLAGE RATE MAY INCREASE OR DECREASE IN STEP WITH THE AVERAGE ACTUAL MILLAGE RATE APPLICABLE IN THE DISTRICT WHERE THE PROJECT IS LOCATED BASED ON THE PRECEDING FIVE-YEAR PERIOD.

(3) AT THE CONCLUSION OF THE PAYMENTS DETERMINED PURSUANT TO ITEMS (1) AND (2) OF THIS SUBSECTION THE ANNUAL FEE PAYMENT IS EQUAL TO THE TAXES DUE ON THE PROJECT AS IF IT WERE TAXABLE. WHEN THE PROPERTY IS NO LONGER SUBJECT TO THE FEE PURSUANT TO SUBSECTION (D)(2), THE FEE OR PROPERTY TAXES MUST BE ASSESSED:

(A) WITH RESPECT TO REAL PROPERTY, BASED ON THE FAIR MARKET VALUE AS OF THE LATEST REASSESSMENT DATE FOR SIMILAR TAXABLE PROPERTY; AND

(B) WITH RESPECT TO PERSONAL PROPERTY, BASED ON THE THEN-DEPRECIATED VALUE APPLICABLE TO THE PROPERTY UNDER THE FEE, AND AFTER THAT CONTINUING WITH THE SOUTH CAROLINA PROPERTY TAX DEPRECIATION SCHEDULE.

(4)(A) THE ASSESSMENT RATIO MAY NOT BE LOWER THAN FOUR PERCENT:

(I) IN THE CASE OF A SINGLE SPONSOR INVESTING AT LEAST ONE HUNDRED FIFTY MILLION DOLLARS AND WHICH IS CREATING AT LEAST ONE HUNDRED TWENTY-FIVE NEW FULL-TIME JOBS AT THE PROJECT;

(II) IN THE CASE OF A SINGLE SPONSOR INVESTING AT LEAST FOUR HUNDRED MILLION DOLLARS IN THIS STATE;

(III) IN THE CASE OF A PROJECT THAT SATISFIES THE REQUIREMENTS OF SECTION 11-41-30(2)(A), AND FOR WHICH THE SECRETARY OF COMMERCE HAS DELIVERED CERTIFICATION PURSUANT TO SECTION 11-41-70(2)(A).

FOR PURPOSES OF THIS ITEM, IF A SINGLE SPONSOR ENTERS INTO A FINANCING ARRANGEMENT OF THE TYPE DESCRIBED IN SECTION 4-29-67(O)(2), THE INVESTMENT IN OR FINANCING OF THE PROPERTY BY A DEVELOPER, LESSOR, FINANCING ENTITY, OR OTHER THIRD PARTY IN ACCORDANCE WITH THIS ARRANGEMENT IS CONSIDERED INVESTMENT BY THE SPONSOR. INVESTMENT BY A RELATED PERSON TO THE SPONSOR, AS DESCRIBED IN SECTION 12-10-80(D)(2), IS CONSIDERED INVESTMENT BY THE SPONSOR.

(B) THE NEW FULL-TIME JOBS REQUIREMENT OF THIS ITEM DOES NOT APPLY IN THE CASE OF A BUSINESS THAT PAID MORE THAN FIFTY PERCENT OF ALL PROPERTY TAXES ACTUALLY COLLECTED IN THE COUNTY FOR MORE THAN THE TWENTY-FIVE YEARS ENDING ON THE DATE OF THE LEASE AGREEMENT.

(C) IN AN INSTANCE IN WHICH THE GOVERNING BODY OF A COUNTY HAS PROVIDED, BY CONTRACTUAL AGREEMENT, FOR A CHANGE IN FEE IN LIEU OF TAXES ARRANGEMENTS CONDITIONED ON A

FUTURE LEGISLATIVE ENACTMENT, A NEW ENACTMENT DOES NOT BIND THE ORIGINAL PARTIES TO THE AGREEMENT UNLESS THE CHANGE IS RATIFIED BY THE GOVERNING BODY OF THE COUNTY.

(5) NOTWITHSTANDING THE USE OF THE TERM "ASSESSMENT RATIO", A SPONSOR QUALIFYING FOR THE FEE MAY NEGOTIATE AN INDUCEMENT AGREEMENT WITH A COUNTY USING DIFFERING ASSESSMENT RATIOS FOR DIFFERENT ASSESSMENT YEARS OR LEVELS OF INVESTMENT COVERED BY THE INDUCEMENT AGREEMENT. THE LOWEST ASSESSMENT RATIO ALLOWED IS THE LOWEST RATIO FOR WHICH THE SPONSOR MAY QUALIFY UNDER THIS SECTION.

(E) CALCULATIONS PURSUANT TO SUBSECTION (D)(2) MUST BE MADE ON THE BASIS THAT THE PROPERTY, IF TAXABLE, IS ALLOWED ALL APPLICABLE PROPERTY TAX EXEMPTIONS EXCEPT THE EXEMPTION ALLOWED PURSUANT TO SECTION 3(G) OF ARTICLE X OF THE CONSTITUTION OF THIS STATE AND THE EXEMPTIONS ALLOWED PURSUANT TO SECTION 12-37-220(B)(32) AND (34).

(F) WITH REGARD TO CALCULATION OF THE FEE PROVIDED IN SUBSECTION (D)(2), THE INDUCEMENT AGREEMENT MAY PROVIDE FOR THE DISPOSAL OF PROPERTY AND THE REPLACEMENT OF PROPERTY SUBJECT TO THE FEE AS FOLLOWS:

(1) IF A SPONSOR DISPOSES OF PROPERTY SUBJECT TO THE FEE, THE FEE MUST BE REDUCED BY THE AMOUNT OF THE FEE APPLICABLE TO THAT PROPERTY. PROPERTY IS DISPOSED OF ONLY WHEN IT IS SCRAPPED OR SOLD OR REMOVED FROM THE PROJECT. IF IT IS REMOVED FROM THE PROJECT, IT BECOMES SUBJECT TO AD VALOREM PROPERTY TAXES TO THE EXTENT IT REMAINS IN THE STATE. IF THE SPONSOR USED ANY METHOD TO COMPUTE THE FEE OTHER THAN THAT PROVIDED IN SUBSECTION (D)(2)(A), THE FEE ON THE PROPERTY WHICH WAS DISPOSED OF MUST BE RECOMPUTED IN ACCORDANCE WITH SUBSECTION (D)(2)(A) AND TO THE EXTENT THE AMOUNT THAT WOULD HAVE BEEN PAID PURSUANT TO SUBSECTION (D)(2)(A) EXCEEDS THE FEE ACTUALLY PAID BY THE SPONSOR, THE SPONSOR MUST PAY THE

DIFFERENCE WITH THE NEXT FEE PAYMENT DUE AFTER THE PROPERTY IS DISPOSED OF. IF THE SPONSOR USED THE METHOD PROVIDED IN SUBSECTION (D)(2)(C), THE MILLAGE RATE PROVIDED IN SUBSECTION (D)(2)(C) MUST BE USED TO CALCULATE THE AMOUNT WHICH WOULD HAVE BEEN PAID PURSUANT TO SUBSECTION (D)(2)(A). IF THERE IS NO PROVISION IN THE AGREEMENT DEALING WITH THE DISPOSAL OF PROPERTY IN ACCORDANCE WITH THIS SUBSECTION, THE FEE REMAINS FIXED AND NO ADJUSTMENT TO THE FEE IS ALLOWED FOR DISPOSED PROPERTY.

(2) PROPERTY PLACED IN SERVICE AS A REPLACEMENT FOR PROPERTY THAT IS SUBJECT TO THE FEE PAYMENT MAY BECOME PART OF THE FEE PAYMENT AS PROVIDED IN THIS ITEM:

(A) REPLACEMENT PROPERTY MAY HAVE A FUNCTION THAT DIFFERS FROM THE PROPERTY IT IS REPLACING. REPLACEMENT PROPERTY IS CONSIDERED TO REPLACE THE OLDEST REAL OR PERSONAL PROPERTY SUBJECT TO THE FEE AND DISPOSED OF IN THE SAME PROPERTY TAX YEAR AS THE REPLACEMENT PROPERTY IS PLACED IN SERVICE. REPLACEMENT PROPERTY QUALIFIES FOR FEE TREATMENT PROVIDED IN SUBSECTION (D)(2) ONLY UP TO THE ORIGINAL INCOME TAX BASIS OF FEE PROPERTY IT REPLACES. MORE THAN ONE PIECE OF REPLACEMENT PROPERTY MAY REPLACE A SINGLE PIECE OF FEE PROPERTY. TO THE EXTENT THAT THE INCOME TAX BASIS OF THE REPLACEMENT PROPERTY EXCEEDS THE ORIGINAL INCOME TAX BASIS OF THE PROPERTY IT REPLACES, THE EXCESS AMOUNT IS SUBJECT TO PAYMENTS AS PROVIDED IN SECTION 4-29-60. REPLACEMENT PROPERTY IS ENTITLED TO THE FEE PAYMENT FOR THE PERIOD OF TIME REMAINING ON THE TWENTY-YEAR FEE PERIOD FOR THE PROPERTY IT REPLACES.

(B) THE NEW REPLACEMENT PROPERTY THAT QUALIFIES FOR THE FEE PROVIDED IN SUBSECTION (D)(2) IS RECORDED USING ITS INCOME TAX BASIS, AND THE FEE IS CALCULATED USING THE MILLAGE RATE AND ASSESSMENT RATIO PROVIDED ON THE ORIGINAL FEE

PROPERTY. THE FEE PAYMENT FOR REPLACEMENT PROPERTY MUST BE BASED ON SUBSECTION (D)(2)(A) OR (C) IF THE INVESTOR ORIGINALLY USED THAT METHOD, WITHOUT REGARD TO PRESENT VALUE.

(C) TO QUALIFY AS REPLACEMENT PROPERTY, TITLE TO THE REPLACEMENT PROPERTY MUST BE HELD BY THE COUNTY.

(D) IF THERE IS NO PROVISION IN THE INDUCEMENT AGREEMENT DEALING WITH REPLACEMENT PROPERTY, ANY PROPERTY PLACED IN SERVICE AFTER THE TIME PERIOD ALLOWED FOR INVESTMENTS AS PROVIDED BY SUBSECTION (C)(2), IS SUBJECT TO THE PAYMENTS REQUIRED BY SECTION 4-29-60 IF THE COUNTY HAS TITLE TO THE PROPERTY OR AD VALOREM PROPERTY TAXES, IF THE SPONSOR HAS TITLE TO THE PROPERTY.

(G)(1) THE COUNTY AND THE SPONSOR MAY ENTER INTO A MILLAGE RATE AGREEMENT TO ESTABLISH THE MILLAGE RATE FOR PURPOSES OF CALCULATING PAYMENTS PURSUANT TO SUBSECTION (D)(2)(A) AND THE FIRST FIVE YEARS PURSUANT TO SUBSECTION (D)(2)(C). THIS MILLAGE RATE AGREEMENT MAY BE EXECUTED AT ANY TIME UP TO AND INCLUDING, BUT NOT LATER THAN, THE DATE OF THE INITIAL LEASE AGREEMENT. THIS MILLAGE RATE AGREEMENT MAY BE A SEPARATE AGREEMENT OR MAY BE MADE A PART OF EITHER THE INDUCEMENT AGREEMENT OR THE INITIAL LEASE AGREEMENT.

(2) THE MILLAGE RATE ESTABLISHED PURSUANT TO ITEM (1) OF THIS SUBSECTION MUST BE NO LOWER THAN THE CUMULATIVE PROPERTY TAX MILLAGE RATE LEVIED BY OR ON BEHALF OF ALL TAXING ENTITIES WITHIN WHICH THE PROJECT IS TO BE LOCATED ON EITHER:

(A) JUNE THIRTIETH OF THE YEAR PRECEDING THE YEAR IN WHICH THE MILLAGE RATE AGREEMENT IS EXECUTED OR THE INITIAL LEASE AGREEMENT IS EXECUTED IF NO MILLAGE RATE AGREEMENT IS EXECUTED; OR

(B) JUNE THIRTIETH OF THE YEAR IN WHICH THE MILLAGE RATE AGREEMENT IS EXECUTED IF A MILLAGE RATE AGREEMENT IS

NOT EXECUTED THE LEASE AGREEMENT IS DEEMED TO BE THE MILLAGE RATE AGREEMENT FOR PURPOSES OF THIS ITEM.

(H)(1) UPON AGREEMENT OF THE PARTIES, AND EXCEPT AS PROVIDED IN SUBSECTION (H)(2), AN INDUCEMENT AGREEMENT, A MILLAGE RATE AGREEMENT, OR BOTH, MAY BE AMENDED OR TERMINATED AND REPLACED WITH REGARD TO ALL MATTERS INCLUDING, BUT NOT LIMITED TO, THE ADDITION OR REMOVAL OF SPONSORS OR SPONSOR AFFILIATES.

(2) AN AMENDMENT OR A REPLACEMENT OF AN INDUCEMENT AGREEMENT OR MILLAGE RATE AGREEMENT MAY NOT BE USED TO LOWER THE MILLAGE RATE, DISCOUNT RATE, ASSESSMENT RATIO, OR, EXCEPT AS PROVIDED IN SECTIONS 4-29-67(C)(2) AND (C)(4) INCREASE THE TERM OF THE AGREEMENT; EXCEPT THAT AN EXISTING INDUCEMENT AGREEMENT THAT HAS NOT BEEN IMPLEMENTED BY THE EXECUTION AND DELIVERY OF A MILLAGE RATE AGREEMENT OR A LEASE AGREEMENT MAY BE AMENDED UP TO THE DATE OF EXECUTION AND DELIVERY OF A MILLAGE RATE AGREEMENT OR A LEASE AGREEMENT IN THE DISCRETION OF THE GOVERNING BODY.

(I) INVESTMENT EXPENDITURES INCURRED BY A SPONSOR IN CONNECTION WITH THE PROJECT, OR RELEVANT PHASE OF A PROJECT, FOR A PROJECT COMPLETED AND PLACED IN SERVICE IN MORE THAN ONE YEAR, QUALIFY AS EXPENDITURES SUBJECT TO THE FEE IN SUBSECTION (D)(2), SO LONG AS THESE EXPENDITURES ARE INCURRED BEFORE THE END OF THE APPLICABLE FIVE-YEAR, EIGHT-YEAR, TEN-YEAR, OR FIFTEEN-YEAR PERIOD REFERENCED IN SUBSECTION (C)(2) OR (3). AN INDUCEMENT AGREEMENT MUST BE EXECUTED WITHIN TWO YEARS AFTER THE DATE THE COUNTY ADOPTS AN INDUCEMENT RESOLUTION; OTHERWISE, ONLY INVESTMENT EXPENDITURES MADE OR INCURRED BY A SPONSOR AFTER THE DATE OF THE INDUCEMENT AGREEMENT IN CONNECTION WITH A PROJECT QUALIFY AS EXPENDITURES SUBJECT TO THE FEE IN SUBSECTION (D)(2).

(J) SUBJECT TO SUBSECTION (K), PROJECT EXPENDITURES INCURRED WITHIN THE APPLICABLE TIME PERIOD PROVIDED IN SUBSECTION (I) BY AN ENTITY WHOSE INVESTMENTS ARE NOT COMPUTED AT THE LEVEL OF INVESTMENT FOR PURPOSES OF SUBSECTION (B) OR (C) QUALIFY AS INVESTMENT EXPENDITURES SUBJECT TO THE FEE IN SUBSECTION (D)(2) IF THE:

(A) EXPENDITURES ARE PART OF THE ORIGINAL COST OF PROPERTY THAT IS TRANSFERRED, WITHIN THE APPLICABLE TIME PERIOD PROVIDED IN SUBSECTION (I) TO ONE OR MORE OTHER INVESTORS OR INVESTOR AFFILIATES WHOSE INVESTMENTS ARE BEING COMPUTED AT THE LEVEL OF INVESTMENT FOR PURPOSES OF SUBSECTION (B) OR (C);

(B) PROPERTY WOULD HAVE QUALIFIED FOR THE FEE IN SUBSECTION (D)(2) IF IT HAD BEEN INITIALLY ACQUIRED BY THE SPONSOR INSTEAD OF THE TRANSFEROR ENTITY;

(C) THE INCOME TAX BASIS OF THE PROPERTY IMMEDIATELY BEFORE THE TRANSFER EQUAL THE INCOME TAX BASIS OF THE PROPERTY IMMEDIATELY AFTER THE TRANSFER; EXCEPT THAT, TO THE EXTENT INCOME TAX BASIS OF THE PROPERTY IMMEDIATELY AFTER THE TRANSFER UNINTENTIONALLY EXCEEDS THE INCOME TAX BASIS OF THE PROPERTY IMMEDIATELY BEFORE THE TRANSFER, THE EXCESS IS SUBJECT TO PAYMENTS PURSUANT TO SECTION 4-29-60;

(D) THE COUNTY AGREES TO AN INCLUSION IN THE FEE OF THE PROPERTY DESCRIBED IN SUBSECTION (J)(1).

(K)(1) PROPERTY PREVIOUSLY SUBJECT TO PROPERTY TAXES IN SOUTH CAROLINA DOES NOT QUALIFY FOR THE FEE EXCEPT AS PROVIDED IN THIS SUBSECTION:

(A) LAND, EXCLUDING IMPROVEMENTS ON IT, ON WHICH A NEW PROJECT IS LOCATED MAY QUALIFY FOR THE FEE EVEN IF IT HAS PREVIOUSLY BEEN SUBJECT TO SOUTH CAROLINA PROPERTY TAXES;

(B) PROPERTY THAT HAS BEEN SUBJECT PREVIOUSLY TO SOUTH CAROLINA PROPERTY TAXES, BUT HAS NEVER BEEN PLACED IN SERVICE IN SOUTH CAROLINA, OR WHICH WAS PLACED IN SERVICE IN SOUTH CAROLINA PURSUANT TO AN INDUCEMENT AGREEMENT OR OTHER PRELIMINARY APPROVAL BY THE COUNTY PRIOR TO EXECUTION OF THE LEASE AGREEMENT PURSUANT TO SUBSECTION (C)(1), MAY QUALIFY FOR THE FEE; AND

(C) PROPERTY PLACED IN SERVICE IN SOUTH CAROLINA AND SUBJECT TO SOUTH CAROLINA PROPERTY TAXES THAT IS PURCHASED IN A TRANSACTION OTHER THAN BETWEEN ANY OF THE ENTITIES SPECIFIED IN SECTION 267(B) OF THE INTERNAL REVENUE CODE, AS DEFINED PURSUANT TO CHAPTER 6 OF TITLE 12 AS OF THE TIME OF THE TRANSFER, MAY QUALIFY FOR THE FEE IF THE SPONSOR INVESTS AT LEAST AN ADDITIONAL FORTY-FIVE MILLION DOLLARS IN THE PROJECT.

(2) REPAIRS, ALTERATIONS, OR MODIFICATIONS TO REAL OR PERSONAL PROPERTY WHICH ARE NOT SUBJECT TO A FEE ARE NOT ELIGIBLE FOR A FEE, EVEN IF THEY ARE CAPITALIZED EXPENDITURES, EXCEPT FOR MODIFICATIONS TO EXISTING REAL PROPERTY IMPROVEMENTS CONSTITUTING AN EXPANSION OF THE IMPROVEMENTS.

(L)(1) FOR A PROJECT NOT LOCATED IN AN INDUSTRIAL DEVELOPMENT PARK AS DEFINED IN SECTION 4-1-170, DISTRIBUTION OF THE FEE IN LIEU OF TAXES ON THE PROJECT MUST BE MADE IN THE SAME MANNER AND PROPORTION THAT THE MILLAGE LEVIED FOR SCHOOL AND OTHER PURPOSES WOULD BE DISTRIBUTED IF THE PROPERTY WERE TAXABLE BUT WITHOUT REGARD TO EXEMPTIONS OTHERWISE AVAILABLE TO A PROJECT PURSUANT TO SECTION 12-37-220 FOR THAT YEAR.

(2) FOR A PROJECT LOCATED IN AN INDUSTRIAL DEVELOPMENT PARK AS DEFINED IN SECTION 4-1-170, DISTRIBUTION OF THE FEE IN LIEU OF TAXES ON THE PROJECT MUST BE MADE IN THE

MANNER PROVIDED FOR BY THE AGREEMENT ESTABLISHING THE INDUSTRIAL DEVELOPMENT PARK.

(3) A COUNTY OR MUNICIPALITY OR SPECIAL PURPOSE DISTRICT THAT RECEIVES AND RETAINS REVENUES FROM A PAYMENT IN LIEU OF TAXES MAY USE A PORTION OF THIS REVENUE FOR THE PURPOSES OUTLINED IN SECTION 4-29-68 WITHOUT THE REQUIREMENT OF ISSUING SPECIAL SOURCE REVENUE BONDS OR THE REQUIREMENTS OF SECTION 4-29-68(A)(4) BY PROVIDING A CREDIT AGAINST OR PAYMENT DERIVED FROM THE FEE DUE FROM THE SPONSOR.

(4) MISALLOCATIONS OF THE DISTRIBUTION OF THE FEE IN LIEU OF TAXES ON THE PROJECT PURSUANT TO THIS CHAPTER MAY BE CORRECTED BY ADJUSTING LATER DISTRIBUTIONS, BUT THESE ADJUSTMENTS MUST BE MADE IN THE SAME FISCAL YEAR AS THE MISALLOCATIONS. TO THE EXTENT DISTRIBUTIONS ARE MADE IMPROPERLY IN PRIOR YEARS, A CLAIM FOR ADJUSTMENT MUST BE MADE WITHIN ONE YEAR OF THE DISTRIBUTION.

(M) AS A DIRECTLY FORESEEABLE RESULT OF NEGOTIATING THE FEE, GROSS REVENUE OF A SCHOOL DISTRICT IN WHICH A PROJECT IS LOCATED IN ANY YEAR A FEE NEGOTIATED PURSUANT TO THIS SECTION IS PAID MAY NOT BE LESS THAN GROSS REVENUES OF THE DISTRICT IN THE YEAR BEFORE THE FIRST YEAR FOR WHICH A FEE IN LIEU OF TAXES IS PAID. IN NEGOTIATING THE FEE, THE PARTIES SHALL ASSUME THAT THE FORMULAS FOR THE DISTRIBUTION OF STATE AID AT THE TIME OF THE EXECUTION OF THE INDUCEMENT AGREEMENT MUST REMAIN UNCHANGED FOR THE DURATION OF THE LEASE AGREEMENT.

(N) PROJECTS ON WHICH A FEE IN LIEU OF TAXES IS PAID PURSUANT TO THIS SECTION ARE CONSIDERED TAXABLE PROPERTY AT THE LEVEL OF THE NEGOTIATED PAYMENTS FOR PURPOSES OF BONDED INDEBTEDNESS PURSUANT TO SECTIONS 14 AND 15 OF ARTICLE X OF THE CONSTITUTION OF THIS STATE, AND FOR PURPOSES OF COMPUTING THE INDEX OF TAXPAYING ABILITY PURSUANT TO SECTION 59-20-20(3). HOWEVER, FOR A PROJECT LOCATED IN AN INDUSTRIAL DEVELOPMENT

PARK AS DEFINED IN SECTION 4-1-170, PROJECTS ARE CONSIDERED TAXABLE PROPERTY IN THE MANNER PROVIDED IN SECTION 4-1-170 FOR PURPOSES OF BONDED INDEBTEDNESS PURSUANT TO SECTIONS 14 AND 15 OF ARTICLE X OF THE CONSTITUTION OF THIS STATE, AND FOR PURPOSES OF COMPUTING THE INDEX OF TAXPAYING ABILITY PURSUANT TO SECTION 59-20-20(3). PROVIDED, HOWEVER, THAT THE COMPUTATION OF BONDED INDEBTEDNESS LIMITATION IS SUBJECT TO THE REQUIREMENTS OF SECTION 4-29-68(E).

(O)(1) AN INTEREST IN AN INDUCEMENT AGREEMENT, MILLAGE RATE AGREEMENT, AND LEASE AGREEMENT, AND PROPERTY TO WHICH THESE AGREEMENTS RELATE, MAY BE TRANSFERRED TO ANOTHER ENTITY AT ANY TIME. NOTWITHSTANDING ANOTHER PROVISION OF THIS CHAPTER, AN EQUITY INTEREST IN A SPONSOR OR SPONSOR AFFILIATE MAY BE TRANSFERRED TO ANOTHER ENTITY OR PERSON AT ANY TIME. TO THE EXTENT AN AGREEMENT IS TRANSFERRED, THE TRANSFEREE ASSUMES THE CURRENT BASIS THE SPONSOR HAS IN THE PROPERTY SUBJECT TO THE FEE FOR PURPOSES OF CALCULATING THE FEE.

(2) A SPONSOR OR COUNTY MAY ENTER INTO A LENDING, FINANCING, SECURITY, LEASE, OR SIMILAR ARRANGEMENT, OR SUCCESSION OF SUCH ARRANGEMENTS, WITH A FINANCING ENTITY, CONCERNING ALL OR PART OF A PROJECT INCLUDING, WITHOUT LIMITATION, A SALE-LEASEBACK ARRANGEMENT, EQUIPMENT LEASE BUILD-TO-SUIT-LEASE, SYNTHETIC LEASE, NORDIC LEASE, DEFEASED TAX BENEFIT, TRANSFER LEASE, ASSIGNMENT, SUBLEASE, OR SIMILAR ARRANGEMENT, OR SUCCESSION OF SUCH ARRANGEMENTS, WITH ONE OR MORE FINANCING ENTITIES, CONCERNING ALL OR PART OF A PROJECT, REGARDLESS OF THE IDENTITY OF THE INCOME TAX OWNER OF THE PROPERTY WHICH IS SUBJECT TO THE FEE PAYMENT PURSUANT TO SUBSECTION (D)(2). EVEN THOUGH INCOME TAX BASIS IS CHANGED FOR INCOME TAX PURPOSES, NEITHER THE ORIGINAL TRANSFER TO THE FINANCING ENTITY NOR THE LATER TRANSFER FROM THE FINANCING

ENTITY BACK TO THE ORIGINAL SPONSOR PURSUANT TO TERMS IN THE SALE-LEASEBACK AGREEMENT, AFFECTS THE AMOUNT OF THE FEE DUE.

(3) A TRANSFER UNDERTAKEN WITH RESPECT TO OTHER PROJECTS TO EFFECT A FINANCING AUTHORIZED BY SUBSECTION (O) MUST MEET THE FOLLOWING REQUIREMENTS:

(A) THE DEPARTMENT AND THE COUNTY SHALL RECEIVE WRITTEN NOTIFICATION, WITHIN SIXTY DAYS AFTER THE TRANSFER, OF THE IDENTITY OF EACH TRANSFEREE AND OTHER INFORMATION REQUIRED BY THE DEPARTMENT WITH THE APPROPRIATE RETURNS. FAILURE TO MEET THIS NOTICE REQUIREMENT DOES NOT AFFECT ADVERSELY THE FEE, BUT A PENALTY UP TO TEN THOUSAND DOLLARS A YEAR OR PORTION OF A YEAR UP TO A MAXIMUM PENALTY OF FIFTY THOUSAND DOLLARS MAY BE ASSESSED BY THE DEPARTMENT FOR LATE NOTIFICATION.

(B) IF THE FINANCING ENTITY IS THE INCOME TAX OWNER OF PROPERTY, EITHER THE FINANCING ENTITY IS PRIMARILY LIABLE FOR THE FEE AS TO THAT PORTION OF THE PROJECT TO WHICH THE TRANSFER RELATES WITH THE SPONSOR REMAINING SECONDARILY LIABLE FOR THE PAYMENT OF THE FEE OR THE SPONSOR AGREES TO BE PRIMARILY LIABLE FOR THE PAYMENT OF THE FEE AS TO THAT PORTION OF THE PROJECT TO WHICH THE TRANSFER RELATES.

(4) A SPONSOR MAY TRANSFER AN INDUCEMENT AGREEMENT, MILLAGE RATE AGREEMENT, LEASE AGREEMENT, OR THE ASSETS SUBJECT TO THE LEASE AGREEMENT, IF IT OBTAINS THE PRIOR APPROVAL, OR SUBSEQUENT RATIFICATION, OF THE COUNTY WITH WHICH IT ENTERED INTO THE ORIGINAL AGREEMENT. THE COUNTY'S PRIOR APPROVAL OR SUBSEQUENT RATIFICATION MAY BE EVIDENCED BY ANY ONE OF THE FOLLOWING, IN THE ABSOLUTE AND SOLE DISCRETION OF THE COUNTY PROVIDING THE APPROVAL OR RATIFICATION: (I) A LETTER OR OTHER WRITING EXECUTED BY AN AUTHORIZED COUNTY REPRESENTATIVE AS DESIGNATED IN THE RESPECTIVE INDUCEMENT, MILLAGE RATE, OR LEASE AGREEMENT; (II)

A RESOLUTION PASSED BY THE COUNTY COUNCIL; OR (III) AN ORDINANCE PASSED BY THE COUNTY COUNCIL FOLLOWING THREE READINGS AND A PUBLIC HEARING. THAT APPROVAL IS NOT REQUIRED IN CONNECTION WITH TRANSFERS TO SPONSOR AFFILIATES OR OTHER FINANCING-RELATED TRANSFERS.

(P) AN INDUCEMENT AGREEMENT, A MILLAGE RATE AGREEMENT, OR A LEASE AGREEMENT, OR THE RIGHTS OF A SPONSOR OR SPONSOR AFFILIATE PURSUANT TO THAT AGREEMENT INCLUDING, WITHOUT LIMITATION, THE AVAILABILITY OF THE SUBSECTION (D)(2) FEE, MAY NOT BE AFFECTED ADVERSELY IF THE BONDS ISSUED PURSUANT TO THAT AGREEMENT ARE PURCHASED BY ONE OR MORE OF THE ENTITIES THAT ARE OR BECOME SPONSOR OR SPONSOR AFFILIATES.

(Q) EXCEPT AS PROVIDED IN SUBSECTION (B)(4)(A), IF A SPONSOR FAILS TO MAKE THE MINIMUM INVESTMENT REQUIRED BY SUBSECTION (D)(2) OR AN INVESTMENT UNDER SUBSECTION (D)(4) IF APPLICABLE, WITHIN THE TIME PROVIDED IN SUBSECTION (C)(2), THEN THE SPONSOR IS ENTITLED TO THE BENEFITS OF CHAPTER 12 OF THIS TITLE IF AND TO THE EXTENT ALLOWED PURSUANT TO AN APPLICABLE AGREEMENT BETWEEN THE SPONSOR AND THE COUNTY, AND IF THE REQUIREMENTS OF SUBSECTION (B)(4)(A) ARE SATISFIED. OTHERWISE, THE FEE PROVIDED IN SUBSECTION (D)(2) OR (D)(4) IS NO LONGER AVAILABLE AND THE SPONSOR MUST MAKE THE PAYMENTS DUE PURSUANT TO SECTION 4-29-60 FOR THE REMAINDER OF THE LEASE PERIOD.

(R) THE MINIMUM AMOUNT OF THE INITIAL INVESTMENT PROVIDED IN SUBSECTION (B)(3) OF THIS SECTION MAY NOT BE REDUCED EXCEPT BY A SPECIAL VOTE WHICH, FOR PURPOSES OF THIS SECTION, MEANS AN AFFIRMATIVE VOTE IN EACH BRANCH OF THE GENERAL ASSEMBLY BY TWO-THIRDS OF THE MEMBERS PRESENT AND VOTING, BUT NOT LESS THAN THREE-FIFTHS OF THE TOTAL MEMBERSHIP IN EACH BRANCH.

(S)(1) THE SPONSOR SHALL FILE THE RETURNS, CONTRACTS, AND OTHER INFORMATION THAT MAY BE REQUIRED BY THE DEPARTMENT.

(2) FEE PAYMENTS, AND RETURNS SHOWING INVESTMENTS AND CALCULATING FEE PAYMENTS, ARE DUE AT THE SAME TIME AS PROPERTY TAX PAYMENTS AND PROPERTY TAX RETURNS WOULD BE DUE IF THE PROPERTY WERE OWNED BY THE SPONSOR OBLIGATED TO MAKE THE FEE PAYMENTS AND FILE SUCH RETURNS.

(3) FAILURE TO MAKE A TIMELY FEE PAYMENT AND FILE REQUIRED RETURNS RESULTS IN PENALTIES BEING ASSESSED AS IF THE PAYMENT OR RETURN WERE A PROPERTY TAX PAYMENT OR RETURN.

(4) THE DEPARTMENT MAY ISSUE RULINGS AND PROMULGATE REGULATIONS NECESSARY OR APPROPRIATE TO CARRY OUT THE PURPOSE OF THIS SECTION.

(5) THE PROVISIONS OF CHAPTERS 4 AND 54 OF TITLE 12, APPLICABLE TO PROPERTY TAXES, APPLY TO THIS SECTION, AND, FOR PURPOSES OF THAT APPLICATION, THE FEE IS CONSIDERED A PROPERTY TAX. SECTIONS 12-54-20, 12-54-80, AND 12-54-155 DO NOT APPLY TO THIS SECTION.

(6) WITHIN THIRTY DAYS OF THE DATE OF EXECUTION OF AN INDUCEMENT OR LEASE AGREEMENT, A COPY OF THE AGREEMENT MUST BE FILED WITH THE DEPARTMENT AND THE COUNTY AUDITOR AND THE COUNTY ASSESSOR FOR EVERY COUNTY IN WHICH THE PROJECT IS LOCATED. IF THE PROJECT IS LOCATED IN AN INDUSTRIAL DEVELOPMENT PARK, THE AGREEMENTS MUST BE FILED WITH THE AUDITORS AND ASSESSORS FOR ALL COUNTIES PARTICIPATING IN THE INDUSTRIAL DEVELOPMENT PARK.

(7) THE DEPARTMENT, FOR GOOD CAUSE, MAY ALLOW ADDITIONAL TIME FOR FILING OF RETURNS REQUIRED UNDER THIS SECTION. THE REQUEST FOR AN EXTENSION MAY BE GRANTED ONLY IF THE REQUEST IS FILED WITH THE DEPARTMENT ON OR BEFORE THE DATE THE RETURN IS DUE. HOWEVER, THE EXTENSION MUST NOT EXCEED SIXTY DAYS FROM THE DATE THE RETURN IS DUE. THE DEPARTMENT SHALL DEVELOP APPLICABLE FORMS AND PROCEDURES FOR HANDLING AND PROCESSING EXTENSION REQUESTS. AN

EXTENSION MAY NOT BE GRANTED TO A SPONSOR WHO HAS BEEN GRANTED AN EXTENSION FOR A PREVIOUS PERIOD AND HAS NOT FULFILLED THE REQUIREMENTS OF THE PREVIOUS PERIOD.

(8) TO THE EXTENT A FORM OR RETURN IS FILED WITH THE DEPARTMENT, THE SPONSOR MUST FILE A COPY OF THE FORM OR RETURN WITH THE COUNTY AUDITOR, ASSESSOR, AND TREASURER OF THE COUNTY OR COUNTIES IN WHICH THE PROJECT IS PHYSICALLY LOCATED. TO THE EXTENT REQUESTED, THE COUNTY AUDITOR OF THE COUNTY IN WHICH THE PROJECT IS PHYSICALLY LOCATED SHALL MAKE THESE FORMS AND RETURNS AVAILABLE TO ANY COUNTY AUDITOR OF A COUNTY PARTICIPATING IN AN INDUSTRIAL DEVELOPMENT PARK IN WHICH THE PROJECT IS LOCATED.

(T) EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN SUBSECTION (C)(2), A LOSS OF FEE BENEFITS PURSUANT TO THIS SECTION IS PROSPECTIVE ONLY FROM THE DATE OF NONCOMPLIANCE AND, SUBJECT TO SUBSECTION (Q), ONLY WITH RESPECT TO THAT PORTION OF THE PROJECT TO WHICH THE NONCOMPLIANCE RELATES; EXCEPT THAT THE LOSS OF FEE BENEFITS MAY NOT RESULT IN THE RECOVERY FROM THE SPONSOR OF FEE PAYMENTS FOR MORE THAN:

(1) THREE YEARS FROM THE DATE A RETURN CONCERNING THE FEE IS FILED FOR THE TIME PERIOD DURING WHICH THE NONCOMPLIANCE OCCURS. A SHOWING OF BAD FAITH NONCOMPLIANCE INCREASES THE THREE-YEAR PERIOD TO A TEN-YEAR PERIOD; OR

(2) TEN YEARS IF A RETURN IS NOT FILED FOR THE TIME PERIOD DURING WHICH THE NONCOMPLIANCE OCCURS.

(U) SECTION 4-29-65 DOES NOT APPLY TO THIS SECTION. ALL REFERENCES IN THIS SECTION TO TAXES MEAN SOUTH CAROLINA TAXES UNLESS OTHERWISE EXPRESSLY STATED.

(V)(1) NOTWITHSTANDING ANOTHER PROVISION OF THIS SECTION, IN THE CASE OF A PROJECT CONSISTING OF A QUALIFIED RECYCLING FACILITY, THE ANNUAL FEE IS AVAILABLE FOR NO MORE

THAN THIRTY YEARS, AND FOR THOSE PROJECTS CONSTRUCTED OR PLACED IN SERVICE DURING A PERIOD OF MORE THAN ONE YEAR, THE ANNUAL FEE IS AVAILABLE FOR A MAXIMUM OF FORTY YEARS.

(2) NOTWITHSTANDING ANOTHER PROVISION OF THIS SECTION, FOR A QUALIFIED RECYCLING FACILITY, THE ASSESSMENT RATIO MUST BE AT LEAST THREE PERCENT.

(3) ANY MACHINERY AND EQUIPMENT FOUNDATIONS, PORT FACILITIES, OR RAILROAD TRACK SYSTEMS USED, OR TO BE USED, FOR A QUALIFIED RECYCLING FACILITY IS CONSIDERED TANGIBLE PERSONAL PROPERTY.

(4) NOTWITHSTANDING SUBSECTIONS (F) AND (I) OF THIS SECTION, THE TOTAL COSTS OF ALL INVESTMENTS MADE FOR A QUALIFIED RECYCLING FACILITY ARE ELIGIBLE FOR FEE PAYMENTS AS PROVIDED IN THIS SECTION.

(5) FOR PURPOSES OF FEES THAT MAY BE DUE ON UNDEVELOPED PROPERTY FOR WHICH TITLE HAS BEEN TRANSFERRED TO THE COUNTY BY OR FOR THE OWNER OR OPERATOR OF A QUALIFIED RECYCLING FACILITY, THE ASSESSMENT RATIO IS THREE PERCENT.

(6) NOTWITHSTANDING SUBSECTION (D)(2)(B) OF THIS SECTION, IN THE CASE OF A QUALIFIED RECYCLING FACILITY, NET PRESENT VALUE CALCULATIONS PERFORMED PURSUANT TO THAT SUBSECTION MUST USE A DISCOUNT RATE EQUIVALENT TO THE YIELD IN EFFECT FOR NEW OR EXISTING UNITED STATES TREASURY BONDS OF SIMILAR MATURITY AS PUBLISHED ON ANY DAY SELECTED BY THE SPONSOR DURING THE YEAR IN WHICH ASSETS ARE PLACED INTO SERVICE OR IN WHICH THE INDUCEMENT AGREEMENT IS EXECUTED.

(7) AS USED IN THIS SUBSECTION, 'QUALIFIED RECYCLING FACILITY' AND 'INVESTMENT' HAVE THE MEANING PROVIDED IN SECTION 12-7-1275(A).

<u>(W)(1) NOTWITHSTANDING SUBSECTION (C)(1), IN THE CASE OF A QUALIFIED NUCLEAR PLANT FACILITY, THE SPONSOR HAS FIVE YEARS FROM THE END OF THE CALENDAR YEAR IN WHICH THE NUCLEAR</u>

REGULATORY COMMISSION GRANTS THE SPONSOR A COMBINED LICENSE TO CONSTRUCT AND OPERATE A NUCLEAR POWER PLANT TO ENTER INTO AN INITIAL LEASE AGREEMENT WITH THE COUNTY BUT IN NO EVENT MORE THAN FIFTEEN YEARS FROM THE LATTER OF THE ADOPTION OF AN INDUCEMENT RESOLUTION OR EXECUTION OF AN INDUCEMENT AGREEMENT BY THE COUNTY.

(2) NOTWITHSTANDING SUBSECTION (C)(2)(D), IN THE CASE OF A QUALIFIED NUCLEAR PLANT FACILITY, THE SPONSOR HAS FIFTEEN YEARS FROM THE END OF THE CALENDAR YEAR IN WHICH THE INITIAL LEASE AGREEMENT IS EXECUTED TO MEET THE MINIMUM INVESTMENT AND FIFTEEN YEARS FROM THE END OF THE CALENDAR YEAR IN WHICH THE FIRST PIECE OF PROPERTY IS PLACED INTO SERVICE TO COMPLETE THE PROJECT.

(~~W~~X)(1) ALL AGREEMENTS ENTERED INTO PURSUANT TO THIS SECTION MUST INCLUDE AS THE FIRST PORTION OF THE DOCUMENT A RECAPITULATION OF THE REMAINING CONTENTS OF THE DOCUMENT WHICH INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

(A) THE LEGAL NAME OF EACH PARTY TO THE AGREEMENT;

(B) THE COUNTY AND STREET ADDRESS OF THE PROJECT AND PROPERTY TO BE SUBJECT TO THE AGREEMENT;

(C) THE MINIMUM INVESTMENT AGREED UPON;

(D) THE LENGTH AND TERM OF THE AGREEMENT;

(E) THE ASSESSMENT RATIO APPLICABLE FOR EACH YEAR OF THE AGREEMENT;

(F) THE MILLAGE RATE APPLICABLE FOR EACH YEAR OF THE AGREEMENT;

(G) A SCHEDULE SHOWING THE AMOUNT OF THE FEE AND ITS CALCULATION FOR EACH YEAR OF THE AGREEMENT;

(H) A SCHEDULE SHOWING THE AMOUNT TO BE DISTRIBUTED ANNUALLY TO EACH OF THE AFFECTED TAXING ENTITIES;

(I) A STATEMENT ANSWERING THE FOLLOWING QUESTIONS:

(I) IS THE PROJECT TO BE LOCATED IN A MULTI-COUNTY PARK FORMED PURSUANT TO CHAPTER 29 OF TITLE 4?;

(II) IS DISPOSAL OF PROPERTY SUBJECT TO THE FEE ALLOWED?;

(III) WILL SPECIAL SOURCE REVENUE BONDS BE ISSUED OR CREDITS FOR INFRASTRUCTURE INVESTMENT BE ALLOWED IN CONNECTION WITH THIS PROJECT?;

(IV) WILL PAYMENT AMOUNTS BE MODIFIED USING A NET PRESENT VALUE CALCULATION?; AND

(V) DO REPLACEMENT PROPERTY PROVISIONS APPLY?;

(J) ANY OTHER FEATURE OR ASPECT OF THE AGREEMENT WHICH MAY AFFECT THE CALCULATION OF SUBITEMS (G) AND (H) OF THIS ITEM;

(K) A DESCRIPTION OF THE EFFECT UPON THE SCHEDULES REQUIRED BY SUBITEMS (G) AND (H) OF THIS ITEM OF ANY FEATURE COVERED BY SUBITEMS (I) AND (J) NOT REFLECTED IN THE SCHEDULES FOR SUBITEMS (G) AND (H);

(L) WHICH PARTY OR PARTIES TO THE AGREEMENT ARE RESPONSIBLE FOR UPDATING ANY INFORMATION CONTAINED IN THE SUMMARY DOCUMENT.

(2) THE AUDITOR SHALL PREPARE A BILL FOR EACH INSTALLMENT OF THE FEE ACCORDING TO THE SCHEDULE SET FORTH IN SUBITEM (1)(G) OR AS MODIFIED PURSUANT TO SUBITEM (1)(J), (K), OR (L) AND THAT PAYMENT MUST BE DISTRIBUTED TO THE AFFECTED TAXING ENTITIES ACCORDING TO THE SCHEDULE IN SUBITEM (1)(G) OR AS MODIFIED PURSUANT TO SUBITEM (1)(J), (K), OR (L).

(3) THE COUNTY AND THE SPONSOR AND SPONSOR AFFILIATES MAY AGREE TO WAIVE ANY OR ALL OF THE ITEMS DESCRIBED IN THIS SUBSECTION."

B. THE PROVISIONS OF THIS SECTION TAKE EFFECT AS PROVIDED IN SECTION 36 EXCEPT THAT A COUNTY MAY AMEND AN EXISTING FEE-IN-LIEU AGREEMENT AT ANY TIME PRIOR TO THE EXPIRATION OF THE FEE TO INCORPORATE THE AMENDMENTS TO SECTION 4-29-67(C)(3) AS CONTAINED IN SUBSECTION A.

SECTION 9. SECTION 4-29-68(A)(2) OF THE 1976 CODE, AS LAST AMENDED BY ACT 116 OF 2007, IS FURTHER AMENDED TO READ:

"(2)THE BONDS ARE ISSUED FOR THE PURPOSE OF PAYING THE COST OF DESIGNING, ACQUIRING, CONSTRUCTING, IMPROVING, OR EXPANDING (A) THE INFRASTRUCTURE SERVING THE ISSUER OR THE PROJECT, (B) FOR IMPROVED OR UNIMPROVED REAL ESTATE <u>AND PERSONAL PROPERTY INCLUDING MACHINERY AND EQUIPMENT</u> USED IN THE OPERATION OF A MANUFACTURING OR COMMERCIAL ENTERPRISE, OR (C) AIRCRAFT WHICH QUALIFIES AS A PROJECT PURSUANT TO SECTION 12-44-30(16), WHICH PROPERTY IS DETERMINED BY THE ISSUER TO ENHANCE THE ECONOMIC DEVELOPMENT OF THE ISSUER. COSTS OF ISSUANCE OF THE BONDS ALSO MAY BE PAID FROM BOND PROCEEDS. BONDS ISSUED PURSUANT TO THIS SECTION TO FINANCE THE ACQUISITION OF REAL OR PERSONAL PROPERTY MAY BE ADDITIONALLY SECURED BY A MORTGAGE OF THAT REAL OR PERSONAL PROPERTY."

SECTION 10.A. TITLE 11 OF THE 1976 CODE IS AMENDED BY ADDING:

"CHAPTER 18

SOUTH CAROLINA VOLUME CAP ALLOCATION ACT

SECTION 11–18–5. THIS CHAPTER SHALL BE KNOWN AS THE SOUTH CAROLINA VOLUME CAP ALLOCATION ACT.

SECTION 11–18–10. THE GENERAL ASSEMBLY FINDS AND DETERMINES THAT:

(A) SECTIONS 1400U–2 AND 1400U–3 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, PUB. L. NO. 111–5.123 STAT. 115 (2009) (CODIFIED AT SECTION 1400U–2 AND –3 OF THE INTERNAL REVENUE CODE) ('ARRA') ADDED TWO NEW TYPES OF BONDS AS RECOVERY ZONE BONDS:

(1) A NEW TYPE OF EXEMPT FACILITY BONDS CALLED 'RECOVERY ZONE FACILITY BONDS' TO BE USED TO FINANCE CONSTRUCTION, RENOVATION, AND EQUIPPING OF RECOVERY ZONE PROPERTY FOR USE IN ANY TRADE OR BUSINESS IN A RECOVERY ZONE, ALL AS DEFINED IN ARRA; AND

(2) A NEW TYPE OF GOVERNMENTAL BOND CALLED 'RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS.'

(B) THE PROVISIONS OF ARRA PROVIDE A FORMULA FOR ALLOCATION OF AUTHORITY TO ISSUE RECOVERY ZONE FACILITY BONDS AND RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS TO THE STATES AND BY THE STATES TO THE COUNTIES AND LARGE MUNICIPALITIES WITHIN THE STATES. THE UNITED STATES DEPARTMENT OF THE TREASURY, INTERNAL REVENUE SERVICE PROVIDED FOR RECOVERY ZONE BOND VOLUME CAP ALLOCATIONS IN IRS NOTICE 2009–50 AND PROVIDED CALCULATIONS FOR INDIVIDUAL COUNTIES AND LARGE MUNICIPALITIES ON THAT SAME DATE. THE NOTICE MADE SPECIFIC PROVISION FOR REALLOCATION OF THE VOLUME CAP ALLOCATIONS THAT ARE WAIVED OR DEEMED WAIVED BY A COUNTY OR MUNICIPALITY BY GIVING THE STATE IN WHICH SUCH COUNTY OR MUNICIPALITY IS LOCATED THE AUTHORITY TO REALLOCATE THE WAIVED VOLUME CAP IN ANY REASONABLE MANNER AS IT SHALL DETERMINE IN GOOD FAITH IN ITS DISCRETION.

(C) SECTION 1112 OF ARRA AMENDED SECTION 54D(D) OF THE INTERNAL REVENUE CODE TO INCREASE THE VOLUME CAP AUTHORIZATION FOR QUALIFIED ENERGY CONSERVATION BONDS, WHICH WERE CREATED BY SECTION 301(A) OF TAX EXTENDERS AND ALTERNATIVE MINIMUM TAX RELIEF ACT OF 2008, PUB. L. 110–343.122 STAT. 1365 (2008). THE UNITED STATES DEPARTMENT OF THE TREASURY, INTERNAL REVENUE SERVICE PROVIDED FOR QUALIFIED ENERGY CONSERVATION BOND VOLUME CAP ALLOCATIONS TO THE STATES IN IRS NOTICE 2009–29 AND AUTHORIZED THE STATES TO ALLOCATE SUCH VOLUME CAP ALLOCATIONS.

(D) BECAUSE OF SEVERAL FACTORS, INCLUDING THE RELATIVELY SMALL AMOUNTS OF SOME OF THE ALLOCATIONS, LIMITATIONS ON LEGAL BORROWING CAPACITY AFFECTING COUNTIES AND LARGE MUNICIPALITIES AND THE LACK OF ACCESS TO BORROWING BY POSSIBLE BENEFICIARIES OF THE BONDS DESCRIBED ABOVE, VERY LITTLE OF THE ALLOCATIONS OF BONDS DESCRIBED HEREIN HAVE BEEN UTILIZED IN CONNECTION WITH THE ISSUANCE OF THESE BONDS IN SOUTH CAROLINA.

(E) THESE BONDS ARE A VALUABLE RESOURCE TO SOUTH CAROLINA IN ITS EFFORTS TO REVITALIZE ITS ECONOMY AND TO PROVIDE ADDITIONAL EMPLOYMENT, ALL TO THE PROMOTION OF THE HEALTH AND WELFARE OF THE CITIZENS OF SOUTH CAROLINA.

(F) BECAUSE RECOVERY ZONE BONDS MUST BE ISSUED BEFORE JANUARY 1, 2011, IT IS IN THE BEST INTERESTS OF THE STATE TO PROVIDE A PROCEDURE FOR DETERMINING AS TO WHEN COUNTIES OR LARGE MUNICIPALITIES HAVE WAIVED THEIR ALLOCATIONS OF THESE BONDS AND TO PROVIDE FOR THE REALLOCATION OF SUCH WAIVED ALLOCATIONS.

(G) RECOVERY ZONE FACILITY BONDS ARE BONDS WITH SUBSTANTIALLY ALL OF THE PROCEEDS OF WHICH ARE USED FOR 'RECOVERY ZONE PROPERTY, AS DEFINED IN THE ARRA. THE DEFINITION OF 'RECOVERY ZONE PROPERTY' INCLUDES FACILITIES

THAT MAY NOT CURRENTLY BE AUTHORIZED UNDER THE STATE'S PRIVATE ACTIVITY BOND ENABLING STATUTES. THESE PROJECTS WILL PROVIDE MUCH NEEDED EMPLOYMENT, THUS IT IS THE BEST INTEREST OF THE HEALTH AND WELFARE OF THE CITIZENS OF THE STATE TO PROVIDE AUTHORIZATION FOR BONDS TO FINANCE RECOVERY ZONE PROPERTY.

(H) THE PURPOSES OF THIS CHAPTER IS TO PROVIDE THE PROCEDURES FOR THE REALLOCATION OF RECOVERY ZONE BONDS AS WELL AS PROVIDE THE AUTHORIZATION FOR THE ALLOCATION OF QUALIFIED ENERGY CONSERVATION BONDS AND OTHER FEDERAL BONDS AS DEFINED BELOW.

SECTION 11–18–20. (A) 'ARRA BONDS' MEAN:

(1) RECOVERY ZONE BONDS AUTHORIZED UNDER SECTION 1401 OF ARRA; AND

(2) QUALIFIED ENERGY CONSERVATION BONDS AUTHORIZED UNDER SECTION 301(A) OF TAX EXTENDERS AND ALTERNATIVE MINIMUM TAX RELIEF ACT OF 2008, PUB. L. 110–343, 122 STAT. 1365 (2008) AS AMENDED BY SECTION 112 OF ARRA.

(B) 'BOARD' MEANS THE SOUTH CAROLINA BUDGET AND CONTROL BOARD.

(C) 'CODE' MEANS THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

(D) 'LOCAL GOVERNMENT' MEANS EACH COUNTY AND MUNICIPALITY THAT RECEIVED AN ALLOCATION OF VOLUME CAP PURSUANT TO THE CODE AND IRS NOTICE 2009–50.

(E) 'OTHER FEDERAL BONDS' MEAN ANY SUCH BOND, WHETHER TAX–EXEMPT, TAXABLE OR TAX CREDIT, CREATED AFTER THE DATE HEREOF WHEREBY A VOLUME CAP LIMITATION IS PROSCRIBED UNDER THE CODE.

(F) 'QUALIFIED ENERGY CONSERVATION BOND' MEANS THE TERM AS DEFINED IN SECTION 54D(A) OF THE CODE.

(G) 'RECOVERY ZONE' MEANS THE TERM AS DEFINED IN SECTION 1400U–1(B) OF THE CODE.

(H) 'RECOVERY ZONE ECONOMIC DEVELOPMENT BOND' MEANS THE TERM AS DEFINED IN SECTION 1400U–2 OF THE CODE.

(I) 'RECOVERY ZONE FACILITY BOND' MEANS THE TERM AS DEFINED IN SECTION1400U–3 OF THE CODE.

(J) 'STATE' MEANS THE STATE OF SOUTH CAROLINA.

(K) 'VOLUME CAP' MEANS THE AMOUNT OR OTHER LIMITATION OF ARRA BONDS ALLOCATED TO EACH STATE AND TO COUNTIES AND LARGE MUNICIPALITIES WITHIN EACH STATE IN ACCORDANCE WITH SECTION 1400U–1(A)(4) OF THE CODE, WITH RESPECT TO RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS AND RECOVERY ZONE FACILITY BONDS, SECTION 54D(E)(1) OF THE CODE, WITH RESPECT TO QUALIFIED ENERGY CONSERVATION BONDS, AND ANY OTHER SECTION OF THE CODE WHICH IMPOSES A VOLUME CAP LIMITATION ON ANY OTHER FEDERAL BONDS.

SECTION 11–18–30. FOR ANY VOLUME CAP ALLOCATION OF QUALIFIED ENERGY CONSERVATION BONDS AND ANY OTHER VOLUME CAP ALLOCATION FOR OTHER FEDERAL BONDS, WHICH HAS NOT BEEN OR SHALL NOT BE FURTHER SUBALLOCATED BY THE CODE, THE INTERNAL REVENUE SERVICE OR THE UNITED STATES DEPARTMENT OF THE TREASURY, THE BOARD IS AUTHORIZED TO SUBALLOCATE SUCH VOLUME CAP ALLOCATION.

SECTION 11–18–40. (A) IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER, THE BOARD SHALL ESTABLISH A METHOD FOR DETERMINING WHEN A LOCAL GOVERNMENT HAS WAIVED ALL OR PART OF ITS VOLUME CAP ALLOCATION AND SHALL MANAGE THE REALLOCATION OF SUCH VOLUME CAP. ALL ALLOCATIONS AND REALLOCATIONS MADE PURSUANT TO THIS CHAPTER SHALL BE MADE BY THE BOARD WITH THE ADVICE AND RECOMMENDATION OF AN

ADVISORY COMMITTEE WHICH THE BOARD MAY FROM TIME TO TIME APPOINT AND WHICH SHALL BE COMPRISED OF MEMBERS WHO ARE, IN THE SOLE DETERMINATION OF THE BOARD, FAMILIAR WITH THE SUBJECT MATTER GERMANE TO THE SPECIFIC FEDERAL BOND PROGRAM.

(B) WHEN APPROPRIATE, THE BOARD SHALL PROVIDE WRITTEN NOTICE OF VOLUME CAP ALLOCATIONS OF ARRA BONDS AND OTHER FEDERAL BONDS TO LOCAL GOVERNMENTS BY UNITED STATES REGISTERED OR CERTIFIED MAIL. WRITTEN NOTICE SHALL BE EFFECTIVE ON THE DATE SHOWN ON THE RETURN RECEIPT. SUCH NOTICE MAY INCLUDE A DEADLINE BY WHICH ARRA BONDS AND OTHER FEDERAL BONDS MUST BE ISSUED.

(C) A LOCAL GOVERNMENT MAY WAIVE ITS VOLUME CAP ALLOCATION BY PROVIDING WRITTEN NOTICE OF SUCH WAIVER TO THE BOARD WITHIN THIRTY DAYS OF THE WRITTEN NOTICE PROVIDED IN SUBSECTION (B).

(D) IN DETERMINING WHEN A LOCAL GOVERNMENT HAS WAIVED ALL OR PART OF ITS VOLUME CAP, THE BOARD SHALL PROVIDE THAT IF IT HAS NOT RECEIVED FROM A LOCAL GOVERNMENT A NOTICE OF INTENT TO USE ITS VOLUME CAP ALLOCATION WITHIN A DESIGNATED NUMBER OF DAYS OF THE WRITTEN NOTICE PROVIDED IN SUBSECTION (B), THE LOCAL GOVERNMENT SHALL BE DEEMED TO HAVE WAIVED ITS VOLUME CAP ALLOCATION. THE FORM OF THE NOTICE OF INTENT TO USE A LOCAL GOVERNMENT'S VOLUME CAP ALLOCATION SHALL BE DETERMINED BY THE BOARD. EACH NOTICE OF INTENT TO USE ITS VOLUME CAP ALLOCATION SUBMITTED BY A LOCAL GOVERNMENT MUST CONTAIN EVIDENCE SATISFACTORY TO THE BOARD, IN ITS SOLE DISCRETION, THAT THE ALLOCATION WILL IN FACT BE USED. THIS EVIDENCE MAY CONSIST OF:

(1) RESOLUTION OR OTHERWISE OF THE DESIGNATION OF A RECOVERY ZONE, IF SUCH DESIGNATION IS REQUIRED;

(2) THE FORM OF THE RESOLUTION OR ORDINANCE IN SUBSTANTIALLY FINAL FORM AUTHORIZING THE ISSUANCE OF BONDS OR APPROVING SUCH OTHER FINANCING AS MAY BE DONE ACCOMPANIED BY A WRITTEN OPINION OF LEGAL COUNSEL THAT THE LOCAL GOVERNMENT HAS THE LEGAL ABILITY TO EFFECT SUCH ISSUANCE OR BORROWING;

(3) A WRITTEN OPINION OF LEGAL COUNSEL THAT THE ARRA BONDS OR OTHER FEDERAL BONDS THAT THE LOCAL GOVERNMENT INTENDS TO ISSUE WILL QUALIFY, BASED ON INFORMATION AVAILABLE AT THAT TIME TO SUCH LEGAL COUNSEL, AS SUCH ARRA BONDS OR OTHER FEDERAL BONDS WHEN ISSUED;

(4) A SCHEDULE FOR THE CLOSING OF THE ISSUE WHICH MUST NOT BE LATER THAN A DATE DETERMINED BY THE BOARD; AND

(5) OTHER DOCUMENTATION AS THE BOARD DEEMS APPROPRIATE.

(E) FAILURE TO ISSUE ARRA BONDS OR OTHER FEDERAL BONDS BY ANY DEADLINE ESTABLISHED BY THE BOARD SHALL CONSTITUTE A WAIVER OF VOLUME CAP ALLOCATION UNLESS THE BOARD EXTENDS SUCH DEADLINE.

SECTION 11–18–50. (A) WITHIN THIRTY DAYS OF THE EFFECTIVE DATE OF THIS CHAPTER, THE BOARD SHALL DEVELOP A FORM FOR USE BY ANY ELIGIBLE ISSUER IN APPLYING FOR REALLOCATION OF ANY WAIVED VOLUME CAP ALLOCATION. APPLICATIONS FOR REALLOCATION MAY BE ACCEPTED BY THE BOARD AT TIMES PRESCRIBED BY THE BOARD. THE BOARD MAY MAKE REALLOCATIONS AS SOON AS IT DETERMINES THAT THERE IS AN ACTUAL OR DEEMED WAIVER OF ANY VOLUME CAP ALLOCATION.

(B) IN MAKING REALLOCATIONS, THE BOARD MAY CONSIDER THE FOLLOWING FACTORS:

(1) THE LIKELIHOOD OF SUCCESSFUL COMPLETION OF SUCH FINANCING;

(2) THE NUMBER OF JOBS TO BE CREATED OR PRESERVED AND THE WAGES FOR SUCH JOBS;

(3) RELATIVE ECONOMIC NEED AND BENEFIT TO THE APPLICANT AND ANY OTHER ENTITY BENEFITING FROM THE PROPOSED ISSUE; AND

(4) THE OVERALL BEST INTEREST OF THE STATE AND THE PEOPLE OF THE STATE.

(C) UPON MAKING ANY REALLOCATION, THE BOARD SHALL PROVIDE WRITTEN NOTICE OF THE REALLOCATION OF VOLUME CAP TO THE ELIGIBLE ISSUER BY UNITED STATES REGISTERED OR CERTIFIED MAIL.

SECTION 11–18–60. LOCAL GOVERNMENTS ALLOCATED VOLUME CAP PURSUANT TO THIS CHAPTER MAY, BY ORDER OR RESOLUTION OF ITS GOVERNING BODY, SUBALLOCATE SUCH ALLOCATION TO ANY OTHER ELIGIBLE ISSUERS AUTHORIZED TO ISSUE ARRA BONDS OR OTHER FEDERAL BONDS PURSUANT TO THE CODE OR ANY RELATED PRONOUNCEMENTS MADE BY THE INTERNAL REVENUE SERVICE OR THE UNITED STATES TREASURY DEPARTMENT. EACH LOCAL GOVERNMENT THAT SUBALLOCATES VOLUME CAP SHALL ATTACH A COPY OF THE ORDER, ORDINANCE OR RESOLUTION AUTHORIZING THE SUBALLOCATION TO ITS NOTICE OF INTENT TO USE VOLUME CAP REQUIRED BY SECTION 11–18–40. LOCAL GOVERNMENTS SHALL BE AUTHORIZED TO TAKE ANY OTHER ACTION REQUIRED BY THE CODE OR RELATED PRONOUNCEMENTS MADE BY THE INTERNAL REVENUE SERVICE OR THE TREASURY DEPARTMENT TO ISSUE ARRA BONDS OR OTHER FEDERAL BONDS.

SECTION 11–18–70. (A) THE PURPOSE OF THIS CHAPTER IS TO ENSURE THAT THE STATE'S ALLOCATIONS OF ARRA BONDS AND OTHER FEDERAL BONDS ARE USED. TO THAT END, THE BOARD IS AUTHORIZED AND DIRECTED TO MAKE SUCH EXCEPTIONS AND WAIVERS

OR EXTEND OR SHORTEN TIME REQUIREMENTS AS IT DEEMS MOST LIKELY TO EFFECT THE PURPOSES HEREOF. THE BOARD IS ENCOURAGED TO AVOID THE DEVELOPMENT OF RIGID PROCEDURES AND FORMALITIES IN THE DETERMINATION OF WAIVED ALLOCATIONS OR REALLOCATIONS. THE BOARD IS DIRECTED FOCUS ON THE PROBABILITY OF THE LOCAL GOVERNMENTS' USING THE VOLUME CAP FOR ARRA BONDS PRIOR TO JANUARY 1, 2011.

(B) THE BOARD MAY ADOPT ANY FURTHER POLICIES AND PROCEDURES IT CONSIDERS NECESSARY FOR THE EQUITABLE AND EFFECTIVE ADMINISTRATION OF THIS CHAPTER.

SECTION 11–18–80. IN ORDER TO MAKE THE MAXIMUM USE OF VOLUME CAP ALLOCATIONS, ANY BOND ENABLING ACT WHICH SPECIFIES PARTICULAR PROJECTS OR USERS MUST BE CONSTRUED TO PROVIDE THAT ANY RECOVERY ZONE PROPERTY AS DEFINED IN SECTION 1400U–3(B) OF THE CODE WILL BE DEEMED TO QUALIFY AS A PROJECT. ACCORDINGLY ANY PERSON ENGAGED IN A QUALIFIED BUSINESS AS DEFINED IN SECTION 1400U–3(B)(2) OF THE CODE WILL BE PERMITTED AS BENEFICIARY OF ANY SUCH BONDS."

B. SECTION 4-29-10(3) OF THE 1976 CODE, AS LAST AMENDED BY 89 OF 2001, IS FURTHER AMENDED TO READ:

"(3) 'PROJECT' MEANS ANY LAND AND ANY BUILDINGS AND OTHER IMPROVEMENTS ON THE LAND INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, WATER, SEWAGE TREATMENT AND DISPOSAL FACILITIES, AIR POLLUTION CONTROL FACILITIES, AND ALL OTHER MACHINERY, APPARATUS, EQUIPMENT, OFFICE FACILITIES, AND FURNISHINGS WHICH ARE CONSIDERED NECESSARY, SUITABLE, OR USEFUL BY THE FOLLOWING INVESTORS OR ANY COMBINATION OF THEM:

(A) ANY ENTERPRISE FOR THE MANUFACTURING, PROCESSING, OR ASSEMBLING OF ANY AGRICULTURAL OR MANUFACTURED PRODUCTS;

(B) ANY COMMERCIAL ENTERPRISE ENGAGED IN STORING, WAREHOUSING, DISTRIBUTING, TRANSPORTING, OR SELLING PRODUCTS OF AGRICULTURE, MINING, OR INDUSTRY, OR ENGAGED IN PROVIDING LAUNDRY SERVICES TO HOSPITALS, TO CONVALESCENT HOMES, OR TO MEDICAL TREATMENT FACILITIES OF ANY TYPE, PUBLIC OR PRIVATE, WITHIN OR OUTSIDE OF THE ISSUING COUNTY OR INCORPORATED MUNICIPALITY AND WITHIN OR OUTSIDE OF THE STATE;

(C) ANY ENTERPRISE FOR RESEARCH IN CONNECTION WITH ANY OF THE FOREGOING OR FOR THE PURPOSE OF DEVELOPING NEW PRODUCTS OR NEW PROCESSES OR IMPROVING EXISTING PRODUCTS OR PROCESSES;

(D) ANY ENTERPRISE ENGAGED IN COMMERCIAL BUSINESS INCLUDING, BUT NOT LIMITED TO, WHOLESALE, RETAIL, OR OTHER MERCANTILE ESTABLISHMENTS; RESIDENTIAL AND MIXED USE DEVELOPMENTS OF TWO THOUSAND FIVE HUNDRED ACRES OR MORE; OFFICE BUILDINGS; COMPUTER CENTERS; TOURISM, SPORTS, AND RECREATIONAL FACILITIES; CONVENTION AND TRADE SHOW FACILITIES; AND PUBLIC LODGING AND RESTAURANT FACILITIES IF THE PRIMARY PURPOSE IS TO PROVIDE SERVICE IN CONNECTION WITH ANOTHER FACILITY QUALIFYING UNDER THIS SUBITEM; AND

(E) ANY ENLARGEMENT, IMPROVEMENT, OR EXPANSION OF ANY EXISTING FACILITY IN SUBITEMS (A), (B), (C), AND (D) OF THIS ITEM.

THE TERM 'PROJECT' DOES NOT INCLUDE FACILITIES FOR AN ENTERPRISE PRIMARILY ENGAGED IN THE SALE OR DISTRIBUTION TO THE PUBLIC OF ELECTRICITY, GAS, OR TELEPHONE SERVICES. A PROJECT MAY BE LOCATED IN ONE OR MORE COUNTIES OR INCORPORATED MUNICIPALITIES. THE TERM 'PROJECT' ALSO INCLUDES ANY STRUCTURE, BUILDING, MACHINERY, SYSTEM, LAND, INTEREST IN LAND, WATER RIGHT, OR OTHER PROPERTY NECESSARY OR DESIRABLE

TO PROVIDE FACILITIES TO BE OWNED AND OPERATED BY ANY PERSON, FIRM, OR CORPORATION FOR THE PURPOSE OF PROVIDING DRINKING WATER, WATER, OR WASTEWATER TREATMENT SERVICES OR FACILITIES TO ANY PUBLIC BODY, AGENCY, POLITICAL SUBDIVISION, OR SPECIAL PURPOSE DISTRICT. THIS DEFINITION IS FOR PURPOSES OF INDUSTRIAL REVENUE BONDS ONLY.

NOTWITHSTANDING ANOTHER PROVISION HEREOF, THE TERM 'PROJECT' SHALL INCLUDE ANY RECOVERY ZONE PROPERTY AS DEFINED IN SECTION 1400U–3(B) OF THE INTERNAL REVENUE CODE AND ANY 'QUALIFIED CONSERVATION PURPOSE' AS DEFINED IN SECTION 54D(F) OF THE CODE OR OTHER PURPOSES SET FORTH IN SECTION 54D(E) OF THE CODE. NO RESTRICTION HEREIN RELATING TO THE USER OR USE OF A PROJECT SHALL APPLY TO ANY RECOVERY ZONE PROPERTY."

SECTION 11. SECTION 12-6-530 OF THE 1976 CODE IS AMENDED TO READ:

"SECTION 12-6-530. (A) AN INCOME TAX IS IMPOSED ANNUALLY AT THE RATE OF FIVE PERCENT ON THE SOUTH CAROLINA TAXABLE INCOME OF EVERY CORPORATION, OTHER THAN THOSE DESCRIBED IN SECTIONS 12-6-540 AND 12-6-550, AND ANY OTHER ENTITY TAXED USING THE RATES OF A CORPORATION FOR FEDERAL INCOME TAX PURPOSES, TRANSACTING, CONDUCTING, OR DOING BUSINESS WITHIN THIS STATE OR HAVING INCOME WITHIN THIS STATE, REGARDLESS OF WHETHER THESE ACTIVITIES ARE CARRIED ON IN INTRASTATE, INTERSTATE, OR FOREIGN COMMERCE. THE TERMS 'TRANSACTING', 'CONDUCTING', AND 'DOING BUSINESS' INCLUDE TRANSACTING OR ENGAGING IN ANY ACTIVITY FOR THE PURPOSE OF FINANCIAL PROFIT OR GAIN.

(B) BEGINNING WITH THE YEAR 2011, THE CORPORATE INCOME TAX RATE OF FIVE PERCENT ANNUALLY IMPOSED BY THIS SECTION IS

REDUCED BY ONE-HALF PERCENT PER YEAR UNTIL THE RATE REACHES ZERO FOR THE YEAR 2020 AND THEREAFTER."

SECTION 12. SECTION 12-6-590 OF THE 1976 CODE, AS LAST AMENDED BY ACT 116 OF 2007, IS FURTHER AMENDED BY ADDING:

"(C) ONE-HALF OF ALL INCOME TAXES PAID BY RESIDENT SHAREHOLDERS, AND NONRESIDENT SHAREHOLDERS UNDER SECTION 12-8-590 OR OTHER PROVISIONS OF LAW, UP TO FIVE MILLION DOLLARS, OF AN 'S' CORPORATION WITH A NEW FIVE HUNDRED MILLION DOLLAR CAPITAL INVESTMENT AT A SINGLE SITE AND FOUR HUNDRED NEW EMPLOYEES, FOR A PERIOD OF FIVE YEARS, MUST BE PAID BY THE DEPARTMENT TO THE STATE TREASURER TO BE DEPOSITED INTO A FUND AND DISTRIBUTED PURSUANT TO THE APPROVAL OF THE COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT. THE COUNTY OR MUNICIPALITY IN WHICH THE PROJECT IS LOCATED MAY APPLY TO THE COUNCIL FOR GRANTS FROM THE FUND BY SUBMITTING A GRANT APPLICATION. UPON REVIEW OF THE 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. GRANTS MAY RUN FOR MORE THAN A YEAR AND MAY BE BASED UPON A SPECIFIED DOLLAR AMOUNT OR A PERCENTAGE OF THE MONIES DEPOSITED ANNUALLY INTO THE FUND. AFTER APPROVAL OF A GRANT APPLICATION, THE COUNCIL MAY APPROVE THE RELEASE OF MONIES. THE COUNCIL SHALL ADOPT GUIDELINES TO ADMINISTER THE FUND, INCLUDING, BUT NOT LIMITED TO, GRANT APPLICATION CRITERIA FOR REVIEW AND APPROVAL OF GRANT APPLICATIONS."

SECTION 13. SECTION 12-6-3360 OF THE 1976 CODE, AS LAST AMENDED BY ACT 116 OF 2007, IS FURTHER AMENDED TO READ:

"SECTION 12-6-3360. (A) TAXPAYERS THAT OPERATE MANUFACTURING, TOURISM, PROCESSING, WAREHOUSING, DISTRIBUTION, RESEARCH AND DEVELOPMENT, CORPORATE OFFICE, QUALIFYING SERVICE-RELATED FACILITIES, EXTRAORDINARY RETAIL ESTABLISHMENT, AND QUALIFYING TECHNOLOGY INTENSIVE FACILITIES~~, AND BANKS~~ AS DEFINED PURSUANT TO THIS TITLE ARE ALLOWED AN ANNUAL JOBS TAX CREDIT AS PROVIDED IN THIS SECTION. IN ADDITION, TAXPAYERS THAT OPERATE RETAIL FACILITIES AND SERVICE-RELATED INDUSTRIES QUALIFY FOR AN ANNUAL JOBS TAX CREDIT IN COUNTIES DESIGNATED AS ~~LEAST DEVELOPED OR DISTRESSED, AND IN COUNTIES THAT ARE UNDER DEVELOPED AND NOT TRAVERSED BY AN INTERSTATE HIGHWAY. AS USED IN THIS SECTION, "CORPORATE OFFICE" INCLUDES GENERAL CONTRACTORS LICENSED BY THE SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION~~ TIER IV. CREDITS PURSUANT TO THIS SECTION MAY BE CLAIMED AGAINST INCOME TAXES IMPOSED BY SECTION 12-6-510 OR 12-6-530, ~~BANK TAXES IMPOSED PURSUANT TO CHAPTER 11 OF THIS TITLE, AND~~ INSURANCE PREMIUM TAXES IMPOSED PURSUANT TO CHAPTER 7 ~~OF~~, TITLE 38, AND ARE LIMITED IN USE TO FIFTY PERCENT OF THE TAXPAYER'S SOUTH CAROLINA INCOME TAX~~, BANK TAX,~~ OR INSURANCE PREMIUM TAX LIABILITY. IN COMPUTING A TAX PAYABLE BY A TAXPAYER PURSUANT TO SECTION 38-7-90, THE CREDIT ALLOWABLE PURSUANT TO THIS SECTION MUST BE TREATED AS A PREMIUM TAX PAID PURSUANT TO SECTION 38-7-20.

(B) THE DEPARTMENT SHALL RANK AND DESIGNATE THE STATE'S COUNTIES BY DECEMBER THIRTY-FIRST EACH YEAR USING DATA FROM THE SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION AND THE UNITED STATES DEPARTMENT OF COMMERCE. THE COUNTY DESIGNATIONS ARE EFFECTIVE FOR TAXABLE YEARS THAT BEGIN IN THE FOLLOWING CALENDAR YEAR. ~~A COUNTY'S DESIGNATION MAY NOT BE LOWERED IN CREDIT AMOUNT MORE THAN ONE TIER IN THE~~

~~FOLLOWING CALENDAR YEAR.~~ THE COUNTIES ARE RANKED USING THE LAST THREE COMPLETED CALENDAR YEARS OF PER CAPITA INCOME DATA AND THE LAST THIRTY-SIX MONTHS OF UNEMPLOYMENT RATE DATA THAT ARE AVAILABLE ON NOVEMBER FIRST, WITH EQUAL WEIGHT GIVEN TO UNEMPLOYMENT RATE AND PER CAPITA INCOME AS FOLLOWS:

(1)~~(A)~~ THE TWELVE COUNTIES WITH A COMBINATION OF THE HIGHEST UNEMPLOYMENT RATE AND LOWEST PER CAPITA INCOME ARE DESIGNATED ~~DISTRESSED~~ TIER IV COUNTIES. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO MORE THAN TWELVE COUNTIES MAY BE DESIGNATED OR CLASSIFIED AS ~~DISTRESSED~~ TIER IV AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A COUNTY MAY BE DESIGNATED AS ~~DISTRESSED~~ TIER IV ONLY BY VIRTUE OF THE CRITERIA PROVIDED IN THIS SUBITEM.

~~(B) A CATEGORY WITH THE SAME CRITERIA AS PROVIDED IN SUBITEM (A) OF THIS ITEM IS DESIGNATED LEAST DEVELOPED COUNTY WHICH CONSISTS OF UNDERDEVELOPED COUNTIES OTHERWISE ELIGIBLE FOR THIS CATEGORY.~~

(2) THE TWELVE COUNTIES WITH A COMBINATION OF THE NEXT HIGHEST UNEMPLOYMENT RATE AND NEXT LOWEST PER CAPITA INCOME ARE DESIGNATED ~~UNDERDEVELOPED~~ TIER III COUNTIES.

(3) THE ELEVEN COUNTIES WITH A COMBINATION OF THE NEXT HIGHEST UNEMPLOYMENT RATE AND THE NEXT LOWEST PER CAPITA INCOME ARE DESIGNATED ~~MODERATELY DEVELOPED~~ TIER II COUNTIES.

(4) THE ELEVEN COUNTIES WITH A COMBINATION OF THE LOWEST UNEMPLOYMENT RATE AND THE HIGHEST PER CAPITA INCOME ARE DESIGNATED ~~DEVELOPED~~ TIER I COUNTIES.

~~(5)(A) A COUNTY, ANY PORTION OF WHICH IS LOCATED WITHIN TWENTY-FIVE MILES OF THE BOUNDARIES OF AN APPLICABLE MILITARY INSTALLATION OR APPLICABLE FEDERAL FACILITY AS DEFINED IN SECTION 12-6-3450(1), SHALL RECEIVE THE NEXT~~

~~INCREASED CREDIT DESIGNATION FOR FIVE YEARS BEGINNING WITH THE YEAR IN WHICH THE MILITARY INSTALLATION OR FEDERAL FACILITY BECAME AN APPLICABLE MILITARY INSTALLATION OR APPLICABLE FEDERAL FACILITY AS DEFINED IN SECTION 12-6-3450(1), WITH THE ADDITIONAL REQUIREMENT THAT THE MILITARY INSTALLATION MUST HAVE REDUCED EMPLOYMENT ON THE INSTALLATION OF AT LEAST THREE THOUSAND EMPLOYEES.~~

~~(B) IN ADDITION TO THE DESIGNATION IN SUBITEM (A), A COUNTY IN WHICH AN APPLICABLE MILITARY INSTALLATION OR APPLICABLE FEDERAL FACILITY IS LOCATED IS ALLOWED AN ADDITIONAL INCREASED CREDIT DESIGNATION FOR FIVE YEARS BEGINNING WITH THE YEAR THE INSTALLATION OR FACILITY MEETS THE REQUIREMENTS.~~

~~(C) NOTWITHSTANDING THE DESIGNATIONS IN SECTION 12-6-3360, LAURENS, CHEROKEE, AND UNION COUNTIES SHALL QUALIFY FOR THE NEXT INCREASED CREDIT DESIGNATION.~~

~~(D) IN A COUNTY WHERE LESS THAN FIVE PERCENT OF THE WORK FORCE IS IN MANUFACTURING, THE CREDIT ALLOWED IS ONE TIER HIGHER THAN THE CREDIT FOR WHICH THE COUNTY WOULD OTHERWISE QUALIFY.~~

~~(E) FOR A JOB CREATED IN A COUNTY THAT IS NOT TRAVERSED BY AN INTERSTATE HIGHWAY, THE CREDIT ALLOWED IS ONE TIER HIGHER THAN THE CREDIT FOR WHICH JOBS CREATED IN THE COUNTY WOULD OTHERWISE QUALIFY. THIS SUBITEM DOES NOT APPLY TO A JOB CREATED IN A COUNTY ELIGIBLE FOR A HIGHER TIER PURSUANT TO ANOTHER PROVISION OF THIS ITEM.~~

~~(F) IN A COUNTY IN WHICH ONE EMPLOYER HAS LOST AT LEAST 1,500 JOBS IN A CALENDAR YEAR, THE CREDIT ALLOWED IS ONE TIER HIGHER THAN THE CREDIT FOR WHICH THE COUNTY WOULD OTHERWISE QUALIFY. THE ONE-TIER-HIGHER CREDIT ALLOWED BY THIS SUBSECTION IS ALLOWED FOR FIVE TAXABLE YEARS FOR JOBS CREATED IN 2006, 2007, AND 2008. THIS SUBSECTION DOES NOT APPLY~~

~~TO A JOB CREATED IN A COUNTY ELIGIBLE FOR A HIGHER TIER PURSUANT TO ANOTHER PROVISION OF THIS SECTION.~~

~~(G) IN A COUNTY WHICH IS AT LEAST ONE THOUSAND SQUARE MILES IN SIZE AND WHICH HAS HAD AN UNEMPLOYMENT RATE GREATER THAN THE STATE AVERAGE FOR THE PAST TEN YEARS AND AN AVERAGE PER CAPITA INCOME LOWER THAN THE AVERAGE STATE PER CAPITA INCOME FOR THE PAST TEN YEARS, AND WHICH IS NOT INCLUDED IN ANY OF THE COUNTY CLASSIFICATIONS CONTAINED IN SUBITEMS (A) THROUGH (F) OF THIS ITEM, THE CREDIT ALLOWED IS TWO TIERS HIGHER THAN THE CREDIT FOR WHICH THE COUNTY OTHERWISE WOULD QUALIFY.~~

~~(H) IN A COUNTY IN WHICH ONE EMPLOYER HAS LOST AT LEAST 1,500 JOBS IN CALENDAR YEAR 2006, THE CREDIT ALLOWED IS THREE TIERS HIGHER THAN THE CREDIT FOR WHICH THE COUNTY WOULD OTHERWISE QUALIFY. THE THREE-TIER-HIGHER CREDIT ALLOWED BY THIS SUBSECTION IS ALLOWED FOR FIVE TAXABLE YEARS FOR JOBS CREATED IN 2007 AND 2008. THIS SUBSECTION DOES NOT APPLY TO A JOB CREATED IN A COUNTY ELIGIBLE FOR A HIGHER TIER PURSUANT TO ANOTHER PROVISION OF THIS SECTION.~~

(C)(1) SUBJECT TO THE CONDITIONS PROVIDED IN SUBSECTION (N) OF THIS SECTION, A JOB TAX CREDIT IS ALLOWED FOR FIVE YEARS BEGINNING IN YEAR TWO AFTER THE CREATION OF THE JOB FOR EACH NEW FULL-TIME JOB CREATED IF THE MINIMUM LEVEL OF NEW JOBS IS MAINTAINED. THE CREDIT IS AVAILABLE TO TAXPAYERS THAT INCREASE EMPLOYMENT BY TEN OR MORE FULL-TIME JOBS, AND NO CREDIT IS ALLOWED FOR THE YEAR OR ANY SUBSEQUENT YEAR IN WHICH THE NET EMPLOYMENT INCREASE FALLS BELOW THE MINIMUM LEVEL OF TEN. THE AMOUNT OF THE INITIAL JOB CREDIT IS AS FOLLOWS:

(A) EIGHT THOUSAND DOLLARS FOR EACH NEW FULL-TIME JOB CREATED IN ~~DISTRESSED~~ TIER IV COUNTIES.

(B) ~~FOUR THOUSAND FIVE HUNDRED DOLLARS FOR EACH NEW FULL-TIME JOB CREATED IN LEAST DEVELOPED COUNTIES.~~

~~(C)~~ THREE THOUSAND FIVE HUNDRED DOLLARS FOR EACH NEW FULL-TIME JOB CREATED IN ~~UNDER-DEVELOPED~~ TIER III COUNTIES.

(~~D~~C) TWO THOUSAND FIVE HUNDRED DOLLARS FOR EACH NEW FULL-TIME JOB CREATED IN ~~MODERATELY DEVELOPED~~ TIER II COUNTIES.

(~~E~~D) ONE THOUSAND FIVE HUNDRED DOLLARS FOR EACH NEW FULL-TIME JOB CREATED IN ~~DEVELOPED~~ TIER I COUNTIES.

(2)(A) SUBJECT TO THE CONDITIONS PROVIDED IN SUBSECTION (N) OF THIS SECTION, A JOB TAX CREDIT IS ALLOWED FOR FIVE YEARS BEGINNING IN YEAR TWO AFTER THE CREATION OF THE JOB FOR EACH NEW FULL-TIME JOB CREATED IF THE MINIMUM LEVEL OF NEW JOBS IS MAINTAINED. THE CREDIT IS AVAILABLE TO TAXPAYERS WITH NINETY-NINE OR FEWER EMPLOYEES THAT INCREASE EMPLOYMENT BY TWO OR MORE FULL-TIME JOBS, AND MAY BE RECEIVED ONLY IF THE GROSS WAGES OF THE FULL-TIME JOBS CREATED PURSUANT TO THIS SECTION AMOUNT TO A MINIMUM OF ONE HUNDRED TWENTY PERCENT OF THE COUNTY'S OR STATE'S AVERAGE PER CAPITA INCOME, WHICHEVER IS LOWER. NO CREDIT IS ALLOWED FOR THE YEAR OR ANY SUBSEQUENT YEAR IN WHICH THE NET EMPLOYMENT INCREASE FALLS BELOW THE MINIMUM LEVEL OF TWO. THE AMOUNT OF THE INITIAL JOB CREDIT IS AS DESCRIBED IN (C)(1).

(B) IF THE TAXPAYER WITH NINETY-NINE OR FEWER EMPLOYEES INCREASES EMPLOYMENT BY TWO OR MORE FULL-TIME JOBS BUT THE GROSS WAGES DO NOT AMOUNT TO A MINIMUM ONE HUNDRED TWENTY PERCENT OF THE COUNTY'S OR STATE'S AVERAGE PER CAPITA INCOME, WHICHEVER IS LOWER, THEN THE AMOUNT OF THE INITIAL JOB CREDIT IS AS FOLLOWS:

(I) FOUR THOUSAND DOLLARS FOR EACH NEW FULL-TIME JOB CREATED IN ~~DISTRESSED~~ TIER IV COUNTIES.

(II) ~~TWO THOUSAND TWO HUNDRED FIFTY DOLLARS FOR EACH NEW FULL-TIME JOB CREATED IN LEAST DEVELOPED COUNTIES.~~

~~(III)~~ ONE THOUSAND SEVEN HUNDRED FIFTY DOLLARS FOR EACH NEW FULL-TIME JOB CREATED IN ~~UNDER-DEVELOPED~~ TIER III COUNTIES.

(~~IV~~III) ONE THOUSAND TWO HUNDRED FIFTY DOLLARS FOR EACH NEW FULL-TIME JOB CREATED IN ~~MODERATELY DEVELOPED~~ TIER II COUNTIES.

(~~V~~IV) SEVEN HUNDRED FIFTY DOLLARS FOR EACH NEW FULL-TIME JOB CREATED IN ~~DEVELOPED~~ TIER I COUNTIES.

(D) IF THE TAXPAYER QUALIFYING FOR THE NEW JOBS CREDIT UNDER SUBSECTION (C) CREATES ADDITIONAL NEW FULL-TIME JOBS IN YEARS TWO THROUGH SIX, THE TAXPAYER MAY OBTAIN A CREDIT FOR THOSE NEW JOBS FOR FIVE YEARS FOLLOWING THE YEAR IN WHICH THE JOB IS CREATED. THE AMOUNT OF THE CREDIT FOR EACH NEW FULL-TIME JOB IS THE SAME AS PROVIDED IN SUBSECTION (C).

(E)(1) TAXPAYERS WHICH QUALIFY FOR THE JOB TAX CREDIT PROVIDED IN SUBSECTION (C) AND WHICH ARE LOCATED IN A BUSINESS OR INDUSTRIAL PARK JOINTLY ESTABLISHED AND DEVELOPED BY A GROUP OF COUNTIES PURSUANT TO SECTION 13 OF ARTICLE VIII OF THE CONSTITUTION OF THIS STATE ARE ALLOWED AN ADDITIONAL ONE THOUSAND DOLLAR CREDIT FOR EACH NEW FULL-TIME JOB CREATED. THIS ADDITIONAL CREDIT IS PERMITTED FOR FIVE YEARS BEGINNING IN THE TAXABLE YEAR FOLLOWING THE CREATION OF THE JOB.

(2) TAXPAYERS WHICH OTHERWISE QUALIFY FOR THE JOB TAX CREDIT PROVIDED IN SUBSECTION (C) AND WHICH ARE LOCATED AND THE QUALIFYING JOBS ARE LOCATED ON PROPERTY WHERE A RESPONSE ACTION HAS BEEN COMPLETED PURSUANT TO A NONRESPONSIBLE PARTY VOLUNTARY CLEANUP CONTRACT PURSUANT TO ARTICLE 7, CHAPTER 56 OF TITLE 44, THE BROWNFIELDS VOLUNTARY CLEANUP PROGRAM, ARE ALLOWED AN ADDITIONAL ONE

THOUSAND DOLLAR CREDIT FOR EACH NEW FULL-TIME JOB CREATED. THIS ADDITIONAL CREDIT IS PERMITTED FOR FIVE YEARS BEGINNING IN THE TAXABLE YEAR FOLLOWING THE CREATION OF THE JOB. NO CREDIT UNDER THIS ITEM IS ALLOWED A TAXPAYER THAT IS A 'RESPONSIBLE PARTY' AS DEFINED IN THAT ARTICLE.

(F)(1) THE NUMBER OF NEW AND ADDITIONAL NEW FULL-TIME JOBS IS DETERMINED BY COMPARING THE MONTHLY AVERAGE NUMBER OF FULL-TIME EMPLOYEES SUBJECT TO SOUTH CAROLINA INCOME TAX WITHHOLDING IN THE APPLICABLE COUNTY FOR THE TAXABLE YEAR WITH THE MONTHLY AVERAGE IN THE PRIOR TAXABLE YEAR. FOR PURPOSES OF CALCULATING THE MONTHLY AVERAGE NUMBER OF FULL-TIME EMPLOYEES IN THE FIRST YEAR OF OPERATION IN THIS STATE, A TAXPAYER MAY USE THE ACTUAL MONTHS IN OPERATION OR A FULL TWELVE-MONTH PERIOD. IF A TAXPAYER'S BUSINESS IS IN OPERATION FOR LESS THAN TWELVE MONTHS A YEAR, THE NUMBER OF NEW AND ADDITIONAL NEW FULL-TIME JOBS IS DETERMINED USING THE MONTHLY AVERAGE FOR THE MONTHS THE BUSINESS IS IN OPERATION.

(2)(A) A TAXPAYER WHO MAKES A CAPITAL INVESTMENT OF AT LEAST FIFTY MILLION DOLLARS AT A SINGLE SITE WITHIN A THREE-YEAR PERIOD MAY ELECT TO HAVE THE NUMBER OF NEW AND ADDITIONAL NEW FULL-TIME JOBS DETERMINED BY COMPARING THE MONTHLY AVERAGE NUMBER OF FULL-TIME JOBS SUBJECT TO SOUTH CAROLINA INCOME TAX WITHHOLDING AT THE SITE FOR THE TAXABLE YEAR WITH THE MONTHLY AVERAGE FOR THE PRIOR TAXABLE YEAR.

(B) FOR PURPOSES OF THIS ITEM, 'SINGLE SITE' MEANS A STAND-ALONE BUILDING WHETHER OR NOT SEVERAL STAND-ALONE BUILDINGS ARE LOCATED IN ONE GEOGRAPHICAL LOCATION.

(C) THE CALCULATION OF NEW AND ADDITIONAL JOBS PROVIDED FOR IN THIS ITEM IS ALLOWED FOR ONLY A FIVE-YEAR PERIOD COMMENCING IN THE YEAR IN WHICH THE FIFTY MILLION DOLLARS OF CAPITAL INVESTMENT IS COMPLETED.

(D) FOR PURPOSES OF THIS SUBSECTION A 'NEW JOB' DOES NOT INCLUDE A JOB TRANSFERRED FROM ONE SITE TO ANOTHER SITE BY THE TAXPAYER OR A RELATED PERSON. A RELATED PERSON INCLUDES ANY ENTITY OR PERSON THAT BEARS A RELATIONSHIP TO THE TAXPAYER AS SET FORTH IN SECTION 267 OF THE INTERNAL REVENUE CODE. ~~HOWEVER, THIS EXCLUSION OF A NEW JOB CREATED BY A JOB TRANSFERRED FROM ONE SITE TO ANOTHER SITE DOES NOT EXTEND TO A JOB CREATED AT A NEW OR EXPANDED FACILITY LOCATED IN A COUNTY IN WHICH IS LOCATED AN 'APPLICABLE FEDERAL FACILITY' AS DEFINED IN SECTION 12-6-3450(A)(1)(B).~~

(G) EXCEPT FOR CREDITS CARRIED FORWARD UNDER SUBSECTION (H), THE CREDITS AVAILABLE UNDER THIS SECTION ARE ONLY ALLOWED FOR THE JOB LEVEL THAT IS MAINTAINED IN THE TAXABLE YEAR THAT THE CREDIT IS CLAIMED. IF THE JOB LEVEL FOR WHICH A CREDIT WAS CLAIMED DECREASES, THE FIVE-YEAR PERIOD FOR ELIGIBILITY FOR THE CREDIT CONTINUES TO RUN.

(H) A CREDIT CLAIMED PURSUANT TO THIS SECTION BUT NOT USED IN A TAXABLE YEAR MAY BE CARRIED FORWARD FOR FIFTEEN YEARS FROM THE TAXABLE YEAR IN WHICH THE CREDIT IS EARNED BY THE TAXPAYER. CREDITS THAT ARE CARRIED FORWARD MUST BE USED IN THE ORDER EARNED AND BEFORE JOBS CREDITS CLAIMED IN THE CURRENT YEAR. A TAXPAYER WHO EARNS CREDITS ALLOWED BY THIS SECTION AND WHO ALSO IS ELIGIBLE FOR THE MORATORIUM PROVIDED IN SECTION 12-6-3367 MAY CLAIM THE CREDITS AND MAY CARRY FORWARD UNUSED CREDITS BEGINNING AFTER THE MORATORIUM PERIOD EXPIRES.

(I) THE MERGER, CONSOLIDATION, OR REORGANIZATION OF A TAXPAYER, WHERE TAX ATTRIBUTES SURVIVE, DOES NOT CREATE NEW ELIGIBILITY IN A SUCCEEDING TAXPAYER, BUT UNUSED JOB TAX CREDITS MAY BE TRANSFERRED AND CONTINUED BY THE SUCCEEDING TAXPAYER SUBJECT TO THE LIMITATIONS OF SECTION 12-6-3320. IN ADDITION, A TAXPAYER MAY ASSIGN ITS RIGHTS TO ITS JOBS TAX

CREDIT TO ANOTHER TAXPAYER IF IT TRANSFERS ALL OR SUBSTANTIALLY ALL OF THE ASSETS OF THE TAXPAYER OR ALL OR SUBSTANTIALLY ALL OF THE ASSETS OF A TRADE OR BUSINESS OR OPERATING DIVISION OF A TAXPAYER RELATED TO THE GENERATION OF THE JOBS TAX CREDITS TO THAT TAXPAYER IF THE REQUIRED NUMBER OF NEW JOBS IS MAINTAINED FOR THAT AMOUNT OF CREDIT. A TAXPAYER IS NOT ALLOWED A JOBS TAX CREDIT IF THE NET EMPLOYMENT INCREASE FOR THAT TAXPAYER FALLS BELOW TWO. THE APPROPRIATE AGENCY SHALL DETERMINE IF QUALIFYING NET INCREASES OR DECREASES HAVE OCCURRED AND MAY REQUIRE REPORTS, ADOPT RULES OR PROMULGATE REGULATIONS, AND HOLD HEARINGS NEEDED FOR SUBSTANTIATION AND QUALIFICATION.

(J) FOR A TAXPAYER WHICH PLANS A SIGNIFICANT EXPANSION IN ITS LABOR FORCES AT A LOCATION IN THIS STATE, THE APPROPRIATE AGENCY SHALL PRESCRIBE CERTIFICATION PROCEDURES TO ENSURE THAT THE TAXPAYER CAN CLAIM CREDITS IN FUTURE YEARS EVEN IF A PARTICULAR COUNTY IS REMOVED FROM THE LIST OF ~~DISTRESSED, LEAST DEVELOPED, UNDER DEVELOPED, OR MODERATELY DEVELOPED~~ TIER IV, TIER III, OR TIER II COUNTIES.

(K)(1) AN S CORPORATION, LIMITED LIABILITY COMPANY TAXED AS A PARTNERSHIP, OR PARTNERSHIP THAT QUALIFIES FOR A CREDIT UNDER THIS SECTION MAY PASS THROUGH THE CREDIT EARNED TO EACH SHAREHOLDER OF THE S CORPORATION, PARTNER OF THE PARTNERSHIP, OR MEMBER OF THE LIMITED LIABILITY COMPANY. FOR PURPOSES OF THIS SUBSECTION, LIMITED LIABILITY COMPANY MEANS A LIMITED LIABILITY COMPANY TAXED AS A PARTNERSHIP.

(A) THE AMOUNT OF THE CREDIT ALLOWED A SHAREHOLDER, PARTNER, OR MEMBER BY THIS SUBSECTION IS EQUAL TO THE SHAREHOLDER'S PERCENTAGE OF STOCK OWNERSHIP, PARTNER'S INTEREST IN THE PARTNERSHIP, OR MEMBER'S INTEREST IN THE LIMITED LIABILITY COMPANY FOR THE TAXABLE YEAR MULTIPLIED BY THE AMOUNT OF THE CREDIT EARNED BY THE ENTITY.

THIS NONREFUNDABLE CREDIT IS ALLOWED AGAINST TAXES DUE UNDER SECTION 12-6-510 OR 12-6-530 ~~AND BANK TAXES IMPOSED PURSUANT TO CHAPTER 11 OF THIS TITLE~~ AND MAY NOT EXCEED FIFTY PERCENT OF THE SHAREHOLDER'S, PARTNER'S, OR MEMBER'S TAX LIABILITY UNDER SECTION 12-6-510 OR 12-6-530 ~~OR BANK TAX LIABILITY IMPOSED PURSUANT TO CHAPTER 11 OF THIS TITLE~~.

(B) NOTWITHSTANDING SUBITEM (A), THE CREDIT EARNED PURSUANT TO THIS SECTION BY AN S CORPORATION OWING CORPORATE LEVEL INCOME TAX MUST BE USED FIRST AT THE ENTITY LEVEL. ONLY THE REMAINING CREDIT PASSES THROUGH TO EACH SHAREHOLDER.

(3) A CREDIT CLAIMED PURSUANT TO THIS SUBSECTION BUT NOT USED IN A TAXABLE YEAR MAY BE CARRIED FORWARD BY EACH SHAREHOLDER, PARTNER, OR MEMBER FOR FIFTEEN YEARS FROM THE CLOSE OF THE TAX YEAR IN WHICH THE CREDIT IS EARNED BY THE S CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY. THE ENTITY EARNING THE CREDIT MAY NOT CARRY OVER CREDIT THAT PASSES THROUGH TO ITS SHAREHOLDERS, PARTNERS, OR MEMBERS.

(L) ~~NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A COUNTY WITH A POPULATION UNDER TWENTY-FIVE THOUSAND AS DETERMINED BY THE MOST RECENT UNITED STATES CENSUS SHALL RECEIVE THE NEXT INCREASED CREDIT DESIGNATION FOR PURPOSES OF THE CREDIT ALLOWED BY THIS SECTION.~~

~~(M)~~ AS USED IN THIS SECTION:

(1) 'TAXPAYER' MEANS A SOLE PROPRIETOR, PARTNERSHIP, CORPORATION OF ANY CLASSIFICATION, LIMITED LIABILITY COMPANY, OR ASSOCIATION TAXABLE AS A BUSINESS ENTITY THAT IS SUBJECT TO SOUTH CAROLINA TAXES AS CONTAINED IN SECTION 12-6-510, SECTION 12-6-530, CHAPTER 11 ~~OF~~, TITLE 12, OR CHAPTER 7 ~~OF~~, TITLE 38.

(2) 'APPROPRIATE AGENCY' MEANS THE DEPARTMENT OF REVENUE, EXCEPT THAT FOR TAXPAYERS SUBJECT TO THE PREMIUM TAX IMPOSED BY CHAPTER 7 ~~OF~~, TITLE 38, IT MEANS THE DEPARTMENT OF INSURANCE.

(3) 'NEW JOB' MEANS A JOB CREATED IN THIS STATE AT THE TIME A NEW FACILITY OR AN EXPANSION IS INITIALLY STAFFED. EXCEPT AS OTHERWISE PROVIDED IN THIS ITEM, THE TERM DOES NOT INCLUDE A JOB CREATED WHEN AN EMPLOYEE IS SHIFTED FROM AN EXISTING LOCATION IN THIS STATE TO A NEW OR EXPANDED FACILITY WHETHER THE TRANSFERRED JOB IS FROM, OR TO, A FACILITY OF THE TAXPAYER OR A RELATED PERSON. A RELATED PERSON INCLUDES ANY ENTITY OR PERSON THAT BEARS A RELATIONSHIP TO THE TAXPAYER AS DESCRIBED IN SECTION 267 OF THE INTERNAL REVENUE CODE. HOWEVER, THIS EXCLUSION OF A NEW JOB CREATED BY EMPLOYEE SHIFTING DOES NOT EXTEND TO A JOB CREATED AT A NEW OR EXPANDED FACILITY LOCATED IN A COUNTY IN WHICH IS LOCATED AN 'APPLICABLE FEDERAL FACILITY' AS DEFINED IN SECTION 12-6-3450(A)(1)(B). THE TERM 'NEW JOB' ALSO INCLUDES AN EXISTING JOB AT A FACILITY OF AN EMPLOYER WHICH IS REINSTATED AFTER THE EMPLOYER HAS REBUILT THE FACILITY DUE TO:

(A) ITS DESTRUCTION BY ACCIDENTAL FIRE, NATURAL DISASTER, OR ACT OF GOD;

(B) INVOLUNTARY CONVERSION AS A RESULT OF CONDEMNATION OR EXERCISE OF EMINENT DOMAIN BY THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS OR BY THE FEDERAL GOVERNMENT.

DESTRUCTION FOR PURPOSES OF THIS PROVISION MEANS THAT MORE THAN FIFTY PERCENT OF THE FACILITY WAS DESTROYED. FOR PURPOSES OF THIS SECTION, INVOLUNTARY CONVERSION AS A RESULT OF CONDEMNATION OR EXERCISE OF EMINENT DOMAIN INCLUDES A LEGALLY BINDING AGREEMENT FOR THE PURCHASE OF A FACILITY OF AN EMPLOYER ENTERED INTO BETWEEN AN EMPLOYER AND THE STATE OF SOUTH CAROLINA OR A POLITICAL SUBDIVISION OF THE STATE UNDER THREAT OF EXERCISE OF EMINENT DOMAIN BY THE STATE OR ITS POLITICAL SUBDIVISION.

THE YEAR OF REINSTATEMENT IS THE YEAR OF CREATION OF THE JOB. ALL REINSTATED JOBS QUALIFY FOR THE CREDIT PURSUANT TO THIS SECTION, AND A COMPARISON IS NOT REQUIRED TO BE MADE BETWEEN THE NUMBER OF FULL-TIME JOBS OF THE EMPLOYER IN THE TAXABLE YEAR AND THE NUMBER OF FULL-TIME JOBS OF THE EMPLOYER WITH THE CORRESPONDING PERIOD OF THE PRIOR TAXABLE YEAR.

~~NOTWITHSTANDING ANOTHER PROVISION OF LAW, 'NEW JOB' INCLUDES JOBS CREATED BY A TAXPAYER WHEN THE TAXPAYER HIRES MORE THAN FIVE HUNDRED FULL-TIME INDIVIDUALS:~~

~~(A) AT A MANUFACTURING FACILITY LOCATED IN A COUNTY CLASSIFIED AS DISTRESSED;~~

~~(B) IMMEDIATELY BEFORE THEIR EMPLOYMENT BY THE TAXPAYER, THE INDIVIDUALS WERE EMPLOYED BY A COMPANY OPERATING, AS OF THE EFFECTIVE DATE OF THIS PARAGRAPH, UNDER CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE; AND~~

~~(C) THE TAXPAYER, AS AN UNRELATED ENTITY, ACQUIRES AS OF MARCH 12, 2004, SUBSTANTIALLY ALL OF THE ASSETS OF THE COMPANY OPERATING UNDER CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE.~~

(4) 'FULL-TIME' MEANS A JOB REQUIRING A MINIMUM OF THIRTY-FIVE HOURS OF AN EMPLOYEE'S TIME A WEEK FOR THE ENTIRE NORMAL YEAR OF COMPANY OPERATIONS OR A JOB REQUIRING A MINIMUM OF THIRTY-FIVE HOURS OF AN EMPLOYEE'S TIME FOR A WEEK FOR A YEAR IN WHICH THE EMPLOYEE WAS HIRED INITIALLY FOR OR TRANSFERRED TO THE SOUTH CAROLINA FACILITY. FOR THE PURPOSES OF THIS SECTION, TWO HALF-TIME JOBS ARE CONSIDERED ONE FULL-TIME JOB. A 'HALF-TIME JOB' IS A JOB REQUIRING A MINIMUM OF TWENTY HOURS OF AN EMPLOYEE'S TIME A WEEK FOR THE ENTIRE NORMAL YEAR OF THE COMPANY'S OPERATIONS OR A JOB REQUIRING A MINIMUM OF TWENTY HOURS OF AN EMPLOYEE'S TIME A

WEEK FOR A YEAR IN WHICH THE EMPLOYEE WAS HIRED INITIALLY FOR OR TRANSFERRED TO THE SOUTH CAROLINA FACILITY.

(5) 'MANUFACTURING FACILITY' MEANS AN ESTABLISHMENT WHERE TANGIBLE PERSONAL PROPERTY IS PRODUCED OR ASSEMBLED.

(6) 'PROCESSING FACILITY' MEANS AN ESTABLISHMENT THAT PREPARES, TREATS, OR CONVERTS TANGIBLE PERSONAL PROPERTY INTO FINISHED GOODS OR ANOTHER FORM OF TANGIBLE PERSONAL PROPERTY. THE TERM INCLUDES A BUSINESS ENGAGED IN PROCESSING AGRICULTURAL, AQUACULTURAL, OR MARICULTURAL PRODUCTS. IT DOES NOT INCLUDE AN ESTABLISHMENT IN WHICH RETAIL SALES OF TANGIBLE PERSONAL PROPERTY ARE MADE TO RETAIL CUSTOMERS.

(7) 'WAREHOUSING FACILITY' MEANS AN ESTABLISHMENT WHERE TANGIBLE PERSONAL PROPERTY IS STORED BUT DOES NOT INCLUDE ANY ESTABLISHMENT WHERE RETAIL SALES OF TANGIBLE PERSONAL PROPERTY ARE MADE TO RETAIL CUSTOMERS.

(8) 'DISTRIBUTION FACILITY' MEANS 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. RETAIL SALES MADE INSIDE THE FACILITY TO EMPLOYEES WORKING AT THE FACILITY ARE NOT CONSIDERED FOR PURPOSES OF THE TWELVE-DAY AND SEVENTY-FIVE PERCENT LIMITATION. FOR PURPOSES OF THIS DEFINITION, 'RETAIL SALE' AND 'TANGIBLE PERSONAL PROPERTY' HAVE THE MEANING PROVIDED IN CHAPTER 36 OF THIS TITLE.

(9) 'RESEARCH AND DEVELOPMENT FACILITY' MEANS AN ESTABLISHMENT ENGAGED IN LABORATORY, SCIENTIFIC, OR EXPERIMENTAL TESTING AND DEVELOPMENT RELATED TO NEW PRODUCTS, NEW USES FOR EXISTING PRODUCTS, OR IMPROVING EXISTING PRODUCTS. THE TERM DOES NOT INCLUDE AN ESTABLISHMENT ENGAGED IN EFFICIENCY SURVEYS, MANAGEMENT STUDIES, CONSUMER SURVEYS, ECONOMIC SURVEYS, ADVERTISING, PROMOTION, BANKING, OR RESEARCH IN CONNECTION WITH LITERARY, HISTORICAL, OR SIMILAR PROJECTS.

(10) 'CORPORATE OFFICE FACILITY' MEANS A CORPORATE HEADQUARTERS THAT MEETS THE DEFINITION OF A 'CORPORATE HEADQUARTERS' CONTAINED IN SECTION 12-6-3410(J)(1). ~~THE CORPORATE HEADQUARTERS OF A GENERAL CONTRACTOR LICENSED BY THE SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION QUALIFIES EVEN IF IT IS NOT A REGIONAL OR NATIONAL HEADQUARTERS AS THOSE TERMS ARE DEFINED IN SECTION 12-6-3410(J)(1).~~

(11) THE TERMS 'RETAIL SALES' AND 'TANGIBLE PERSONAL PROPERTY' FOR PURPOSES OF THIS SECTION ARE DEFINED IN CHAPTER 36 OF THIS TITLE.

(12) 'TOURISM FACILITY' MEANS AN ESTABLISHMENT USED FOR A THEME PARK; AMUSEMENT PARK; HISTORICAL, EDUCATIONAL, OR TRADE MUSEUM; BOTANICAL GARDEN; CULTURAL CENTER; THEATER; MOTION PICTURE PRODUCTION STUDIO; CONVENTION CENTER; ARENA; AUDITORIUM; OR A SPECTATOR OR PARTICIPATORY SPORTS FACILITY; AND SIMILAR ESTABLISHMENTS WHERE ENTERTAINMENT, EDUCATION, OR RECREATION IS PROVIDED TO THE GENERAL PUBLIC. TOURISM FACILITY ALSO INCLUDES NEW HOTEL AND MOTEL CONSTRUCTION, EXCEPT THAT TO QUALIFY FOR THE CREDITS ALLOWED BY THIS SECTION AND REGARDLESS OF THE COUNTY IN WHICH THE FACILITY IS LOCATED, THE NUMBER OF NEW JOBS THAT MUST BE CREATED BY THE NEW HOTEL OR MOTEL IS TWENTY OR MORE.

IT DOES NOT INCLUDE THAT PORTION OF AN ESTABLISHMENT WHERE RETAIL MERCHANDISE OR RETAIL SERVICES ARE SOLD DIRECTLY TO RETAIL CUSTOMERS.

(13) 'QUALIFYING SERVICE-RELATED FACILITY' MEANS:

(A) AN ESTABLISHMENT ENGAGED IN AN ACTIVITY OR ACTIVITIES LISTED UNDER THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM MANUAL (NAICS) SECTION 62, SUBSECTORS 621, 622, AND 623; OR

(B) A BUSINESS, OTHER THAN A BUSINESS ENGAGED IN LEGAL, ACCOUNTING, BANKING, OR INVESTMENT SERVICES OR RETAIL SALES, WHICH HAS A NET INCREASE OF AT LEAST:

(I) ~~TWO~~ ONE HUNDRED FIFTY JOBS AT A SINGLE LOCATION;

(II) ~~ONE HUNDRED TWENTY-FIVE~~ SEVENTY-FIVE JOBS AT A SINGLE LOCATION AND THE JOBS HAVE AN AVERAGE CASH COMPENSATION LEVEL OF MORE THAN ONE AND ONE-HALF TIMES THE LOWER OF STATE PER CAPITA INCOME OR PER CAPITA INCOME IN THE COUNTY WHERE THE JOBS ARE LOCATED; OR

(III) ~~SEVENTY-FIVE~~ FORTY JOBS AT A SINGLE LOCATION AND THE JOBS HAVE AN AVERAGE CASH COMPENSATION LEVEL OF MORE THAN TWICE THE LOWER OF STATE PER CAPITA INCOME OR PER CAPITA INCOME IN THE COUNTY WHERE THE JOBS ARE LOCATED; ~~OR~~

~~(IV) THIRTY JOBS AT A SINGLE LOCATION AND THE JOBS HAVE AN AVERAGE CASH COMPENSATION LEVEL OF MORE THAN TWO AND ONE-HALF TIMES THE LOWER OF STATE PER CAPITA INCOME OR PER CAPITA INCOME IN THE COUNTY WHERE THE JOBS ARE LOCATED.~~

A TAXPAYER SHALL USE THE MOST RECENT PER CAPITA INCOME DATA AVAILABLE AS OF THE END OF THE TAXABLE YEAR IN WHICH THE JOBS ARE FILLED. DETERMINATION OF THE REQUIRED NUMBER OF JOBS IS IN ACCORDANCE WITH THE MONTHLY AVERAGE DESCRIBED IN SUBSECTION (F).

(14) 'TECHNOLOGY INTENSIVE FACILITY' MEANS:

(A) A FACILITY AT WHICH A FIRM ENGAGES IN THE DESIGN, DEVELOPMENT, AND INTRODUCTION OF NEW PRODUCTS OR INNOVATIVE MANUFACTURING PROCESSES, OR BOTH, THROUGH THE SYSTEMATIC APPLICATION OF SCIENTIFIC AND TECHNICAL KNOWLEDGE. INCLUDED IN THIS DEFINITION ARE THE FOLLOWING NORTH AMERICAN INDUSTRIAL CLASSIFICATION SYSTEMS, NAICS, CODES PUBLISHED BY THE OFFICE OF THE MANAGEMENT AND BUDGET OF THE FEDERAL GOVERNMENT:

(I) 5114 DATABASE AND DIRECTORY PUBLISHERS;

(II) 5112 SOFTWARE PUBLISHERS;

(III) 54151 COMPUTER SYSTEMS DESIGN AND RELATED SERVICES;

(IV) 541511 CUSTOM COMPUTER PROGRAMMING SERVICES;

(V) 541512 COMPUTER SYSTEMS DESIGN SERVICES;

(VI) 541710 SCIENTIFIC RESEARCH AND DEVELOPMENT SERVICES;

(VII) 9271 SPACE RESEARCH AND TECHNOLOGY; OR

(B) A FACILITY PRIMARILY USED FOR ONE OR MORE ACTIVITIES LISTED UNDER THE 2002 VERSION OF THE NAICS CODES 51811 (INTERNET SERVICE PROVIDERS AND WEB SEARCH PORTALS).

(15) 'EXTRAORDINARY RETAIL ESTABLISHMENT' AS DEFINED IN SECTIONS 12-21-6520 AND 12-21-6590.

(~~N~~M) EXCEPT FOR EMPLOYEES EMPLOYED IN ~~DISTRESSED~~ TIER V COUNTIES, THE MAXIMUM AGGREGATE CREDIT THAT MAY BE CLAIMED IN ANY TAX YEAR FOR A SINGLE EMPLOYEE PURSUANT TO THIS SECTION AND SECTION 12-6-3470(A) IS FIVE THOUSAND FIVE HUNDRED DOLLARS."

SECTION 14. SECTION 12-6-3375 OF THE 1976 CODE, AS LAST AMENDED BY ACT 386 OF 2006, IS FURTHER AMENDED TO READ:

"SECTION 12-6-3375. (A)(1) 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~~ AN INCOME TAX CREDIT OR A CREDIT AGAINST EMPLOYEE WITHHOLDING IN THE AMOUNT DETERMINED BY THE COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT (COUNCIL).

(2) THE MAXIMUM AMOUNT OF TAX CREDITS ALLOWED TO ALL QUALIFYING TAXPAYERS PURSUANT TO THIS SECTION MAY NOT EXCEED EIGHT MILLION DOLLARS FOR EACH CALENDAR YEAR AND CREDITS AGAINST EMPLOYEE WITHHOLDINGS MAY NOT EXCEED FOUR MILLION DOLLARS OUT OF EIGHT MILLION DOLLARS. ~~A QUALIFYING TAXPAYER MAY NOT RECEIVE MORE THAN ONE MILLION DOLLARS FOR EACH CALENDAR YEAR EXCEPT AS PROVIDED IN SUBSECTION (B)(2).~~ THE COUNCIL HAS SOLE DISCRETION IN ALLOCATING THE CREDITS PROVIDED BY THIS SECTION ON A PRIORITY BASIS OR SUCH OTHER BASIS AS THE COUNCIL DEEMS APPROPRIATE, TAKING INTO CONSIDERATION THE FOLLOWING FACTORS:

(A) THE AMOUNT OF BASE YEAR PORT CARGO VOLUME;

(B) THE TOTAL AND PERCENTAGE INCREASE IN PORT CARGO VOLUME;

(C) THE NUMBER OF QUALIFYING TAXPAYERS;

(D) THE TYPE OF CARGO TRANSPORTED; ~~AND~~

(E) FACTORS RECOMMENDED BY THE SOUTH CAROLINA STATE PORTS AUTHORITY; AND

(~~E~~F)OTHER FACTORS RELATED TO THE ECONOMIC BENEFIT OF THE STATE, AS DETERMINED BY THE COUNCIL.

(3) IF THE CREDIT EXCEEDS THE TAXPAYER'S TAX LIABILITY FOR THE TAXABLE YEAR, THE EXCESS AMOUNT MAY BE CARRIED FORWARD AND CLAIMED AGAINST INCOME TAXES IN THE NEXT FIVE SUCCEEDING TAXABLE YEARS.

(4) THE CREDIT MAY BE CLAIMED BY THE TAXPAYER AS PROVIDED IN (A)(1) ONLY IF THE TAXPAYER OWNS THE CARGO AT THE TIME THE PORT FACILITIES ARE USED.

(B)(1) FOR EVERY YEAR IN WHICH A TAXPAYER CLAIMS THE CREDIT, THE TAXPAYER SHALL SUBMIT AN APPLICATION TO THE COUNCIL ~~BY MARCH FIRST OF THE CALENDAR YEAR~~ AFTER THE CALENDAR YEAR IN WHICH THE INCREASE IN PORT CARGO VOLUME OCCURS. <u>COUNCIL MAY MAKE ALLOCATIONS OF THE CREDIT ON A MONTHLY, QUARTERLY, OR ANNUAL BASIS.</u> THE TAXPAYER SHALL ATTACH A SCHEDULE TO THE TAXPAYER'S APPLICATION TO THE COUNCIL WITH THE FOLLOWING INFORMATION AND INFORMATION REQUESTED BY THE COUNCIL OR THE DEPARTMENT:

(A) A DESCRIPTION OF HOW THE BASE YEAR PORT CARGO VOLUME AND THE INCREASE IN PORT CARGO VOLUME WAS DETERMINED;

(B) THE AMOUNT OF THE BASE YEAR PORT CARGO VOLUME;

(C) THE AMOUNT OF THE INCREASE IN PORT CARGO VOLUME FOR THE TAXABLE YEAR STATED BOTH AS A PERCENTAGE INCREASE AND AS A TOTAL INCREASE IN NET TONS OF NONCONTAINERIZED CARGO AND TEUS OF CARGO, INCLUDING INFORMATION WHICH DEMONSTRATES AN INCREASE IN PORT CARGO VOLUME IN EXCESS OF THE MINIMUM AMOUNT REQUIRED TO CLAIM THE TAX CREDITS PURSUANT TO THIS SECTION;

(D) ANY TAX CREDIT UTILIZED BY THE TAXPAYER IN PRIOR YEARS; AND~~-~~

(E) THE AMOUNT OF TAX CREDIT CARRIED OVER FROM PRIOR YEARS.

(2) ~~IF ON MARCH FIFTEENTH OF EACH YEAR, THE EIGHT-MILLION-DOLLAR AMOUNT OF CREDIT IS NOT FULLY ALLOCATED AMONG QUALIFYING TAXPAYERS, THEN THOSE TAXPAYERS WHO HAVE BEEN ALLOCATED THE MAXIMUM ONE MILLION DOLLAR~~

~~CREDIT FOR A YEAR MUST BE ALLOWED A PRO RATA SHARE OF THE REMAINING ALLOCATED CREDIT UP TO EIGHT MILLION DOLLARS.~~

~~(3)~~ TO RECEIVE THE CREDIT THE TAXPAYER SHALL CLAIM THE CREDIT ON ITS INCOME TAX OR WITHHOLDING RETURN IN A MANNER PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT MAY REQUIRE A COPY OF THE CERTIFICATION FORM ISSUED BY THE COUNCIL BE ATTACHED TO THE RETURN OR OTHERWISE PROVIDED.

(C) AS USED IN THIS SECTION:

(1) 'TEU' MEANS A 'TWENTY-FOOT EQUIVALENT UNIT'; A VOLUMETRIC MEASURE BASED ON THE SIZE OF A CONTAINER TWENTY FEET LONG BY EIGHT FEET WIDE BY EIGHT FEET, SIX INCHES HIGH.

(2) 'BASE YEAR PORT CARGO VOLUME' INITIALLY MEANS THE TOTAL AMOUNT OF NET TONS OF NONCONTAINERIZED CARGO OR TEUS OF CARGO ACTUALLY TRANSPORTED BY WAY OF A WATERBORNE SHIP THROUGH A PORT FACILITY DURING THE PERIOD FROM JANUARY 1, ~~2005~~ 2009, THROUGH DECEMBER 31, ~~2005~~ 2009. BASE YEAR PORT CARGO VOLUME MUST BE AT LEAST SEVENTY-FIVE NET TONS OF NONCONTAINERIZED CARGO OR TEN TEUS FOR A TAXPAYER TO BE ELIGIBLE FOR THE CREDITS PROVIDED IN THIS SECTION. FOR A TAXPAYER THAT DOES NOT SHIP THAT AMOUNT IN THE YEAR ENDING DECEMBER 31, ~~2005~~ 2009, INCLUDING A TAXPAYER WHO LOCATES IN SOUTH CAROLINA AFTER DECEMBER 31, ~~2005~~ 2009, ITS BASE CARGO VOLUME WILL BE MEASURED BY THE INITIAL JANUARY FIRST THROUGH DECEMBER THIRTY-FIRST CALENDAR YEAR IN WHICH IT MEETS THE REQUIREMENTS OF SEVENTY-FIVE NET TONS OF NONCONTAINERIZED CARGO OR TEN LOADED TEUS. BASE YEAR PORT CARGO VOLUME MUST BE RECALCULATED EACH CALENDAR YEAR AFTER THE INITIAL BASE YEAR.

(3) 'PORT FACILITY' MEANS ANY PUBLICLY OR PRIVATELY OWNED FACILITY LOCATED WITHIN THIS STATE THROUGH WHICH CARGO IS TRANSPORTED BY WAY OF A WATERBORNE SHIP OR VEHICLE TO OR FROM DESTINATIONS OUTSIDE THIS STATE AND WHICH HANDLES

CARGO OWNED BY THIRD PARTIES IN ADDITION TO CARGO OWNED BY THE PORT FACILITY'S OWNER.

(4) 'PORT CARGO VOLUME' MEANS THE TOTAL AMOUNT OF NET TONS OF NONCONTAINERIZED CARGO OR CONTAINERS MEASURED IN TWENTY-FOOT EQUIVALENT UNITS (TEUS) OF CARGO TRANSPORTED BY WAY OF A WATERBORNE SHIP OR VEHICLE THROUGH A PORT FACILITY.

(D) UPON RECOMMENDATION OF THE SOUTH CAROLINA STATE PORTS AUTHORITY, THE COUNCIL MAY ANNUALLY AWARD UP TO ONE MILLION DOLLARS OF THE EIGHT MILLION DOLLARS OF CREDITS TO A NEW WAREHOUSE OR DISTRIBUTION FACILITY WHICH COMMITS TO EXPENDING AT LEAST FORTY MILLION DOLLARS AT A SINGLE SITE AND CREATING ONE HUNDRED NEW FULL-TIME JOBS, AND THE BASE YEAR CARGO PROVISIONS CONTAINED IN THIS SECTION DO NOT APPLY. THE COUNCIL MAY MAKE THE AWARD IN THE YEAR THE FACILITY IS ANNOUNCED PROVIDED THAT IT MAY NOT TENDER THE CERTIFICATE UNTIL IT HAS RECEIVED SATISFACTORY PROOF THAT THE CAPITAL INVESTMENT AND JOB CREATION REQUIREMENTS HAVE, OR WILL BE, SATISFIED. ANY CREDIT CERTIFICATE EXPIRES THREE YEARS AFTER ISSUANCE IF SATISFACTORY PROOF HAS NOT BEEN RECEIVED.

(~~D~~E) NOTWITHSTANDING SECTION 12-54-240, THE DEPARTMENT AND THE DEPARTMENT OF COMMERCE MAY EXCHANGE INFORMATION SUBMITTED BY A TAXPAYER PURSUANT TO THIS SECTION."

SECTION 15. SECTION 12-10-30(3) AND (8) OF THE 1976 CODE, AS LAST AMENDED BY ACT 399 OF 2000, IS FURTHER AMENDED TO READ:

"(3) 'EMPLOYEE' MEANS AN EMPLOYEE OF THE QUALIFYING BUSINESS WHO WORKS FULL TIME AT THE PROJECT. LEASED EMPLOYEES AND ANY EMPLOYEE WHO WORKS LESS THAN THIRTY-EIGHT AND ONE-HALF HOURS A WEEK DO NOT QUALIFY AS EMPLOYEES.

(8) 'PROJECT' MEANS AN INVESTMENT FOR ONE OR MORE PURPOSES PURSUANT TO THIS CHAPTER NEEDED FOR A QUALIFYING BUSINESS TO LOCATE, REMAIN, OR EXPAND IN THIS STATE AND OTHERWISE FULFILL THE REQUIREMENTS OF THIS CHAPTER. A QUALIFYING BUSINESS WHICH HAS OFFICIALLY ANNOUNCED THE PROJECT PRIOR TO SUBMITTING AN APPLICATION IS NOT ELIGIBLE, PROVIDED THAT THE COUNCIL MAY WAIVE THIS REQUIREMENT. THE COUNCIL MAY REQUIRE, AT ITS DISCRETION, THE COMPANY TO COMMIT IN WRITING TO THE PROJECT."

SECTION 16. SECTION 12-10-50(A) OF THE 1976 CODE, AS LAST AMENDED BY ACT 89 OF 2001, IS FURTHER AMENDED TO READ:

"(A) TO QUALIFY FOR THE BENEFITS PROVIDED IN THIS CHAPTER, A BUSINESS MUST BE LOCATED WITHIN THIS STATE AND MUST:

(1) BE ENGAGED PRIMARILY IN A BUSINESS OF THE TYPE IDENTIFIED IN SECTION 12-6-3360;

(2) PROVIDE A BENEFITS PACKAGE, INCLUDING COMPREHENSIVE HEALTH CARE, TO FULL-TIME EMPLOYEES AT THE PROJECT;

(3) PAY HOURLY WAGES THAT MEET OR EXCEED THE LOWER OF EITHER THE PER CAPITA INCOME FOR THE STATE OR THE COUNTY IN WHICH THE PROJECT IS LOCATED, PROVIDED THAT THE COUNCIL MAY WAIVE THIS REQUIREMENT;

(~~3~~4) ENTER INTO A REVITALIZATION AGREEMENT THAT IS APPROVED BY THE COUNCIL AND THAT DESCRIBES A MINIMUM JOB REQUIREMENT AND MINIMUM CAPITAL INVESTMENT REQUIREMENT FOR THE PROJECT AS PROVIDED IN SECTION 12-10-90; AND

(45)HAVE NEGOTIATED INCENTIVES THAT COUNCIL HAS DETERMINED ARE APPROPRIATE FOR THE PROJECT, AND THE COUNCIL SHALL CERTIFY THAT:

(A) THE TOTAL BENEFITS OF THE PROJECT EXCEED THE COSTS TO THE PUBLIC; AND

(B) THE BUSINESS OTHERWISE FULFILLS THE REQUIREMENTS OF THIS CHAPTER."

SECTION 17. SECTION 12-10-60 OF THE 1976 CODE, AS LAST AMENDED BY ACT 399 OF 2000, IS FURTHER AMENDED TO READ:

"SECTION 12-10-60. (A) THE COUNCIL MAY ENTER INTO A REVITALIZATION AGREEMENT WITH EACH QUALIFYING BUSINESS WITH RESPECT TO THE PROJECT. THE TERMS AND PROVISIONS OF EACH REVITALIZATION AGREEMENT MUST BE DETERMINED BY NEGOTIATIONS BETWEEN THE COUNCIL AND THE QUALIFYING BUSINESS. THE DECISION TO ENTER INTO A REVITALIZATION AGREEMENT WITH A QUALIFYING BUSINESS IS SOLELY WITHIN THE DISCRETION OF THE COUNCIL BASED ON THE APPROPRIATENESS OF THE NEGOTIATED INCENTIVES TO THE PROJECT AND THE DETERMINATION THAT APPROVAL OF THE PROJECT IS IN THE BEST INTERESTS OF THE STATE. THE REVITALIZATION AGREEMENT MUST SET A DATE BY WHICH THE QUALIFYING BUSINESS SHALL HAVE COMPLETED THE PROJECT. WITHIN THREE MONTHS OF THE COMPLETION DATE, THE QUALIFYING BUSINESS SHALL DOCUMENT THE ACTUAL COSTS OF THE PROJECT IN A MANNER ACCEPTABLE TO THE COUNCIL.

(B) UNLESS WAIVED BY THE COUNCIL, A FINAL REVITALIZATION AGREEMENT MUST BE EXECUTED BETWEEN THE COUNCIL AND THE COMPANY WITHIN TWELVE MONTHS OF THE EFFECTIVE DATE OF THE PRELIMINARY REVITALIZATION AGREEMENT.

(C) THE COUNCIL MAY CONSENT TO THE ASSIGNMENT OF ENTERPRISE PROGRAM BENEFITS FROM A COMPANY WITH AN

APPROVED PRELIMINARY OR FINAL REVITALIZATION AGREEMENT TO ANOTHER ENTITY.

(~~B~~D) IF A QUALIFYING BUSINESS THAT ENTERED INTO A REVITALIZATION AGREEMENT ~~BEFORE JANUARY 1, 1997,~~ RECEIVES COUNCIL APPROVAL TO AMEND ITS REVITALIZATION AGREEMENT TO INCREASE ITS MINIMUM JOB REQUIREMENT, THE LAW IN EFFECT ON THE DATE OF THE AMENDMENT DETERMINES THE AMOUNT OF JOB DEVELOPMENT CREDIT A QUALIFYING BUSINESS MAY CLAIM PURSUANT TO SECTION 12-10-80 FOR ADDITIONAL JOBS CREATED AFTER THE DATE OF THE AMENDMENT. ~~THIS SUBSECTION DOES NOT APPLY TO A BUSINESS WHOSE APPLICATION FOR JOB DEVELOPMENT FEES OR CREDITS PURSUANT TO SECTION 12-10-81 HAS BEEN APPROVED BY COUNCIL BEFORE THE EFFECTIVE DATE OF THIS ACT.~~"

SECTION 18. SECTION 12-10-80 OF THE 1976 CODE, AS LAST AMENDED BY ACT 352 OF 2008, IS FURTHER AMENDED TO READ:

"SECTION 12-10-80. (A) A BUSINESS THAT QUALIFIES PURSUANT TO SECTION 12-10-50(A) AND HAS CERTIFIED TO THE COUNCIL THAT THE BUSINESS HAS MET THE MINIMUM JOB REQUIREMENT AND MINIMUM CAPITAL INVESTMENT PROVIDED FOR IN THE REVITALIZATION AGREEMENT MAY CLAIM JOB DEVELOPMENT CREDITS AS DETERMINED BY THIS SECTION.

(1) A BUSINESS MAY CLAIM JOB DEVELOPMENT CREDITS AGAINST ITS WITHHOLDING ON ITS QUARTERLY STATE WITHHOLDING TAX RETURN FOR THE AMOUNT OF JOB DEVELOPMENT CREDITS ALLOWABLE PURSUANT TO THIS SECTION.

(2) A BUSINESS THAT IS CURRENT WITH RESPECT TO ITS WITHHOLDING TAX AND OTHER TAX DUE AND OWING THE STATE AND THAT HAS MAINTAINED ITS MINIMUM EMPLOYMENT AND INVESTMENT LEVELS IDENTIFIED IN THE REVITALIZATION AGREEMENT MAY CLAIM THE CREDIT ON A QUARTERLY BASIS BEGINNING WITH THE FIRST

QUARTER AFTER THE COUNCIL'S CERTIFICATION TO THE DEPARTMENT THAT THE MINIMUM EMPLOYMENT AND CAPITAL INVESTMENT LEVELS WERE MET FOR THE ENTIRE QUARTER. IF A QUALIFYING BUSINESS IS NOT CURRENT AS TO ALL TAXES DUE AND OWING TO THE STATE AS OF THE DATE OF THE RETURN ON WHICH THE CREDIT WOULD BE CLAIMED, WITHOUT REGARD TO EXTENSIONS, THE BUSINESS MAY CLAIM THE CREDIT ONLY IN AN AMOUNT REDUCED BY THE AMOUNT OF TAXES DUE AND OWING TO THE STATE AS OF THE DATE OF THE RETURN ON WHICH THE CREDIT IS CLAIMED.

(3) A QUALIFYING BUSINESS MAY CLAIM ITS INITIAL JOB DEVELOPMENT CREDIT ONLY AFTER THE COUNCIL HAS CERTIFIED TO THE DEPARTMENT THAT THE QUALIFYING BUSINESS HAS MET THE REQUIRED MINIMUM EMPLOYMENT AND CAPITAL INVESTMENT LEVELS.

(4) TO BE ELIGIBLE TO APPLY TO THE COUNCIL TO CLAIM A JOB DEVELOPMENT CREDIT, A QUALIFYING BUSINESS SHALL CREATE AT LEAST TEN NEW, FULL-TIME JOBS, AS DEFINED IN SECTION 12-6-3360(M), AT THE PROJECT DESCRIBED IN THE REVITALIZATION AGREEMENT WITHIN FIVE YEARS OF THE EFFECTIVE DATE OF THE AGREEMENT.

(5) A QUALIFYING BUSINESS IS ELIGIBLE TO CLAIM A JOB DEVELOPMENT CREDIT PURSUANT TO THE REVITALIZATION AGREEMENT FOR NOT MORE THAN FIFTEEN YEARS.

(6) A COMPANY'S JOB DEVELOPMENT CREDITS SHALL BE SUSPENDED DURING ANY QUARTER IN WHICH THE COMPANY FAILS TO MAINTAIN ONE HUNDRED PERCENT OF THE MINIMUM JOB REQUIREMENT SET FORTH IN THE COMPANY'S REVITALIZATION AGREEMENT. A COMPANY MAY ONLY CLAIM CREDITS ON JOBS, INCLUDING A RANGE OF JOBS APPROVED BY THE COUNCIL, AS SET FORTH IN THE COMPANY'S FINAL REVITALIZATION AGREEMENT.

(7) CREDITS MAY BE CLAIMED BEGINNING THE QUARTER SUBSEQUENT TO THE COUNCIL'S APPROVAL OF THE COMPANY'S

DOCUMENTATION THAT THE MINIMUM JOBS AND CAPITAL INVESTMENT REQUIREMENTS HAVE BEEN MET.

(~~6~~8)TO THE EXTENT ANY RETURN OF AN OVERPAYMENT OF WITHHOLDING THAT RESULTS FROM CLAIMING JOB DEVELOPMENT CREDITS IS NOT USED AS PERMITTED BY SUBSECTION (C) OR BY SECTION 12-10-95, IT MUST BE TREATED AS MISAPPROPRIATED EMPLOYEE WITHHOLDING.

(~~7~~9)JOB DEVELOPMENT CREDITS MAY NOT BE CLAIMED FOR PURPOSES OF THIS SECTION WITH REGARD TO AN EMPLOYEE WHOSE JOB WAS CREATED IN THIS STATE BEFORE THE TAXABLE YEAR OF THE QUALIFYING BUSINESS IN WHICH IT ENTERS INTO A PRELIMINARY REVITALIZATION AGREEMENT.

(~~8~~10) IF A QUALIFYING BUSINESS CLAIMS JOB DEVELOPMENT CREDITS PURSUANT TO THIS SECTION, IT SHALL MAKE ITS PAYROLL BOOKS AND RECORDS AVAILABLE FOR INSPECTION BY THE COUNCIL AND THE DEPARTMENT AT THE TIMES THE COUNCIL AND THE DEPARTMENT REQUEST. EACH QUALIFYING BUSINESS CLAIMING JOB DEVELOPMENT CREDITS PURSUANT TO THIS SECTION SHALL FILE WITH THE COUNCIL AND THE DEPARTMENT THE INFORMATION AND DOCUMENTATION REQUESTED BY THE COUNCIL OR DEPARTMENT RESPECTING EMPLOYEE WITHHOLDING, THE JOB DEVELOPMENT CREDIT, AND THE USE OF ANY OVERPAYMENT OF WITHHOLDING RESULTING FROM THE CLAIMING OF A JOB DEVELOPMENT CREDIT ACCORDING TO THE REVITALIZATION AGREEMENT.

(~~9~~11) EACH QUALIFYING BUSINESS CLAIMING IN EXCESS OF TEN THOUSAND DOLLARS IN A CALENDAR YEAR MUST FURNISH TO THE COUNCIL AND TO THE DEPARTMENT A REPORT THAT ITEMIZES THE SOURCES AND USES OF THE FUNDS. THE REPORT MUST BE FILED WITH THE COUNCIL AND THE DEPARTMENT NO LATER THAN JUNE THIRTIETH FOLLOWING THE CALENDAR YEAR IN WHICH THE JOB DEVELOPMENT CREDITS ARE CLAIMED, EXCEPT WHEN A QUALIFYING BUSINESS OBTAINS THE WRITTEN APPROVAL BY THE COUNCIL FOR AN EXTENSION

OF THAT DATE. EXTENSIONS MAY BE GRANTED ONLY FOR GOOD CAUSE SHOWN. THE DEPARTMENT SHALL IMPOSE A PENALTY PURSUANT TO SECTION 12-54-210 FOR ALL REPORTS FILED AFTER JUNE THIRTIETH OR THE APPROVED EXTENSION DATE, WHICHEVER IS LATER. THE DEPARTMENT SHALL AUDIT EACH QUALIFYING BUSINESS WITH CLAIMS IN EXCESS OF TEN THOUSAND DOLLARS IN A CALENDAR YEAR AT LEAST ONCE EVERY THREE YEARS TO VERIFY PROPER SOURCES AND USES OF THE FUNDS.

(~~10~~12) EACH QUALIFYING BUSINESS CLAIMING TEN THOUSAND DOLLARS OR LESS IN ANY CALENDAR YEAR MUST FURNISH A REPORT PREPARED BY THE COMPANY THAT ITEMIZES THE SOURCES AND USES OF THE FUNDS. THIS REPORT MUST BE FILED WITH THE COUNCIL AND THE DEPARTMENT NO LATER THAN JUNE THIRTIETH FOLLOWING THE CALENDAR YEAR IN WHICH THE JOB DEVELOPMENT CREDITS ARE CLAIMED, EXCEPT WHEN A QUALIFYING BUSINESS OBTAINS THE WRITTEN APPROVAL BY THE COUNCIL FOR AN EXTENSION OF THAT DATE. EXTENSIONS MAY BE GRANTED ONLY FOR GOOD CAUSE SHOWN. THE DEPARTMENT SHALL IMPOSE A PENALTY PURSUANT TO SECTION 12-54-210 FOR ALL REPORTS FILED AFTER JUNE THIRTIETH OR THE APPROVED EXTENSION DATE, WHICHEVER IS LATER.

(~~11~~13) AN EMPLOYER MAY NOT CLAIM AN AMOUNT THAT RESULTS IN AN EMPLOYEE'S RECEIVING A SMALLER AMOUNT OF WAGES ON EITHER A WEEKLY OR ON AN ANNUAL BASIS THAN THE EMPLOYEE WOULD RECEIVE OTHERWISE IN THE ABSENCE OF THIS CHAPTER.

(B)(1) THE MAXIMUM JOB DEVELOPMENT CREDIT A QUALIFYING BUSINESS MAY CLAIM FOR NEW EMPLOYEES IS LIMITED TO THE LESSER OF WITHHOLDING TAX PAID TO THE STATE ON A QUARTERLY BASIS OR THE SUM OF THE FOLLOWING AMOUNTS:

(A) TWO PERCENT OF THE GROSS WAGES OF EACH NEW EMPLOYEE WHO EARNS ~~$6.95~~ $8.74 OR MORE AN HOUR BUT LESS THAN ~~$9.27~~ $11.64 AN HOUR;

(B) THREE PERCENT OF THE GROSS WAGES OF EACH NEW EMPLOYEE WHO EARNS ~~$9.27~~ $11.65 OR MORE AN HOUR BUT LESS THAN ~~$11.58~~ $14.55 AN HOUR;

(C) FOUR PERCENT OF THE GROSS WAGES OF EACH NEW EMPLOYEE WHO EARNS ~~$11.58~~ $14.56 OR MORE AN HOUR BUT LESS THAN ~~$17.38~~ $21.84 AN HOUR; AND

(D) FIVE PERCENT OF THE GROSS WAGES OF EACH NEW EMPLOYEE WHO EARNS ~~$17.38~~ $21.85 OR MORE AN HOUR.

(2) THE HOURLY GROSS WAGE FIGURES IN ITEM (1) MUST BE ADJUSTED ANNUALLY BY AN INFLATION FACTOR DETERMINED BY THE STATE BUDGET AND CONTROL BOARD.

(3) THE COUNCIL, IN ITS DISCRETION, MAY ALLOW A QUALIFYING BUSINESS WHICH HAS INVESTED AT LEAST ONE HUNDRED MILLION DOLLARS AND HIRED ONE HUNDRED FIFTY NEW EMPLOYEES TO COLLECT CREDITS AT DOUBLE THE PERCENTAGES CONTAINED IN SUBSECTION (1) FOR A TERM NOT TO EXCEED SEVEN AND ONE-HALF YEARS, BUT THE CREDIT COLLECTED FOR AN EMPLOYEE FOR A QUARTER MAY NOT EXCEED THE WITHHOLDING FOR THAT EMPLOYEE FOR THAT QUARTER.

(C) TO CLAIM A JOB DEVELOPMENT CREDIT, THE QUALIFYING BUSINESS MUST INCUR QUALIFIED EXPENDITURES AT THE PROJECT OR FOR UTILITY OR TRANSPORTATION IMPROVEMENTS THAT SERVE THE PROJECT. TO BE QUALIFIED, THE EXPENDITURES MUST BE:

(1) INCURRED DURING THE TERM OF THE REVITALIZATION AGREEMENT, INCLUDING A PRELIMINARY REVITALIZATION AGREEMENT, OR WITHIN SIXTY DAYS BEFORE COUNCIL'S RECEIPT OF AN APPLICATION FOR BENEFITS PURSUANT TO THIS SECTION;

(2) AUTHORIZED BY THE REVITALIZATION AGREEMENT; AND

(3) USED FOR ANY OF THE FOLLOWING PURPOSES:

(A) TRAINING COSTS AND FACILITIES;

(B) ACQUIRING AND IMPROVING REAL ~~ESTATE~~ PROPERTY WHETHER CONSTRUCTED OR ACQUIRED BY PURCHASE, OR IN CASES

APPROVED BY THE COUNCIL, ACQUIRED BY CAPITAL OR OPERATING LEASE WITH AT LEAST A FIVE-YEAR TERM OR OTHERWISE;

(C) IMPROVEMENTS TO BOTH PUBLIC AND PRIVATE UTILITY SYSTEMS INCLUDING WATER, SEWER, ELECTRICITY, NATURAL GAS, AND TELECOMMUNICATIONS;

(D) FIXED TRANSPORTATION FACILITIES INCLUDING HIGHWAY, RAIL, WATER, AND AIR;

(E) CONSTRUCTION OR IMPROVEMENTS OF REAL PROPERTY AND FIXTURES CONSTRUCTED OR IMPROVED PRIMARILY FOR THE PURPOSE OF COMPLYING WITH LOCAL, STATE, OR FEDERAL ENVIRONMENTAL LAWS OR REGULATIONS;

(F) EMPLOYEE RELOCATION EXPENSES ~~ASSOCIATED WITH NEW OR EXPANDED QUALIFYING SERVICE-RELATED FACILITIES AS DEFINED IN SECTION 12-6-3360(M)(13) OR NEW OR EXPANDED TECHNOLOGY INTENSIVE FACILITIES AS DEFINED IN SECTION 12-6-3360(M)(14) OR RELOCATION EXPENSES ASSOCIATED WITH NEW NATIONAL, REGIONAL, OR GLOBAL HEADQUARTERS AS DEFINED IN SECTION 12-6-3410(J)(1)(A) OR RELOCATION EXPENSES ASSOCIATED WITH AN EXPANDED RESEARCH AND DEVELOPMENT FACILITY TO INCLUDE PERSONNEL AND LABORATORY RESEARCH AND DEVELOPMENT EQUIPMENT~~, BUT ONLY FOR THOSE EMPLOYEES TO WHOM THE COMPANY IS PAYING GROSS WAGES AT LEAST TWO TIMES THE LOWER OF THE PER CAPITA INCOME FOR EITHER THE STATE OR THE COUNTY IN WHICH THE PROJECT IS LOCATED;

(G) FINANCING THE COSTS OF A PURPOSE DESCRIBED IN ITEMS (A) THROUGH (F).

(H) TRAINING FOR ALL RELEVANT EMPLOYEES THAT ENABLE A COMPANY TO EXPORT OR INCREASE A COMPANY'S ABILITY TO EXPORT ITS PRODUCTS, INCLUDING TRAINING FOR LOGISTICS, REGULATORY, AND ADMINISTRATIVE AREAS CONNECTED TO THE COMPANY'S EXPORT PROCESS AND OTHER EXPORT PROCESS TRAINING

THAT ALLOWS A QUALIFIED COMPANY TO MAINTAIN OR EXPAND ITS BUSINESS IN THIS STATE;

(I) APPRENTICESHIP PROGRAMS.

(J) QUALITY IMPROVEMENT PROGRAMS OF THE SOUTH CAROLINA QUALITY FORUM."

(D)(1) THE AMOUNT OF JOB DEVELOPMENT CREDITS A QUALIFYING BUSINESS MAY CLAIM FOR ITS USE FOR QUALIFYING EXPENDITURES IS LIMITED ACCORDING TO THE DESIGNATION OF THE COUNTY AS DEFINED IN SECTION 12-6-3360(B) AS FOLLOWS:

(A) ONE HUNDRED PERCENT OF THE MAXIMUM JOB DEVELOPMENT CREDITS MAY BE CLAIMED BY BUSINESSES LOCATED IN COUNTIES DESIGNATED AS ~~DISTRESSED OR LEAST DEVELOPED~~ 'TIER IV';

(B) EIGHTY-FIVE PERCENT OF THE MAXIMUM JOB DEVELOPMENT CREDITS MAY BE CLAIMED BY BUSINESSES LOCATED IN COUNTIES DESIGNATED AS '~~UNDERDEVELOPED~~ TIER III';

(C) SEVENTY PERCENT OF THE MAXIMUM JOB DEVELOPMENT CREDITS MAY BE CLAIMED BY BUSINESSES LOCATED IN COUNTIES DESIGNATED AS '~~MODERATELY DEVELOPED~~ TIER II'; OR

(D) FIFTY-FIVE PERCENT OF THE MAXIMUM JOB DEVELOPMENT CREDITS MAY BE CLAIMED BY BUSINESSES LOCATED IN COUNTIES DESIGNATED AS '~~DEVELOPED~~ TIER I'.

(2) THE AMOUNT THAT MAY BE CLAIMED AS A JOB DEVELOPMENT CREDIT BY A QUALIFYING BUSINESS IS LIMITED BY THIS SUBSECTION AND BY THE REVITALIZATION AGREEMENT. THE COUNCIL MAY APPROVE A WAIVER OF NINETY-FIVE PERCENT OF THE LIMITS PROVIDED IN ITEM (1) FOR:

(A) A SIGNIFICANT BUSINESS; AND

(B) A RELATED PERSON TO A SIGNIFICANT BUSINESS IF THE RELATED PERSON IS LOCATED AT THE PROJECT SITE OF THE SIGNIFICANT BUSINESS AND QUALIFIES FOR JOB DEVELOPMENT CREDITS PURSUANT TO THIS CHAPTER.

FOR PURPOSES OF THIS ITEM, A RELATED PERSON INCLUDES ANY ENTITY OR PERSON THAT BEARS A RELATIONSHIP TO A SIGNIFICANT BUSINESS AS PROVIDED IN INTERNAL REVENUE CODE SECTION 267 AND INCLUDES, WITHOUT LIMITATION, A LIMITED LIABILITY COMPANY OF WHICH MORE THAN FIFTY PERCENT OF THE CAPITAL INTEREST OR PROFITS IS OWNED DIRECTLY OR INDIRECTLY BY A SIGNIFICANT BUSINESS OR BY A PERSON OR ENTITY, OR GROUP OF PERSONS OR ENTITIES WHICH OWNS, MORE THAN FIFTY PERCENT OF THE CAPITAL INTEREST OR PROFITS IN THE SIGNIFICANT BUSINESS.

(3) THE COUNTY DESIGNATION OF THE COUNTY IN WHICH THE PROJECT IS LOCATED ON THE DATE THE APPLICATION FOR JOB DEVELOPMENT CREDIT INCENTIVES IS RECEIVED IN THE OFFICE OF THE COORDINATING COUNCIL REMAINS IN EFFECT FOR THE ENTIRE PERIOD OF THE REVITALIZATION AGREEMENT, EXCEPT AS TO ADDITIONAL JOBS CREATED PURSUANT TO AN AMENDMENT TO A REVITALIZATION AGREEMENT ENTERED INTO BEFORE JUNE 1, 1997, AS PROVIDED IN SECTION 12-10-60. IN THAT CASE THE COUNTY DESIGNATION ON THE DATE OF THE AMENDMENT REMAINS IN EFFECT FOR THE REMAINING PERIOD OF THE REVITALIZATION AGREEMENT AS TO ANY ADDITIONAL JOBS CREATED AFTER THE EFFECTIVE DATE OF THE AMENDMENT. ~~THIS ITEM DOES NOT APPLY TO A BUSINESS WHOSE APPLICATION FOR JOB DEVELOPMENT FEES OR CREDITS PURSUANT TO SECTION 12-10-81 HAS BEEN APPROVED BY COUNCIL BEFORE THE EFFECTIVE DATE OF THIS ACT.~~

(E) THE COUNCIL SHALL CERTIFY TO THE DEPARTMENT THE MAXIMUM JOB DEVELOPMENT CREDIT FOR EACH QUALIFYING BUSINESS. AFTER RECEIVING CERTIFICATION, THE DEPARTMENT SHALL REMIT AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE MAXIMUM JOB DEVELOPMENT CREDIT AND THE JOB DEVELOPMENT CREDIT ACTUALLY CLAIMED TO THE STATE RURAL INFRASTRUCTURE FUND AS DEFINED AND PROVIDED IN SECTION 12-10-85.

(F) ANY JOB DEVELOPMENT CREDIT OF A QUALIFYING BUSINESS PERMANENTLY LAPSES UPON EXPIRATION OR TERMINATION OF THE REVITALIZATION AGREEMENT. IF AN EMPLOYEE IS TERMINATED, THE QUALIFYING BUSINESS IMMEDIATELY MUST CEASE TO CLAIM JOB DEVELOPMENT CREDITS AS TO THAT EMPLOYEE.

(G) FOR PURPOSES OF THE JOB DEVELOPMENT CREDIT ALLOWED BY THIS SECTION, AN EMPLOYEE IS A PERSON WHOSE JOB WAS CREATED IN THIS STATE.

(H) ~~JOB DEVELOPMENT CREDITS MAY NOT BE CLAIMED BY A GOVERNMENTAL EMPLOYER WHO EMPLOYS PERSONS AT A CLOSED OR REALIGNED MILITARY INSTALLATION AS DEFINED IN SECTION 12-10-88(E).~~

~~(I)~~ A TAXPAYER WHO QUALIFIES FOR THE JOB DEVELOPMENT CREDIT PURSUANT TO THE PROVISIONS OF THIS SECTION AND WHO IS LOCATED IN A MULTICOUNTY BUSINESS OR INDUSTRIAL PARK JOINTLY ESTABLISHED PURSUANT TO SECTION 13 OF ARTICLE VIII OF THE CONSTITUTION OF THIS STATE IS ALLOWED A JOB DEVELOPMENT CREDIT EQUAL TO THE AMOUNT ALLOWED PURSUANT TO SUBSECTION (D) FOR THE DESIGNATION OF THE COUNTY WHICH HAS THE LOWEST DEVELOPMENT STATUS OF THE COUNTIES CONTAINING THE PARK IF:

(1) THE PARK IS DEVELOPED AND ESTABLISHED ON THE GEOGRAPHICAL BOUNDARY OF ADJACENT COUNTIES; AND

(2) THE WRITTEN AGREEMENT, PURSUANT TO SECTION 4-1-170, REQUIRES REVENUE FROM THE PARK TO BE ALLOCATED TO EACH COUNTY ON AN EQUAL BASIS.

(~~J~~I) WHERE THE QUALIFYING BUSINESS THAT CREATES NEW JOBS UNDER THIS SECTION IS A QUALIFYING SERVICE-RELATED FACILITY AS DEFINED IN SECTION 12-6-3360(~~M~~)(L)(13), THE DETERMINATION OF THE NUMBER OF JOBS CREATED MUST BE BASED ON THE TOTAL NUMBER OF NEW JOBS CREATED WITHIN FIVE YEARS OF THE EFFECTIVE DATE OF THE REVITALIZATION AGREEMENT, WITHOUT REGARD TO MONTHLY OR OTHER AVERAGING."

SECTION 19. SECTION 12-10-85 OF THE 1976 CODE, AS LAST AMENDED BY ACT 353 OF 2008, IS FURTHER AMENDED TO READ:

"SECTION 12-10-85. (A) FUNDS RECEIVED BY THE DEPARTMENT FOR THE STATE RURAL INFRASTRUCTURE FUND MUST BE DEPOSITED IN THE STATE RURAL INFRASTRUCTURE FUND OF THE COUNCIL. THE FUND MUST BE ADMINISTERED BY THE COUNCIL FOR THE PURPOSE OF PROVIDING FINANCIAL ASSISTANCE ~~TO~~ THROUGH LOCAL GOVERNMENTS ~~FOR INFRASTRUCTURE AND OTHER~~ EXCLUSIVELY FOR ECONOMIC DEVELOPMENT ACTIVITIES INCLUDING, BUT NOT LIMITED TO:

(1) TRAINING COSTS AND FACILITIES;

(2) IMPROVEMENTS TO REGIONALLY PLANNED PUBLIC AND PRIVATE WATER AND SEWER SYSTEMS;

(3) IMPROVEMENTS TO BOTH PUBLIC AND PRIVATE ELECTRICITY, NATURAL GAS, AND TELECOMMUNICATIONS SYSTEMS INCLUDING, BUT NOT LIMITED TO, AN ELECTRIC COOPERATIVE, ELECTRICAL UTILITY, OR ELECTRIC SUPPLIER DESCRIBED IN CHAPTER 27 ~~OF~~, TITLE 58; ~~OR~~

(4) FIXED TRANSPORTATION FACILITIES INCLUDING HIGHWAY, RAIL, WATER, AND AIR~~.~~;

(5) SITE PREPARATION;

(6) ACQUIRING OR IMPROVING REAL PROPERTY; AND

(7) RELOCATION EXPENSES, BUT ONLY FOR THOSE EMPLOYEES TO WHOM THE COMPANY IS PAYING GROSS WAGES AT LEAST TWO TIMES THE LOWER OF THE PER CAPITA INCOME FOR EITHER THE STATE OR THE COUNTY IN WHICH THE PROJECT IS LOCATED.

THE COUNCIL MAY RETAIN UP TO FIVE PERCENT OF THE REVENUE RECEIVED FOR THE STATE RURAL INFRASTRUCTURE FUND FOR ADMINISTRATIVE, REPORTING, ESTABLISHMENT OF GRANT GUIDELINES,

REVIEW OF GRANT APPLICATIONS, AND OTHER STATUTORY OBLIGATIONS.

(B) RURAL INFRASTRUCTURE FUND GRANTS MUST BE AVAILABLE TO BENEFIT COUNTIES OR MUNICIPALITIES DESIGNATED AS ~~'DISTRESSED~~ TIER IV' OR ~~'LEAST DEVELOPED~~ TIER III' AS DEFINED IN SECTION 12-6-3360 ACCORDING TO GUIDELINES ESTABLISHED BY THE COUNCIL, EXCEPT THAT UP TO TWENTY-FIVE PERCENT OF THE FUNDS ANNUALLY AVAILABLE IN EXCESS OF TEN MILLION DOLLARS MUST BE SET ASIDE FOR GRANTS TO AREAS OF ~~'UNDERDEVELOPED,~~ ~~'MODERATELY DEVELOPED, AND 'DEVELOPED'~~ 'TIER II' AND 'TIER I' COUNTIES. ~~A GOVERNING BODY OF AN 'UNDERDEVELOPED', 'MODERATELY DEVELOPED', OR 'DEVELOPED' COUNTY MUST APPLY TO THE COUNCIL FOR THESE SET-ASIDE GRANTS STATING THE REASONS THAT CERTAIN AREAS OF THE COUNTY QUALIFY FOR THESE GRANTS BECAUSE THE CONDITIONS IN THAT AREA OF THE COUNTY ARE COMPARABLE TO THOSE CONDITIONS QUALIFYING A COUNTY AS 'DISTRESSED' OR 'LEAST DEVELOPED'~~.

(C) FOR PURPOSES OF THIS SECTION, 'LOCAL GOVERNMENT' MEANS A COUNTY, MUNICIPALITY, OR GROUP OF COUNTIES ORGANIZED PURSUANT TO SECTION 4-9-20(A), (B), (C), OR (D).

(D) THE COUNCIL SHALL SUBMIT A REPORT TO THE GOVERNOR AND GENERAL ASSEMBLY BY MARCH FIFTEENTH COVERING ACTIVITIES FOR THE PRIOR CALENDAR YEAR.

(E) THE DEPARTMENT SHALL RETAIN UNEXPENDED OR UNCOMMITTED FUNDS AT THE CLOSE OF THE STATE'S FISCAL YEAR OF THE STATE AND EXPEND THE FUNDS IN SUBSEQUENT FISCAL YEARS FOR LIKE PURPOSES."

SECTION 20. SECTION 12-14-20 OF THE 1976 CODE IS AMENDED TO READ:

"SECTION 12-14-20. IT IS THE PURPOSE OF THIS CHAPTER TO ESTABLISH A PROGRAM OF PROVIDING TAX INCENTIVES FOR THE CREATION OF ~~ECONOMIC IMPACT ZONES~~ CAPITAL INVESTMENT IN ORDER:

(1) TO REVITALIZE ~~ECONOMICALLY AND PHYSICALLY DISTRESSED AREAS IMPACTED AS A RESULT OF THE CLOSING OR REALIGNMENT OF A FEDERAL MILITARY INSTALLATION AREA~~ CAPITAL INVESTMENT IN THIS STATE, PRIMARILY BY ENCOURAGING THE FORMATION OF NEW BUSINESSES AND THE RETENTION AND EXPANSION OF EXISTING BUSINESSES; AND

(2) TO PROMOTE MEANINGFUL EMPLOYMENT ~~FOR ECONOMIC IMPACT ZONE RESIDENTS; AND~~

~~(3) TO ENCOURAGE INDIVIDUALS TO RESIDE IN THE ECONOMIC IMPACT ZONES IN WHICH THEY ARE EMPLOYED~~."

SECTION 21. SECTION 12-14-60 OF THE 1976 CODE, AS LAST AMENDED BY ACT 113 OF 2005, IS FURTHER AMENDED TO READ:

"SECTION 12-14-60. (A)(1) THERE IS ALLOWED AN ~~ECONOMIC IMPACT ZONE~~ INVESTMENT TAX CREDIT AGAINST THE TAX IMPOSED PURSUANT TO CHAPTER 6 OF THIS TITLE FOR ANY TAXABLE YEAR IN WHICH THE TAXPAYER PLACES IN SERVICE ~~ECONOMIC IMPACT ZONE~~ QUALIFIED MANUFACTURING AND PRODUCTIVE EQUIPMENT PROPERTY.

(2) THE AMOUNT OF THE CREDIT ALLOWED BY THIS SECTION IS EQUAL TO THE AGGREGATE OF:

THREE-YEAR PROPERTY ~~ONE~~ ONE-HALF PERCENT OF TOTAL AGGREGATE BASES FOR ALL THREE-YEAR PROPERTY THAT QUALIFIES;

FIVE-YEAR PROPERTY ~~TWO~~ ONE PERCENT OF TOTAL AGGREGATE BASES FOR ALL FIVE-YEAR PROPERTY THAT QUALIFIES;

SEVEN-YEAR PROPERTY ~~THREE~~ ONE AND ONE-HALF PERCENT OF TOTAL AGGREGATE BASES FOR ALL SEVEN-YEAR PROPERTY THAT QUALIFIES;

TEN-YEAR PROPERTY ~~FOUR~~ TWO PERCENT OF TOTAL AGGREGATE BASES FOR ALL TEN-YEAR PROPERTY THAT QUALIFIES;

FIFTEEN-YEAR PROPERTY ~~FIVE~~ TWO AND ONE-HALF PERCENT OF TOTAL AGGREGATE BASES FOR ALL OR GREATER FIFTEEN-YEAR OR GREATER PROPERTY THAT QUALIFIES.

FOR PURPOSES OF THIS SECTION, WHETHER PROPERTY IS THREE-YEAR PROPERTY, FIVE-YEAR PROPERTY, SEVEN-YEAR PROPERTY, TEN-YEAR PROPERTY, OR FIFTEEN-YEAR PROPERTY IS DETERMINED BASED ON THE APPLICABLE RECOVERY PERIOD FOR SUCH PROPERTY UNDER SECTION 168(E) OF THE INTERNAL REVENUE CODE.

(B) FOR PURPOSES OF THIS SECTION:

(1) '~~ECONOMIC IMPACT ZONE~~ QUALIFIED MANUFACTURING AND PRODUCTIVE EQUIPMENT PROPERTY' MEANS ANY PROPERTY:

(A) WHICH IS USED AS AN INTEGRAL PART OF MANUFACTURING OR PRODUCTION, OR USED AS AN INTEGRAL PART OF EXTRACTION OF OR FURNISHING TRANSPORTATION, COMMUNICATIONS, ELECTRICAL ENERGY, GAS, WATER, OR SEWAGE DISPOSAL SERVICES IN THE ECONOMIC IMPACT ZONE;

(B) WHICH IS TANGIBLE PROPERTY TO WHICH SECTION 168 OF THE INTERNAL REVENUE CODE APPLIES;

(C) WHICH IS SECTION 1245 PROPERTY (AS DEFINED IN SECTION 1245(A)(3)OF THE INTERNAL REVENUE CODE); AND

(D)(I) THE CONSTRUCTION, RECONSTRUCTION, OR ERECTION OF WHICH IS COMPLETED BY THE TAXPAYER IN ~~THE ECONOMIC IMPACT ZONE~~ THIS STATE; OR

(II) WHICH IS ACQUIRED BY THE TAXPAYER IF THE ORIGINAL USE OF SUCH PROPERTY COMMENCES WITH THE TAXPAYER INSIDE ~~THE ECONOMIC IMPACT ZONE~~ THIS STATE.

(2) IN THE CASE OF ANY COMPUTER SOFTWARE WHICH IS USED TO CONTROL OR MONITOR A MANUFACTURING OR PRODUCTION PROCESS INSIDE ~~THE ECONOMIC IMPACT ZONE~~ THIS STATE AND WITH RESPECT TO WHICH DEPRECIATION (OR AMORTIZATION IN LIEU OF DEPRECIATION) IS ALLOWABLE, THE SOFTWARE MUST BE TREATED AS QUALIFIED MANUFACTURING AND PRODUCTIVE EQUIPMENT PROPERTY.

(C) THIS SECTION DOES NOT APPLY TO ANY PROPERTY TO WHICH THE OTHER TAX CREDITS WOULD APPLY UNLESS THE TAXPAYER ELECTS TO WAIVE THE APPLICATION OF THE OTHER CREDITS TO THE PROPERTY.

(D)(1) UNUSED CREDIT ALLOWED PURSUANT TO THIS SECTION MAY BE CARRIED FORWARD FOR TEN YEARS FROM THE CLOSE OF THE TAX YEAR IN WHICH THE CREDIT WAS EARNED.

(2) IN THE CASE OF CREDIT UNUSED WITHIN THE INITIAL TEN-YEAR PERIOD, A TAXPAYER MAY CONTINUE TO CARRY FORWARD UNUSED CREDITS FOR USE IN ANY SUBSEQUENT TAX YEARS IF THE TAXPAYER:

(A) IS ENGAGED IN THIS STATE IN AN ACTIVITY OR ACTIVITIES LISTED UNDER THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM MANUAL (NAICS) SECTION 31, 32, OR 33;

(B)(I) IS EMPLOYING ONE THOUSAND OR MORE FULL-TIME WORKERS IN THIS STATE AND HAVING A TOTAL CAPITAL INVESTMENT IN THIS STATE OF NOT LESS THAN FIVE HUNDRED MILLION DOLLARS; OR

(II) IS EMPLOYING EIGHT HUNDRED FIFTY OR MORE FULL-TIME WORKERS IN THIS STATE AND HAVING A TOTAL CAPITAL INVESTMENT IN THIS STATE OF NOT LESS THAN SEVEN HUNDRED FIFTY MILLION DOLLARS; AND

(C) MADE A TOTAL CAPITAL INVESTMENT OF NOT LESS THAN FIFTY MILLION DOLLARS IN THE PREVIOUS FIVE YEARS.

CREDITS CARRIED FORWARD BEYOND THE INITIAL TEN-YEAR PERIOD MAY NOT REDUCE A TAXPAYER'S STATE INCOME TAX LIABILITY IN ANY SUBSEQUENT TAX YEAR BY MORE THAN TWENTY-FIVE PERCENT.

(E) IF DURING ANY TAXABLE YEAR AND BEFORE THE END OF APPLICABLE RECOVERY PERIOD FOR SUCH PROPERTY AS DETERMINED UNDER SECTION 168(E) OF THE INTERNAL REVENUE CODE, THE TAXPAYER DISPOSES OF OR REMOVES FROM ~~THE ECONOMIC IMPACT ZONE, ECONOMIC IMPACT ZONE~~ THIS STATE QUALIFIED MANUFACTURING AND PRODUCTIVE EQUIPMENT PROPERTY, THEN THE TAX DUE UNDER CHAPTER 6 BY THE TAXPAYER FOR THE CURRENT TAXABLE YEAR MUST BE INCREASED BY AN AMOUNT OF ANY CREDIT CLAIMED IN PRIOR YEARS WITH RESPECT TO SUCH PROPERTY DETERMINED BY ASSUMING THE CREDIT IS EARNED RATABLY OVER THE USEFUL LIFE OF THE PROPERTY AND RECAPTURING PRO RATA THE UNEARNED PORTION OF THE CREDIT.

(F) FOR SOUTH CAROLINA INCOME TAX PURPOSES, THE BASIS OF THE ~~ECONOMIC IMPACT ZONE~~ QUALIFIED MANUFACTURING AND PRODUCTIVE EQUIPMENT PROPERTY MUST BE REDUCED BY THE AMOUNT OF ANY CREDIT CLAIMED WITH RESPECT TO THE PROPERTY. IF A TAXPAYER IS REQUIRED TO RECAPTURE THE ~~ECONOMIC IMPACT ZONE~~ INVESTMENT TAX CREDIT IN ACCORDANCE WITH SUBSECTION (E), THE TAXPAYER MAY INCREASE THE BASIS OF THE PROPERTY BY THE AMOUNT OF ANY BASIS REDUCTION ATTRIBUTABLE WITH CLAIMING THE ~~ECONOMIC IMPACT ZONE~~ INVESTMENT TAX CREDIT IN PRIOR YEARS. THE BASIS MUST BE INCREASED IN THE YEAR IN WHICH THE CREDIT IS RECAPTURED.

(G) ~~CREDITS CLAIMED UNDER THIS SECTION FOR TAXABLE YEARS BEGINNING AFTER 1997 FOR INVESTMENTS MADE BEFORE JULY 1, 1998, MAY NOT REDUCE A TAXPAYER'S STATE INCOME TAX LIABILITY BY MORE THAN FIFTY PERCENT.~~

~~(H)~~ THE CREDIT ALLOWED BY THIS SECTION FOR INVESTMENTS MADE AFTER JUNE 30, 1998, IS LIMITED TO NO MORE THAN FIVE

MILLION DOLLARS FOR AN ENTITY SUBJECT TO THE LICENSE TAX AS PROVIDED IN SECTION 12-20-100.

~~(I) NOTWITHSTANDING ANY AMENDMENTS TO SECTION 12-14-60 OF THE 1976 CODE ENACTED IN THE 1998 SESSION OF THE GENERAL ASSEMBLY REDUCING THE PERCENTAGE AMOUNT OF THE ECONOMIC IMPACT ZONE INVESTMENT TAX CREDIT OR OTHERWISE REDUCING THE AMOUNT OF THE CREDIT ALLOWED, IN THE CASE OF INVESTMENTS AT A PROJECT OPERATED BY A COMPANY PURSUANT TO A REVITALIZATION AGREEMENT ENTERED INTO BETWEEN THE COMPANY AND THE SOUTH CAROLINA ADVISORY COUNCIL FOR ECONOMIC DEVELOPMENT EFFECTIVE ON OR BEFORE JULY 1, 1996, THE PROVISIONS OF SECTION 12-14-60 IN EXISTENCE PRIOR TO THE 1998 AMENDMENT SHALL APPLY.~~"

SECTION 22. SECTION 12-15-10 OF THE 1976 CODE, AS ADDED BY ACT 187 OF 2004, IS AMENDED TO READ:

"SECTION 12-15-10. THIS CHAPTER MAY BE CITED AS THE SOUTH CAROLINA LIFE SCIENCES AND RENEWABLE ENERGY MANUFACTURING ACT."

SECTION 23. SECTION 12-15-20 OF THE 1976 CODE, AS ADDED BY ACT 187 OF 2004, IS AMENDED TO READ:

"SECTION 12-15-20. (A) FOR PURPOSES OF THIS CHAPTER, A 'LIFE SCIENCES FACILITY' MEANS A BUSINESS ENGAGED IN PHARMACEUTICAL, MEDICINE, AND RELATED LABORATORY INSTRUMENT MANUFACTURING, PROCESSING, OR RESEARCH AND DEVELOPMENT. INCLUDED IN THIS DEFINITION ARE THE FOLLOWING NORTH AMERICAN INDUSTRIAL CLASSIFICATION SYSTEMS, NAICS CODES PUBLISHED BY THE OFFICE OF MANAGEMENT AND BUDGET OF THE FEDERAL GOVERNMENT:

(1) 3254 PHARMACEUTICAL AND MEDICAL MANUFACTURING;

(2) 334516 ANALYTICAL LABORATORY INSTRUMENT MANUFACTURING.

(B) A 'RENEWABLE ENERGY MANUFACTURING FACILITY' MEANS A BUSINESS WHICH MANUFACTURES QUALIFYING MACHINERY AND EQUIPMENT FOR USE BY SOLAR AND WIND TURBINE ENERGY PRODUCERS. IT ALSO INCLUDES MANUFACTURERS OF QUALIFYING ADVANCED LITHIUM ION, OR OTHER BATTERIES FOR THE ALTERNATIVE ENERGY MOTOR VEHICLES DESCRIBED IN SECTION 12-6-3377 OR OTHER VEHICLES CERTIFIED BY THE SOUTH CAROLINA ENERGY OFFICE. THE SOUTH CAROLINA ENERGY OFFICE SHALL QUALIFY THE RENEWABLE ENERGY MANUFACTURING FACILITY AND THE MACHINERY, EQUIPMENT, AND BATTERIES."

SECTION 24. SECTION 12-15-30 OF THE 1976 CODE, AS ADDED BY ACT 187 OF 2004, IS AMENDED TO READ:

"SECTION 12-15-30. (1) FOR ALL PURPOSES OF CHAPTER 10, TITLE 12 OF THE 1976 CODE, THE ENTERPRISE ZONE ACT OF 1995, INCLUDING ALL DEFINITIONS APPLICABLE TO THAT CHAPTER:

(A) EMPLOYEE RELOCATION EXPENSES THAT QUALIFY FOR REIMBURSEMENT PURSUANT TO SECTION 12-10-80(C)(3)(F) ~~OF THE 1976 CODE~~ INCLUDE SUCH EXPENSES ASSOCIATED WITH A NEW OR EXPANDED ~~LIFE SCIENCES~~ FACILITY QUALIFYING UNDER SECTION 12-15-20 INVESTING A MINIMUM OF ONE HUNDRED MILLION DOLLARS IN THE PROJECT, AS DEFINED IN SECTION 12-10-30(8) OF THE 1976 CODE, AND CREATING AT LEAST TWO HUNDRED NEW FULL-TIME JOBS AT THE PROJECT WITH AN AVERAGE ANNUAL CASH COMPENSATION OF AT LEAST ONE HUNDRED FIFTY PERCENT OF ANNUAL PER CAPITA INCOME IN THIS STATE OR THE COUNTY IN WHICH THE FACILITY IS LOCATED, WHICHEVER IS LESS. PER CAPITA INCOME MUST BE DETERMINED USING THE MOST RECENT PER CAPITA INCOME DATA

AVAILABLE AS OF THE END OF THE TAXABLE YEAR IN WHICH THE JOBS ARE FILLED.

(B) THE WAIVER THAT MAY BE APPROVED BY THE COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT PURSUANT TO SECTION 12-10-80(D)(2) ~~OF THE 1976 CODE~~ ON MAXIMUM JOB DEVELOPMENT CREDITS THAT MAY BE CLAIMED ALSO MAY BE APPROVED FOR A ~~LIFE SCIENCES~~ FACILITY MEETING THE REQUIREMENTS OF ~~SUBITEM (1)(A) OF THIS SECTION~~ SECTION 12-15-20. IN DETERMINING WHETHER TO APPROVE A WAIVER FOR SUCH A FACILITY, THE COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT SHALL CONSIDER THE CREDITWORTHINESS OF THE BUSINESS AND ECONOMIC VIABILITY OF THE PROJECT, AS DEFINED IN SECTION 12-10-30(8) ~~OF THE 1976 CODE~~.

(2) THE PROVISIONS OF ITEM (1) OF THIS SECTION APPLY WITH RESPECT TO CAPITAL INVESTMENT MADE AND NEW JOBS CREATED AFTER JUNE 30, ~~2004~~ 2010, AND BEFORE JULY 1, ~~2008~~ 2014."

SECTION 25. SECTION 12-15-40 OF THE 1976 CODE, AS ADDED BY ACT 187 OF 2004, IS AMENDED TO READ:

"SECTION 12-15-40. IN THE CASE OF A TAXPAYER ESTABLISHING A ~~LIFE SCIENCES~~ FACILITY MEETING THE REQUIREMENTS OF ~~SUBITEM (1)(A) OF SECTION 13-23-30~~ SECTION 12-15-20, THE SOUTH CAROLINA DEPARTMENT OF REVENUE, IN ITS DISCRETION, MAY ENTER INTO AN AGREEMENT WITH THE TAXPAYER PURSUANT TO SECTION 12-6-2320 OF THE 1976 CODE FOR A PERIOD NOT TO EXCEED FIFTEEN YEARS IF THE FACILITY OTHERWISE MEETS THE REQUIREMENTS OF THAT SECTION."

SECTION 26. SECTION 12-20-105 OF THE 1976 CODE, AS LAST AMENDED BY ACT 313 OF 2008, IS FURTHER AMENDED TO READ:

"SECTION 12-20-105. (A) ANY COMPANY SUBJECT TO A LICENSE TAX UNDER SECTION 12-20-100 MAY CLAIM A CREDIT AGAINST ITS LICENSE TAX LIABILITY FOR AMOUNTS PAID IN CASH TO PROVIDE INFRASTRUCTURE FOR AN ELIGIBLE PROJECT.

(B)(1) TO BE CONSIDERED AN ELIGIBLE PROJECT FOR PURPOSES OF THIS SECTION, THE PROJECT MUST QUALIFY FOR INCOME TAX CREDITS UNDER CHAPTER 6, TITLE 12, WITHHOLDING TAX CREDIT UNDER CHAPTER 10, TITLE 12, INCOME TAX CREDITS UNDER CHAPTER 14, TITLE 12, OR FEES IN LIEU OF PROPERTY TAXES UNDER EITHER CHAPTER 12, TITLE 4, CHAPTER 29, TITLE 4, OR CHAPTER 44, TITLE 12.

(2) IF A PROJECT CONSISTS OF AN OFFICE, BUSINESS, COMMERCIAL, OR INDUSTRIAL PARK WHICH IS OWNED OR CONSTRUCTED BY A COUNTY OR POLITICAL SUBDIVISION OF THIS STATE ~~WHEN THE QUALIFYING IMPROVEMENTS ARE PAID FOR~~, THE PROJECT DOES NOT HAVE TO MEET THE QUALIFICATIONS OF ITEM (1) TO BE CONSIDERED AN ELIGIBLE PROJECT.

(C)(1) IF, AT THE TIME A COMPANY SUBJECT TO THE LICENSE TAX PURSUANT TO SECTION 12-20-100 CONTRIBUTES CASH TO A COUNTY OR POLITICAL SUBDIVISION FOR A PROJECT, THE PROJECT MEETS THE QUALIFICATIONS OF SUBSECTION (B), AND THE COMPANY CONTINUES TO BE ELIGIBLE FOR THE CREDIT DESCRIBED IN SUBSECTION (A) EVEN IF THE COUNTY OR POLITICAL SUBDIVISION SELLS, TRANSFERS, OR OTHERWISE DISPOSES OF THE PROJECT. THE COMPANY ALSO CONTINUES TO BE ELIGIBLE FOR THE CREDIT IF THE PROJECT ULTIMATELY IS NOT COMPLETED, IF WITHIN ONE YEAR OF THE DETERMINATION THAT THE ORIGINAL PROJECT IS NOT TO BE COMPLETED, THE COUNTY OR POLITICAL SUBDIVISION INVESTS CASH EQUAL TO THE AMOUNT ATTRIBUTABLE TO THE ORIGINAL PROJECT IN ANOTHER PROJECT THAT MEETS THE REQUIREMENT OF SUBSECTION (B), PROVIDED THAT SUCH DETERMINATION BY THE COUNTY MUST OCCUR NOT LATER THAN TWO YEARS AFTER THE CONTRIBUTION.

(2) THE COUNTY OR POLITICAL SUBDIVISION MUST NOTIFY THE COMPANY THAT MADE THE CONTRIBUTION THAT THE ORIGINAL PROJECT IS NO LONGER A QUALIFYING PROJECT AND IT MUST PROVIDE THE COMPANY WITH INFORMATION ABOUT THE NEW PROJECT AND ITS ELIGIBILITY AS A QUALIFYING PROJECT PURSUANT TO SUBSECTION (B) WITHIN THREE MONTHS OF THE REINVESTMENT IN THE NEW PROJECT. THE COMPANY MUST RETAIN THAT INFORMATION IN ITS FILES FOR A PERIOD OF THREE YEARS FROM THE DATE IT RECEIVED THE NOTIFICATION.

(3) IF THE INFRASTRUCTURE FOR THE QUALIFYING PROJECT IS NOT SUBSTANTIALLY COMPLETED DURING THE YEAR THE CREDIT IS CLAIMED, THE STATUTE OF LIMITATIONS PURSUANT TO SECTION 12-54-85 IS DEEMED TOLLED FOR A PERIOD COMMENCING WITH THE DATE THE CREDIT IS CLAIMED AND ENDING THREE YEARS AFTER THE INFRASTRUCTURE HAS BEEN BUILT OR THE COUNTY OR OTHER POLITICAL SUBDIVISION INVESTS THE CASH IN ANOTHER QUALIFYING PROJECT.

~~(C)~~(D) FOR THE PURPOSE OF THIS SECTION, 'INFRASTRUCTURE' MEANS IMPROVEMENTS FOR WATER, SEWER, GAS, STEAM, ELECTRIC ENERGY, AND COMMUNICATION SERVICES MADE TO A BUILDING OR LAND THAT ARE CONSIDERED NECESSARY, SUITABLE, OR USEFUL TO AN ELIGIBLE PROJECT. THESE IMPROVEMENTS INCLUDE, BUT ARE NOT LIMITED TO:

(1) IMPROVEMENTS TO BOTH PUBLIC OR PRIVATE WATER AND SEWER SYSTEMS;

(2) IMPROVEMENTS TO BOTH PUBLIC OR PRIVATE ELECTRIC, NATURAL GAS, AND TELECOMMUNICATIONS SYSTEMS INCLUDING, BUT NOT LIMITED TO, ONES OWNED OR LEASED BY AN ELECTRIC COOPERATIVE, ELECTRIC UTILITY, OR ELECTRIC SUPPLIER, AS DEFINED IN CHAPTER 27, TITLE 58;

(3) FIXED TRANSPORTATION FACILITIES INCLUDING HIGHWAY, ROAD, RAIL, WATER, AND AIR;

(4) FOR A QUALIFYING PROJECT UNDER SUBSECTION (B)(2), INFRASTRUCTURE IMPROVEMENTS INCLUDE INDUSTRIAL SHELL BUILDINGS AND THE PURCHASE OF LAND FOR AN OFFICE, BUSINESS, COMMERCIAL, OR INDUSTRIAL PARK WHICH IS OWNED OR CONSTRUCTED BY A COUNTY OR POLITICAL SUBDIVISION OF THIS STATE. ~~NOTHING IN THIS SECTION SHALL PROHIBIT THE COUNTY OR POLITICAL SUBDIVISION FROM SELLING THE INDUSTRIAL SHELL BUILDING OR INDUSTRIAL PARK AFTER THE COMPANY HAS PAID IN CASH TO PROVIDE THE INFRASTRUCTURE FOR AN ELIGIBLE PROJECT.~~; AND

(5) FOR A QUALIFYING PROJECT PURSUANT TO SUBSECTION (B)(2), INFRASTRUCTURE IMPROVEMENTS ALSO INCLUDE DUE DILIGENCE AND SITE PREPARATION EXPENDITURES MADE BY A COUNTY OR POLITICAL SUBDIVISION AFTER IT HAS ACQUIRED CONTRACTUAL RIGHTS TO AN INDUSTRIAL PARK. SUCH EXPENDITURES INCLUDE ITEMS SUCH AS: (I) PHASE I AND II STUDIES; (II) ENVIRONMENTAL OR ARCHEOLOGICAL STUDIES REQUIRED FOR SITE CERTIFICATION OR REQUIRED BY STATE OR FEDERAL STATUTES OR GUIDELINES OR REQUIRED BY THE LENDER; (III) DEVELOPMENT OF MASTER PLANS; AND (IV) SITE PREPARATION COSTS. CONTRACTUAL RIGHTS INCLUDE OPTIONS TO PURCHASE REAL PROPERTY, RIGHTS OF FIRST REFUSAL, OR OTHER SIMILAR CONTRACTUAL RIGHTS ACQUIRED BEFORE THE COUNTY OR POLITICAL SUBDIVISION FILES A DEED TO THE PROPERTY WITH THE REGISTER OF MESNE CONVEYANCES.

~~(D)~~(E) A COMPANY IS NOT ALLOWED THE CREDIT PROVIDED BY THIS SECTION FOR ACTUAL EXPENSES IT INCURS IN THE CONSTRUCTION AND OPERATION OF ANY BUILDING OR INFRASTRUCTURE IT OWNS, LEASES, MANAGES, OR OPERATES.

~~(E)~~(F) THE MAXIMUM AGGREGATE CREDIT THAT MAY BE CLAIMED IN ANY TAX YEAR BY A SINGLE COMPANY IS THREE HUNDRED THOUSAND DOLLARS.

~~(F)~~(G) THE CREDITS ALLOWED BY THIS SECTION MAY NOT REDUCE THE LICENSE TAX LIABILITY OF THE COMPANY BELOW ZERO. IF THE APPLICABLE CREDIT ORIGINALLY EARNED DURING A TAXABLE YEAR EXCEEDS THE LIABILITY AND IS OTHERWISE ALLOWABLE UNDER SUBSECTION (D), THE AMOUNT OF THE EXCESS MAY BE CARRIED FORWARD TO THE NEXT TAXABLE YEAR.

~~(G)~~(H) FOR SOUTH CAROLINA INCOME TAX AND LICENSE PURPOSES, A COMPANY THAT CLAIMS THE CREDIT ALLOWED BY THIS SECTION IS INELIGIBLE TO CLAIM THE CREDIT ALLOWED BY SECTION 12-6-3420."

SECTION 27. SECTION 12-28-2910 OF THE 1976 CODE, AS LAST AMENDED BY ACT 176 OF 2005, IS FURTHER AMENDED BY ADDING:

"(E) FROM THE AMOUNT SET ASIDE PURSUANT TO SUBSECTION (A), THE COUNCIL IS AUTHORIZED TO EXPEND FUNDS WHICH WERE NOT OBLIGATED OR COMMITTED AS OF JULY FIRST OF THE CURRENT FISCAL YEAR ONLY AS NECESSARY FOR THE LOCATION OR EXPANSION OF AN INDUSTRY OR BUSINESS FACILITY IN SOUTH CAROLINA. ELIGIBLE EXPENDITURES INCLUDE WATER AND SEWER PROJECTS, ROAD OR RAIL CONSTRUCTION AND IMPROVEMENT PROJECTS, LAND ACQUISITION, FIBER-OPTIC CABLE, RELOCATION OF NEW EMPLOYEES, POLLUTION CONTROL EQUIPMENT, ENVIRONMENTAL TESTING AND RELATED DUE DILIGENCE REPORTS, ACQUIRING AND IMPROVING REAL PROPERTY, AND SITE PREPARATION. SITE PREPARATION IS DEFINED AS SURVEYING, ENVIRONMENTAL AND GEOTECHNICAL STUDY AND MITIGATION, CLEARING, FILLING, AND GRADING. RELOCATION EXPENSES CONSTITUTE ELIGIBLE EXPENDITURES ONLY FOR THOSE EMPLOYEES TO WHOM THE COMPANY IS PAYING GROSS WAGES AT LEAST TWO TIMES THE LOWER OF THE PER CAPITA INCOME FOR EITHER THE STATE OR THE COUNTY IN WHICH THE PROJECT IS LOCATED. THE COORDINATING COUNCIL ANNUALLY SHALL PREPARE A DETAILED

REPORT FOR SUBMISSION TO THE GENERAL ASSEMBLY BY MARCH FIFTEENTH WHICH ITEMIZES THE EXPENDITURES FROM THE FUND FOR THE PRECEDING CALENDAR YEAR. THE REPORT SHALL INCLUDE AN IDENTIFICATION OF THE FOLLOWING INFORMATION:

(A) COMPANY NAME OR CONFIDENTIAL PROJECT NUMBER;
(B) LOCATION OF PROJECT;
(C) AMOUNT OF GRANT AWARD; AND
(D) SCOPE OF GRANT AWARD."

SECTION 28. SECTION 12-37-930 35. OF THE 1976 CODE, AS ADDED BY ACT 187 OF 2004, IS AMENDED TO READ:

"35. LIFE SCIENCES AND RENEWABLE ENERGY MANUFACTURING.....20%

INCLUDES MACHINERY AND EQUIPMENT USED DIRECTLY IN THE MANUFACTURING PROCESS BY A LIFE SCIENCES OR RENEWABLE ENERGY MANUFACTURING FACILITY. FOR PURPOSES OF THIS ITEM, ~~LIFE SCIENCES~~ A QUALIFYING FACILITY MEANS A BUSINESS ENGAGED IN PHARMACEUTICAL, MEDICINE, AND RELATED LABORATORY INSTRUMENT MANUFACTURING, PROCESSING, OR RESEARCH AND DEVELOPMENT, OR THAT MANUFACTURES QUALIFYING MACHINERY AND EQUIPMENT FOR USE BY SOLAR AND WIND TURBINE ENERGY PRODUCERS, AS WELL AS MANUFACTURERS OF QUALIFYING BATTERIES FOR ALTERNATIVE ENERGY MOTOR VEHICLES, THAT INVESTS A MINIMUM OF ONE HUNDRED MILLION DOLLARS IN THE PROJECT, AS DEFINED IN SECTION 12-10-30(8), AND CREATES AT LEAST TWO HUNDRED NEW FULL-TIME JOBS AT THE PROJECT WITH AN AVERAGE CASH COMPENSATION LEVEL OF AT LEAST ONE HUNDRED AND FIFTY PERCENT OF THE ANNUAL PER CAPITA INCOME IN THIS STATE OR THE COUNTY IN WHICH THE FACILITY IS LOCATED, WHICHEVER IS LESS. PER CAPITA INCOME MUST BE DETERMINED USING THE MOST RECENT PER CAPITA INCOME DATA AVAILABLE AS OF THE END OF THE TAXABLE

YEAR IN WHICH THE JOBS ARE FILLED. INCLUDED IN THIS DEFINITION ARE THE FOLLOWING NORTH AMERICAN INDUSTRIAL CLASSIFICATION SYSTEMS, NAICS CODES PUBLISHED BY THE OFFICE OF MANAGEMENT AND BUDGET OF THE FEDERAL GOVERNMENT:

(I) 3254 PHARMACEUTICAL AND MEDICAL MANUFACTURING;

(II) 334516 ANALYTICAL LABORATORY INSTRUMENT MANUFACTURING."

SECTION 29. SECTION 12-43-220(A)(4) OF THE 1976 CODE, AS LAST AMENDED BY ACT 313 OF 2008, IS FURTHER AMENDED TO READ:

"(4)REAL PROPERTY OWNED BY OR LEASED TO A MANUFACTURER AND USED ~~EXCLUSIVELY~~ PRIMARILY FOR WAREHOUSING AND WHOLESALE DISTRIBUTION IS NOT CONSIDERED USED BY A MANUFACTURER IN THE CONDUCT OF THE BUSINESS OF THE MANUFACTURER FOR PURPOSES OF CLASSIFICATION OF PROPERTY PURSUANT TO THIS ITEM (A)."

SECTION 30.A. SECTION 12-44-30 OF THE 1976 CODE, AS LAST AMENDED BY ACT 352 OF 2008, IS FURTHER AMENDED TO READ:

"SECTION 12-44-30. AS USED IN THIS CHAPTER:

(1) 'ALTERNATIVE PAYMENT METHOD' MEANS FEE PAYMENTS AS PROVIDED IN SECTION 12-44-50(A)(3).

(2) 'COMMENCEMENT DATE' MEANS THE LAST DAY OF THE PROPERTY TAX YEAR DURING WHICH ECONOMIC DEVELOPMENT PROPERTY IS PLACED IN SERVICE, EXCEPT THAT THIS DATE MUST NOT BE LATER THAN THE LAST DAY OF THE PROPERTY TAX YEAR WHICH IS THREE YEARS FROM THE YEAR IN WHICH THE COUNTY AND THE SPONSOR ENTER INTO A FEE AGREEMENT. THE COMMENCEMENT DATE FOR AN ECONOMIC DEVELOPMENT PROJECT AS DEFINED IN SECTION

12-44-30(17) IS THE LAST DAY OF THE FIRST PROPERTY TAX YEAR IN WHICH ECONOMIC DEVELOPMENT PROPERTY IS PLACED IN SERVICE.

(3) 'COUNTY' MEANS THE COUNTY OR COUNTIES IN WHICH THE PROJECT IS PROPOSED TO BE LOCATED. A PROJECT MAY BE LOCATED IN MORE THAN ONE COUNTY, SUBJECT TO THE PROVISIONS OF SECTION 12-44-40(~~G~~H).

(4) 'COUNTY COUNCIL' MEANS THE GOVERNING BODY OF THE COUNTY IN WHICH THE ECONOMIC DEVELOPMENT PROPERTY IS LOCATED, EXCEPT AS SPECIFICALLY PROVIDED BY SECTION 12-44-40(~~G~~H).

(5) 'DEPARTMENT' MEANS THE SOUTH CAROLINA DEPARTMENT OF REVENUE.

(6) 'ECONOMIC DEVELOPMENT PROPERTY' MEANS EACH ITEM OF REAL AND TANGIBLE PERSONAL PROPERTY COMPRISING A PROJECT WHICH SATISFIES THE PROVISIONS OF SECTION 12-44-40(C) AND OTHER REQUIREMENTS OF THIS CHAPTER AND IS SUBJECT TO A FEE AGREEMENT. THAT PROPERTY, OTHER THAN REPLACEMENT PROPERTY QUALIFYING UNDER SECTION 12-44-60, MUST BE PLACED IN SERVICE BY THE END OF THE INVESTMENT PERIOD.

(7) 'ENHANCED INVESTMENT' MEANS A PROJECT THAT RESULTS IN A TOTAL INVESTMENT:

(A) BY A SINGLE SPONSOR INVESTING AT LEAST ONE HUNDRED FIFTY MILLION DOLLARS AND CREATING AT LEAST ONE HUNDRED TWENTY-FIVE NEW FULL-TIME JOBS AT THE PROJECT; PROVIDED THAT THE NEW FULL-TIME JOBS REQUIREMENT OF THIS SUBSECTION DOES NOT APPLY TO A TAXPAYER WHO PAID MORE THAN FIFTY PERCENT OF ALL PROPERTY TAXES ACTUALLY COLLECTED IN THE COUNTY FOR MORE THAN TWENTY-FIVE YEARS, ENDING ON THE DATE OF THE FEE AGREEMENT;

(B)BY A SINGLE SPONSOR INVESTING AT LEAST FOUR HUNDRED MILLION DOLLARS; OR

(C) THAT SATISFIES THE REQUIREMENTS OF SECTION 11-41-30(2)(A), AND FOR WHICH THE SECRETARY OF COMMERCE HAS DELIVERED CERTIFICATION PURSUANT TO SECTION 11-41-70(2)(A).

FOR PURPOSES OF THIS ITEM, IF A SINGLE SPONSOR ENTERS INTO A FINANCING ARRANGEMENT OF THE TYPE DESCRIBED IN SECTION 12-44-120(B), THE INVESTMENT IN OR FINANCING OF THE PROPERTY BY A DEVELOPER, LESSOR, FINANCING ENTITY, OR OTHER THIRD PARTY IN ACCORDANCE WITH THIS ARRANGEMENT IS CONSIDERED INVESTMENT BY THE SPONSOR. INVESTMENT BY A RELATED PERSON TO THE SPONSOR, AS DESCRIBED IN SECTION 12-10-80(D)(2), IS CONSIDERED INVESTMENT BY THE SPONSOR.

(8) 'EXEMPTION PERIOD' MEANS THE PERIOD BEGINNING ON THE FIRST DAY OF THE PROPERTY TAX YEAR AFTER THE PROPERTY TAX YEAR IN WHICH AN APPLICABLE PIECE OF ECONOMIC DEVELOPMENT PROPERTY IS PLACED IN SERVICE AND ENDING ON THE TERMINATION DATE. FOR PROJECTS WHICH ARE COMPLETED AND PLACED IN SERVICE DURING MORE THAN ONE YEAR, THE EXEMPTION PERIOD APPLIES TO EACH YEAR'S INVESTMENT MADE BY A SPONSOR DURING THE INVESTMENT PERIOD.

(9) 'FEE' MEANS THE AMOUNT PAID IN LIEU OF AD VALOREM PROPERTY TAX AS PROVIDED IN THE FEE AGREEMENT.

(10) 'FEE AGREEMENT' MEANS AN AGREEMENT BETWEEN THE SPONSOR AND THE COUNTY OBLIGATING THE SPONSOR TO PAY FEES INSTEAD OF PROPERTY TAXES DURING THE EXEMPTION PERIOD FOR EACH ITEM OF ECONOMIC DEVELOPMENT PROPERTY AS MORE PARTICULARLY DESCRIBED IN SECTION 12-44-40.

(11) 'INDUCEMENT RESOLUTION' MEANS A RESOLUTION OF THE COUNTY SETTING FORTH THE COMMITMENT OF THE COUNTY TO ENTER INTO A FEE AGREEMENT.

(12) 'INFRASTRUCTURE IMPROVEMENT CREDIT' MEANS A CREDIT AGAINST THE FEE AS PROVIDED BY SECTION 12-44-70.

(13) 'INVESTMENT PERIOD' MEANS THE PERIOD BEGINNING WITH THE FIRST DAY THAT ECONOMIC DEVELOPMENT PROPERTY IS PURCHASED OR ACQUIRED AND ENDING FIVE YEARS AFTER THE COMMENCEMENT DATE; EXCEPT THAT FOR A PROJECT WITH AN ENHANCED INVESTMENT AS DESCRIBED ABOVE, THE PERIOD ENDS EIGHT YEARS AFTER THE COMMENCEMENT DATE. THE MINIMUM INVESTMENT MUST BE COMPLETED WITHIN FIVE YEARS OF THE COMMENCEMENT DATE. FOR AN ENHANCED INVESTMENT, THE APPLICABLE MINIMUM INVESTMENT AND JOB REQUIREMENTS UNDER SECTION 12-44-30(7) MUST BE COMPLETED WITHIN EIGHT YEARS OF THE COMMENCEMENT DATE. INVESTMENT PERIOD MEANS FOR A QUALIFIED NUCLEAR PLANT FACILITY THE PERIOD BEGINNING WITH THE FIRST DAY THAT ECONOMIC DEVELOPMENT PROPERTY IS PURCHASED OR ACQUIRED AND ENDING TEN YEARS AFTER THE COMMENCEMENT DATE. FOR THOSE SPONSORS THAT, AFTER QUALIFYING FOR THE ENHANCED INVESTMENT, HAVE MORE THAN FIVE HUNDRED MILLION DOLLARS IN CAPITAL INVESTED IN THIS STATE AND EMPLOY MORE THAN ONE THOUSAND PEOPLE IN THIS STATE, THE INVESTMENT PERIOD ENDS TEN YEARS AFTER THE COMMENCEMENT DATE. IF THE SPONSOR DOES NOT ANTICIPATE COMPLETING THE PROJECT WITHIN THESE PERIODS, THE SPONSOR MAY APPLY TO THE COUNTY BEFORE THE END OF THE INVESTMENT PERIOD FOR AN EXTENSION OF TIME TO COMPLETE THE PROJECT. THE EXTENSION MAY NOT EXCEED FIVE YEARS. IF A PROJECT RECEIVES AN EXTENSION OF LESS THAN FIVE YEARS, THE SPONSOR MAY APPLY TO THE COUNTY BEFORE THE END OF THE EXTENSION PERIOD FOR AN ADDITIONAL EXTENSION OF TIME TO COMPLETE THE PROJECT FOR AN AGGREGATE EXTENSION OF NOT MORE THAN FIVE YEARS. UNLESS APPROVED AS PART OF THE ORIGINAL FEE DOCUMENTATION, THE COUNTY COUNCIL OF THE COUNTY MAY APPROVE AN EXTENSION BY RESOLUTION, A COPY OF WHICH MUST BE DELIVERED TO THE DEPARTMENT WITHIN THIRTY DAYS OF THE DATE THE RESOLUTION WAS ADOPTED. AN EXTENSION IS

NOT ALLOWED FOR THE TIME PERIOD IN WHICH THE SPONSOR MUST MEET THE MINIMUM INVESTMENT REQUIREMENT.

(14) 'MINIMUM INVESTMENT' MEANS AN INVESTMENT IN THE PROJECT OF AT LEAST TWO AND ONE-HALF MILLION DOLLARS WITHIN THE INVESTMENT PERIOD. IF A COUNTY HAS AN AVERAGE ANNUAL UNEMPLOYMENT RATE OF AT LEAST TWICE THE STATE AVERAGE DURING THE LAST TWENTY-FOUR MONTH PERIOD BASED ON DATA AVAILABLE ON THE MOST RECENT NOVEMBER FIRST, THE MINIMUM INVESTMENT IS ONE MILLION DOLLARS. THE DEPARTMENT SHALL DESIGNATE THESE REDUCED INVESTMENT COUNTIES BY DECEMBER THIRTY-FIRST OF EACH YEAR USING DATA FROM THE SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION AND THE UNITED STATES DEPARTMENT OF COMMERCE. THE DESIGNATIONS ARE EFFECTIVE FOR A SPONSOR WHOSE FEE AGREEMENT IS SIGNED IN THE CALENDAR YEAR FOLLOWING THE COUNTY DESIGNATION. FOR ALL PURPOSES OF THIS CHAPTER, THE MINIMUM INVESTMENT MAY INCLUDE AMOUNTS EXPENDED BY A SPONSOR OR SPONSOR AFFILIATE AS A NONRESPONSIBLE PARTY IN A VOLUNTARY CLEANUP CONTRACT ON THE PROPERTY PURSUANT TO ARTICLE 7, CHAPTER 56 OF TITLE 44, THE BROWNFIELDS VOLUNTARY CLEANUP PROGRAM, IF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CERTIFIES COMPLETION OF THE CLEANUP. IF THE AMOUNTS UNDER THE BROWNFIELDS VOLUNTARY CLEANUP PROGRAM EQUAL AT LEAST ONE MILLION DOLLARS, THE INVESTMENT THRESHOLD REQUIREMENT OF THIS CHAPTER IS DEEMED TO HAVE BEEN MET.

(15) 'INDUSTRIAL DEVELOPMENT PARK' MEANS AN INDUSTRIAL OR BUSINESS PARK DEVELOPED BY TWO OR MORE COUNTIES AS DEFINED IN SECTION 4-1-170.

(16) 'PROJECT' MEANS LAND, BUILDINGS, AND OTHER IMPROVEMENTS ON THE LAND, INCLUDING WATER, SEWAGE TREATMENT AND DISPOSAL FACILITIES, AIR POLLUTION CONTROL FACILITIES, AND ALL OTHER MACHINERY, APPARATUS, EQUIPMENT,

OFFICE FACILITIES, AND FURNISHINGS WHICH ARE CONSIDERED NECESSARY, SUITABLE, OR USEFUL BY A SPONSOR. "PROJECT" ALSO MAY CONSIST OF OR INCLUDE AIRCRAFT HANGERED OR UTILIZING AN AIRPORT IN A COUNTY SO LONG AS THE COUNTY EXPRESSLY CONSENTS TO ITS INCLUSION. AIRCRAFT PREVIOUSLY SUBJECT TO TAXATION IN SOUTH CAROLINA QUALIFY PURSUANT TO THIS PROVISION.

(17) 'QUALIFIED NUCLEAR PLANT FACILITY' MEANS A NUCLEAR ELECTRIC POWER GENERATING PLANT REGULATED BY THE NUCLEAR REGULATORY COMMISSION AND INCLUDES ALL REAL AND PERSONAL PROPERTY INCORPORATED INTO OR ASSOCIATED WITH THE FACILITY LOCATED OR TO BE LOCATED WITHIN THIS STATE WITH A TOTAL MINIMUM LEVEL OF INVESTMENT OF ONE BILLION DOLLARS.

(~~17~~18) 'REPLACEMENT PROPERTY' MEANS PROPERTY PLACED UNDER THE FEE AGREEMENT TO REPLACE ECONOMIC DEVELOPMENT PROPERTY PREVIOUSLY SUBJECT TO THE FEE AGREEMENT, AS PROVIDED IN SECTION 12-44-60.

(~~18~~19) 'SPONSOR' MEANS ONE OR MORE ENTITIES WHICH SIGN THE FEE AGREEMENT WITH THE COUNTY AND MAKES THE MINIMUM INVESTMENT, SUBJECT TO THE PROVISIONS OF SECTION 12-44-40, EACH OF WHICH MAKES THE MINIMUM INVESTMENT AS PROVIDED IN SECTION 12-44-30(13) AND ALSO INCLUDES A SPONSOR AFFILIATE UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE. IF A PROJECT CONSISTS OF A MANUFACTURING, RESEARCH AND DEVELOPMENT, CORPORATE OFFICE, OR DISTRIBUTION FACILITY, AS THOSE TERMS ARE DEFINED IN SECTION 12-6-3360(M) AND INCLUDING A QUALIFIED NUCLEAR PLANT FACILITY AS DEFINED IN SUBSECTION (17) OF THIS SECTION, EACH SPONSOR OR SPONSOR AFFILIATE IS NOT REQUIRED TO INVEST THE MINIMUM INVESTMENT IF THE TOTAL INVESTMENT AT THE PROJECT EXCEEDS ~~TEN~~ FIVE MILLION DOLLARS.

(~~19~~20) 'SPONSOR AFFILIATE' MEANS AN ENTITY THAT JOINS WITH OR IS AN AFFILIATE OF A SPONSOR AND THAT PARTICIPATES IN THE INVESTMENT IN, OR FINANCING OF, A PROJECT.

(~~20~~21) 'TERMINATION DATE' MEANS THE DATE THAT IS THE LAST DAY OF A PROPERTY TAX YEAR THAT IS THE ~~NINETEENTH~~ TWENTY-NINTH YEAR FOLLOWING THE FIRST PROPERTY TAX YEAR IN WHICH AN APPLICABLE PIECE OF ECONOMIC DEVELOPMENT PROPERTY IS PLACED IN SERVICE~~; PROVIDED, HOWEVER, THAT THE~~. A SPONSOR MAY APPLY TO THE COUNTY PRIOR TO THE TERMINATION DATE FOR AN EXTENSION OF THE TERMINATION DATE BEYOND THE ~~NINETEENTH~~ TWENTY-NINTH YEAR UP TO TEN YEARS. THE COUNTY COUNCIL OF THE COUNTY SHALL APPROVE AN EXTENSION BY RESOLUTION UPON A FINDING OF SUBSTANTIAL PUBLIC BENEFIT. A COPY OF THE RESOLUTION MUST BE DELIVERED TO THE DEPARTMENT WITHIN THIRTY DAYS OF THE DATE THE RESOLUTION WAS ADOPTED. ~~WITH RESPECT TO A FEE AGREEMENT INVOLVING AN ENHANCED INVESTMENT, THE TERMINATION DATE IS THE LAST DAY OF A PROPERTY TAX YEAR THAT IS THE TWENTY-NINTH YEAR FOLLOWING THE FIRST PROPERTY TAX YEAR IN WHICH AN APPLICABLE PIECE OF ECONOMIC DEVELOPMENT PROPERTY IS PLACED IN SERVICE.~~ IF THE FEE AGREEMENT IS TERMINATED IN ACCORDANCE WITH SECTION 12-44-140, THE TERMINATION DATE IS THE DATE THE AGREEMENT IS TERMINATED."

B. THE PROVISIONS OF THIS SECTION TAKE EFFECT AS PROVIDED IN SECTION 36 EXCEPT THAT A COUNTY MAY AMEND AN EXISTING FEE-IN-LIEU AGREEMENT AT ANY TIME PRIOR TO THE EXPIRATION OF THE FEE TO INCORPORATE THE AMENDMENTS TO SECTION 12-44-30(21) AS CONTAINED IN SUBSECTION A.

SECTION 31. SECTION 12-44-40 OF THE 1976 CODE, AS LAST AMENDED BY ACT 116 OF 2007, IS FURTHER AMENDED TO READ:

"SECTION 12-44-40. (A) TO OBTAIN THE BENEFITS PROVIDED BY THIS CHAPTER, THE SPONSOR AND THE COUNTY MUST ENTER INTO A

FEE AGREEMENT REQUIRING THE PAYMENT OF THE FEE DESCRIBED IN SECTION 12-44-50. THE COUNTY MUST ADOPT AN ORDINANCE APPROVING THE FEE AGREEMENT WITH THE SPONSOR.

(B) IF THE COUNTY AND THE SPONSOR ENTER INTO A FEE AGREEMENT, ALL ECONOMIC DEVELOPMENT PROPERTY IS EXEMPT FROM ALL AD VALOREM PROPERTY TAXATION FOR THE ENTIRE EXEMPTION PERIOD. UPON TERMINATION OF THE EXEMPTION PERIOD, THE PROPERTY IS SUBJECT TO PROPERTY TAXATION IN THE MANNER PROVIDED BY LAW, UNLESS THE PROPERTY IS OTHERWISE EXEMPT.

(C) SUBJECT TO THE PROVISIONS OF SUBSECTION (D) AND THE PROVISIONS OF SECTION 12-44-110, REAL OR TANGIBLE PERSONAL PROPERTY OF A SPONSOR OR SPONSOR AFFILIATE WHICH HAS BEEN ACQUIRED FOR WHICH EXPENDITURES HAVE BEEN INCURRED BY THE SPONSOR OR SPONSOR AFFILIATE AND WHICH ARE USED IN CONNECTION WITH A PROJECT OR A PORTION OF A PROJECT, QUALIFIES AS ECONOMIC DEVELOPMENT PROPERTY, IF THE EXPENDITURES ARE INCURRED OR THE PROPERTY IS ACQUIRED BEFORE THE END OF THE INVESTMENT PERIOD.

(D) A COUNTY HAS TWO YEARS FROM THE DATE IT TAKES ACTION REFLECTING OR IDENTIFYING THE PROJECT, OR PROPOSED PROJECT, TO ADOPT AN INDUCEMENT RESOLUTION IF THE INDUCEMENT RESOLUTION WAS NOT THE ORIGINAL COUNTY ACTION REFLECTING OR IDENTIFYING THE PROJECT OR PROPOSED PROJECT. OTHERWISE, EXPENDITURES INCURRED BEFORE ADOPTION OF THE INDUCEMENT RESOLUTION DO NOT QUALIFY AS ECONOMIC DEVELOPMENT PROPERTY.

(E) IF A FEE AGREEMENT IS NOT EXECUTED WITHIN FIVE YEARS AFTER ACTION BY THE COUNTY IDENTIFYING OR REFLECTING THE PROJECT, THE REAL PROPERTY OR TANGIBLE PERSONAL PROPERTY OF A SPONSOR FOR WHICH EXPENDITURES HAVE BEEN INCURRED BY THE SPONSOR WITH RESPECT TO THE PROJECT DOES NOT QUALIFY AS ECONOMIC DEVELOPMENT PROPERTY. AN ACTION INCLUDES AN

INDUCEMENT RESOLUTION ADOPTED BY THE COUNTY COUNCIL OF THE COUNTY.

(F) NOTWITHSTANDING ANOTHER PROVISION OF THIS CHAPTER, IN THE CASE OF A QUALIFIED NUCLEAR PLANT FACILITY, THE SPONSOR HAS FIVE YEARS FROM THE END OF THE CALENDAR YEAR IN WHICH THE NUCLEAR REGULATORY COMMISSION GRANTS THE SPONSOR A COMBINED LICENSE TO CONSTRUCT AND OPERATE A NUCLEAR POWER PLANT TO ENTER INTO A FEE AGREEMENT WITH THE COUNTY BUT IN NO EVENT MORE THAN FIFTEEN YEARS FROM THE LATTER OF THE ADOPTION OF AN INDUCEMENT RESOLUTION OR EXECUTION OF AN INDUCEMENT AGREEMENT BY THE COUNTY.

(~~F~~G) TO BE ELIGIBLE TO ENTER INTO A FEE AGREEMENT, THE SPONSOR SHALL COMMIT TO A PROJECT WHICH MEETS THE MINIMUM INVESTMENT LEVEL AND, WITH RESPECT TO APPLICABLE ENHANCED INVESTMENTS, THE TOTAL APPLICABLE INVESTMENT AND THE MINIMUM JOB CREATION LEVELS REQUIRED FOR AN ENHANCED INVESTMENT.

(~~G~~H) THE PROJECT MUST BE LOCATED IN A SINGLE COUNTY OR IN AN INDUSTRIAL DEVELOPMENT PARK. A PROJECT LOCATED ON CONTIGUOUS TRACTS OF LAND IN MORE THAN ONE COUNTY, BUT NOT IN AN INDUSTRIAL DEVELOPMENT PARK, MAY QUALIFY FOR THE FEE IF:

(1) THE COUNTIES AGREE ON THE TERMS OF THE FEE AND THE DISTRIBUTION OF THE FEE PAYMENT;

(2) A MINIMUM MILLAGE RATE IS PROVIDED FOR IN THE AGREEMENT; AND

(3) ALL COUNTIES ARE PARTIES TO ALL AGREEMENTS ESTABLISHING THE TERMS OF THE FEE.

(~~H~~I)(1) BEFORE UNDERTAKING A PROJECT, THE COUNTY COUNCIL SHALL FIND THAT:

(A) THE PROJECT IS ANTICIPATED TO BENEFIT THE GENERAL PUBLIC WELFARE OF THE LOCALITY BY PROVIDING SERVICES,

EMPLOYMENT, RECREATION, OR OTHER PUBLIC BENEFITS NOT OTHERWISE ADEQUATELY PROVIDED LOCALLY;

(B) THE PROJECT GIVES RISE TO NO PECUNIARY LIABILITY OF THE COUNTY OR INCORPORATED MUNICIPALITY OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWER; AND

(C) THE PURPOSES TO BE ACCOMPLISHED BY THE PROJECT ARE PROPER GOVERNMENTAL AND PUBLIC PURPOSES AND THE BENEFITS OF THE PROJECT ARE GREATER THAN THE COSTS.

(2) IN MAKING THE FINDINGS OF THIS SUBSECTION, THE COUNTY COUNCIL MAY SEEK THE ADVICE AND ASSISTANCE OF THE DEPARTMENT OR THE BOARD OF ECONOMIC ADVISORS. THE DETERMINATION AND FINDINGS MUST BE SET FORTH IN AN ORDINANCE.

(~~I~~J) IF THE COUNTY COUNCIL HAS BY CONTRACTUAL AGREEMENT PROVIDED FOR A CHANGE IN FEE IN LIEU OF TAXES ARRANGEMENTS CONDITIONED ON A FUTURE LEGISLATIVE ENACTMENT, A NEW ENACTMENT DOES NOT BIND THE ORIGINAL PARTIES TO THE AGREEMENT UNLESS THE CHANGE IS RATIFIED BY THE COUNTY COUNCIL.

(~~J~~K)(1) UPON AGREEMENT OF THE PARTIES, AND EXCEPT AS PROVIDED IN ITEM (2), A FEE AGREEMENT MAY BE AMENDED OR TERMINATED AND REPLACED WITH REGARD TO ALL MATTERS, INCLUDING THE ADDITION OR REMOVAL OF SPONSORS OR SPONSOR AFFILIATES.

(2) AN AMENDMENT OR REPLACEMENT OF A FEE AGREEMENT MUST NOT BE USED TO LOWER THE MILLAGE RATE, DISCOUNT RATE, ASSESSMENT RATIO, OR, EXCEPT AS PROVIDED IN SECTIONS 12-44-30(13) AND (~~20~~21), INCREASE THE TERM OF THE AGREEMENT."

SECTION 32. SECTION 12-44-50(A)(1)(C)(I) OF THE 1976 CODE, AS LAST AMENDED BY ACT 69 OF 2003, IS FURTHER AMENDED TO READ:

"(I) IF REAL PROPERTY IS CONSTRUCTED FOR THE FEE OR IS PURCHASED IN AN ARM'S LENGTH TRANSACTION, THE FAIR MARKET VALUE OF REAL PROPERTY IS DETERMINED BY USING THE ORIGINAL INCOME TAX BASIS FOR SOUTH CAROLINA INCOME TAX PURPOSES WITHOUT REGARD TO DEPRECIATION, OTHERWISE THE PROPERTY MUST BE REPORTED AT ITS FAIR MARKET VALUE FOR AD VALOREM PROPERTY TAXES AS DETERMINED BY APPRAISAL. THE FAIR MARKET VALUE ESTIMATE ESTABLISHED FOR THE FIRST YEAR OF THE FEE REMAINS THE FAIR MARKET VALUE OF THE REAL PROPERTY FOR THE LIFE OF THE FEE. THE COUNTY AND THE SPONSOR OR SPONSOR AFFILIATE MAY INSTEAD PROVIDE IN THE FEE AGREEMENT OR ANY AMENDMENT THERETO THAT ANY REAL PROPERTY SUBJECT TO THE FEE SHALL BE REPORTED AT ITS FAIR MARKET VALUE FOR AD VALOREM PROPERTY TAXES AS DETERMINED BY APPRAISAL AS IF SUCH PROPERTY WERE NOT SUBJECT TO THE FEE;"

SECTION 33. SECTION 12-44-110(2) OF THE 1976 CODE, AS LAST AMENDED BY ACT 69 OF 2003, IS FURTHER AMENDED TO READ:

"(2)PROPERTY WHICH HAS BEEN SUBJECT TO PROPERTY TAXES IN THIS STATE, BUT WHICH HAS NEVER BEEN PLACED IN SERVICE IN THIS STATE, OR WHICH WAS PLACED IN SERVICE IN THIS STATE PURSUANT TO AN INDUCEMENT AGREEMENT OR OTHER PRELIMINARY APPROVAL BY THE COUNTY PRIOR TO EXECUTION OF THE FEE AGREEMENT PURSUANT TO SECTION 12-44-40(E), MAY QUALIFY AS ECONOMIC DEVELOPMENT PROPERTY;"

SECTION 34. SECTION 12-44-130(A) OF THE 1976 CODE, AS LAST AMENDED BY ACT 384 OF 2006, IS FURTHER AMENDED TO READ:

"(A) EXCEPT AS OTHERWISE PROVIDED IN SECTION 12-44-30(~~18~~19), TO BE ELIGIBLE FOR THE FEE, A SPONSOR AND EACH

SPONSOR AFFILIATE MUST INVEST THE MINIMUM INVESTMENT AS DEFINED IN SECTION 12-44-30(14). FOR AN ENHANCED INVESTMENT PURSUANT TO SECTION 12-44-30(7), A SINGLE SPONSOR MUST MAKE THE INVESTMENT, UNLESS OTHERWISE PROVIDED IN THAT SECTION. THE COUNTY AND THE SPONSORS WHO ARE PART OF THE FEE AGREEMENT MAY AGREE THAT INVESTMENTS BY OTHER SPONSOR AFFILIATES WITHIN THE INVESTMENT PERIOD QUALIFY FOR THE FEE REGARDLESS OF WHETHER THE SPONSOR AFFILIATE WAS PART OF THE FEE AGREEMENT, EXCEPT THAT EACH NEW SPONSOR AFFILIATE MUST INVEST AT LEAST THE MINIMUM INVESTMENT OR THE ENHANCED INVESTMENT IF APPLICABLE IN THE PROJECT, UNLESS THE PROJECT IS A MANUFACTURING, RESEARCH AND DEVELOPMENT CORPORATE OFFICE, OR DISTRIBUTION FACILITY AS PROVIDED IN SECTION 12-44-30(~~18~~19). TO QUALIFY FOR THE FEE, THE SPONSOR AFFILIATES MUST BE APPROVED SPECIFICALLY BY THE COUNTY AND MUST AGREE TO BE BOUND BY AGREEMENTS WITH THE COUNTY RELATING TO THE FEE. THESE SPONSOR AFFILIATES ARE NOT BOUND BY AGREEMENTS, OR PORTIONS OF AGREEMENTS, TO THE EXTENT THE AGREEMENTS DO NOT AFFECT THE COUNTY. THE INVESTMENTS PURSUANT TO THIS SUBSECTION MUST BE AT THE SPONSOR'S PROJECT. THE FEE AGREEMENT MAY PROVIDE FOR A PROCESS FOR APPROVAL OF SPONSOR AFFILIATES."

SECTION 35. SECTIONS 12-6-3450, 12-14-30, 12-14-40, 12-14-50, AND 12-14-70 OF THE 1976 CODE ARE REPEALED.

SECTION 36. UNLESS OTHERWISE PROVIDED SPECIFICALLY HEREIN, THIS ACT TAKES EFFECT ON JANUARY 1, 2011, EXCEPT FOR SECTION 8, SECTION 10, SECTION 30, AND SECTION 31 WHICH TAKE EFFECT UPON APPROVAL BY THE GOVERNOR. /

RENUMBER SECTIONS TO CONFORM.
AMEND TITLE TO CONFORM.