~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 14, 2009

**H. 3722**

Introduced by Reps. Kirsh and White

S. Printed 5/14/09--S.

Read the first time April 14, 2009.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (H. 3722) to amend the Code of Laws of South Carolina, 1976, by adding Section 12‑6‑1145 so as to provide for determination of treatment of gains and losses apportioned, etc., respectfully

**REPORT:**

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

Amend the bill as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1.A. Section 12‑6‑2295(A) of the 1976 Code, as added by Act 116 of 2007, is amended to read:

“(A) The terms ‘sales’ as used in Section 12‑6‑2280 and ‘gross receipts’ as used in Section 12‑6‑2290 include, but are not limited to, the following items if they have not been separately allocated:

(1) receipts from the sale or rental of tangible real or personal property maintained for sale or rental to customers in the ordinary course of the taxpayer’s trade or business including inventory;

(2) ~~receipts from the sale of accounts receivable acquired in the ordinary course of trade or business for services rendered or from the sale or rental of property maintained for sale or rental to customers in the ordinary course of the taxpayer’s trade or business if the accounts receivable were created by the taxpayer or a related party. For purposes of this item, a related person includes a person that bears a relationship to the taxpayer as described in Section 267 of the Internal Revenue Code;~~

~~(3)~~ receipts from the use of intangible property ~~in this State~~ including, but not limited to, royalties from patents, copyrights, trademarks, and trade names;

~~(4)~~(3) net gain from the sale of tangible personal property or intangible property used in the trade or business unless otherwise provided in item (1) or (4)~~.~~ ~~For purposes of this subsection, property used in the trade or business means property subject to the allowance for depreciation, real property used in the trade or business, and intangible property used in the trade or business which is:~~

~~(a)~~ ~~not property of a kind that properly would be includible in inventory of the business if on hand at the close of the taxable year; or~~

~~(b)~~ ~~held by the business primarily for sale to customers in the ordinary course of the trade or business~~;

(4) net gains from the sale of accounts receivable, loans, or other intangible property held for sale in the ordinary course of the taxpayer’s trade or business;

(5) receipts from services ~~if the entire income‑producing activity is within this State. If the income‑producing activity is performed partly within and partly without this State, sales are attributable to this State to the extent the income‑producing activity is performed within this State~~;

(6) receipts from the sale of intangible property which are unable to be attributed to any particular state or states are excluded from the numerator and denominator of the factor.”

B. This section takes effect upon approval by the Governor and applies to tax years beginning after December 31, 2008.

SECTION 2.A. Section 30‑2‑320(6) and (7) of the 1976 Code, as added by Act 190 of 2008, is amended to read:

“(6) on a document filed in the official records of the courts; ~~and~~

(7) to an employer for employment verification or in the course of administration or provision of employee benefit programs, claims, and procedures related to employment including, but not limited to, termination from employment, retirement from employment, injuries suffered during the course of employment, and other such claims, benefits, and procedures; and

(8) by the South Carolina Department of Revenue or its agents or employees for the purposes of administering and collecting any tax, debt, or fee administered by that department and otherwise performing its duties and responsibilities.”

B. Section 37‑20‑180(B)(9) and (10) of the 1976 Code, as added by Act 190 of 2008, is amended to read:

“(9) to a recorded document in the official records of a county; ~~or~~

(10) to a document filed in the official records of the court; or

(11) to the South Carolina Department of Revenue or its agents or employees for the purposes of administering and collecting any tax, debt, or fee administered by that department and otherwise performing its duties and responsibilities.”

C. Upon approval by the Governor, this section takes effect December 31, 2008.

SECTION 3. Section 12‑36‑2120 of the 1976 Code, as amended by Act 338 of 2008, is amended by adding an appropriately numbered item to read:

“(\_\_\_) Machinery and equipment including lighting, filming and computer equipment, building and other raw materials used in test specimens, and electricity and electrical transformers and substations purchased for use in the operation of a facility placed in service on or after July 2, 2009 owned by an organization which qualifies as a tax exempt organization pursuant to the Internal Revenue Code Section 501(c)(3) when the facility is principally used for researching and testing the impact of such natural hazards as wind, fire, water, earthquake, and hail on building materials and construction methods used in residential, commercial, and agricultural buildings. To qualify for this exemption, the taxpayer shall notify the department of its intent to qualify and shall invest at least twenty million dollars in real or personal property at a single site in this State over a three‑year period beginning on the date provided by the taxpayer to the department in its notices. After the taxpayer notifies the department of its intent to qualify and use this exemption, the department shall issue an appropriate exemption certificate to the taxpayer to be used for qualifying purposes. Within six months of the third anniversary of the taxpayer’s first use of the exemption, the taxpayer shall notify the department in writing that it has met the twenty million dollar investment requirement or that it has not met the twenty million dollar investment requirement. The department may assess any tax due on the machinery and equipment and all other materials purchased tax‑free pursuant to this item but due the State as a result of the taxpayer’s failure to meet the twenty million dollar investment requirement. The running of the periods of limitations for assessment of taxes provided in Section 12‑54‑85 is suspended for the time period beginning with notice to the department before the taxpayer uses the exemption and ending with notice to the department that the taxpayer either has met or has not met the twenty million dollar investment requirement.”

SECTION 4. Section 12‑2‑25(B) of the 1976 Code is amended to read:

“(B) For all South Carolina tax purposes:

(1) a single‑member limited liability company, which is not taxed for South Carolina income tax purposes as a corporation, is not regarded as an entity separate from its owner;

(2) a ‘qualified subchapter S subsidiary’, as defined in Section 1361(b)(3)(B) of the Internal Revenue Code, is not regarded as an entity separate from the “S’ corporation that owns the stock of the qualified subchapter ‘S’ subsidiary; and

(3) a grantor trust, to the extent that it is a grantor trust, is not regarded as an entity separate from its grantor.”

SECTION 5. Section 12‑37‑220 of the 1976 Code, as last amended by Act 357 of 2008, is further amended by adding an item at the end to read:

“(51) All property used in the operation of a facility with a capital investment of twenty million dollars or more at a single site that is owned by an organization that qualifies as a tax exempt organization pursuant to Internal Revenue Code Section 501(c)(3) when the facility is principally used for researching and testing the impact of natural hazards such as wind, fire, water, earthquake, and hail on building materials used in residential, commercial, and agricultural buildings.”

SECTION 6. A. The General Assembly recognizes and finds that:

(1) the people of South Carolina are enduring extraordinary levels of unemployment and are likely to do so for the immediately foreseeable future and, further, that the national economy is undergoing changes that affect many of the businesses and industries that have traditionally provided jobs for the citizens and residents of South Carolina;

(2) there is a need for a program to provide inducements for the creation of jobs in the commercial and retail sector under conditions that will ensure: (i) significant capital investment, and (ii) the creation and maintenance of significant new employment, all under conditions that restrict the cost of funding that inducement to sources of funds related to the creation of revenues that do not exist presently;

(3) it has heretofore authorized the creation of industrial or business parks by counties to encourage and promote economic development which creation has been instrumental in the efforts of the State to attract and retain significant investment and employment;

(4) the risks of this existing and time‑tested program are minimized;

(5) by providing counties a means of funding grants to certain private entities for the purpose of defraying a portion of the cost of infrastructure related to these developments after the developments have been constructed, certain initial levels of employment have been satisfied and new sales tax revenue targets have been met and the level of investment and number of jobs required to be created before the provision of the grants is designed to avoid speculative risk and, together with demonstrated revenues, are designed to ensure that the benefit to the public in new investment and jobs will render the public the primary beneficiary of the incentive notwithstanding the incidental benefits that may be derived by the private grantees; and

(6) that the inducement authorized by this act will serve the public welfare by providing for additional employment and will serve the affected counties by additional employment and by an increase in their local tax base.

B. Chapter 1, Title 4 of the 1976 Code is amended by adding:

“Section 4‑1‑180. (A)(1) ‘Extraordinary commercial facilities’ means commercial facilities, including facilities for the retail sale of goods, in a designated economic development site that meets the initial qualifying criteria.

(2) ‘New capital investment’ means facilities that either have been placed in service, or for which a certificate of occupancy has been issued, after July 1, 2010.

(3) ‘New job’ means a job created in this State at the time a new facility is initially staffed.

(B) Counties that create a multicounty business park may designate a portion or all of that park as a designated economic development site for extraordinary commercial facilities. Initial qualifying criteria for a designated economic development site are: (i) the value of new capital investment within the designated economic development site, including the value of capital investment in all its components, regardless of how those components are owned or controlled, is not less than an aggregate amount of one hundred million dollars; (ii) there is an aggregate of not fewer than one thousand new jobs measured by number of employees; and (iii) there are total sales tax receipts at a rate of six million dollars each year, which may be based on an annualized number using the two most recent quarters.

(C) The number of new jobs may be based on a quarterly report filed with the South Carolina Employment Security Commission or the Bureau of Labor Statistics; except that a certificate based on those reports need not include copies of the reports so as to ensure the maintenance of privacy of information in the reports.

(D) The counties making a designation of an economic development site shall notify the South Carolina Department of Revenue of the boundaries of the designated site.

(E)(1) In addition to the matters specified in Section 4‑1‑170, the agreement relating to the designated economic development site may provide that an amount equal to three‑fourths of the revenues collected in the designated economic development site from sales taxes imposed pursuant to Section 12‑36‑2620(1) must be paid quarterly by the Department of Revenue from the general fund of the State to the counties and allocated in accordance with the provisions of the agreement for the qualifying period, except during a suspension period.

(2) The qualifying period must begin no earlier than the first day of the third calendar month after the counties creating a designated economic development site: (i) provide the department with a certificate satisfactory to the department that contains information that the extraordinary commercial facilities in a designated economic development site meet the initial qualifying criteria; and (ii) provide the department with a copy of the agreement specifying the percentage of funds to be remitted to the counties. The qualifying period must end at the end of the fifteenth year after the commencement of the qualifying period.

(3) To maintain receipt of payments, the counties must file with the department an annual report showing the number of employees at the site for the most recent four quarters. If the report does not show an average of five hundred jobs during the reporting period, quarterly payments must be suspended until the next annual report shows an average of five hundred jobs during that reporting period. A suspension period is the time between the two filings, and payments must not be made to the counties during the suspension period.

(4) A county that receives revenues from this source may treat those revenues in the same fashion as fees in lieu of taxes and issue special sources revenue bonds or provide for credits or payments as provided in Section 4‑1‑175.

(5) If a county uses funds to reimburse another governmental or private entity for expenditures incurred by it, the county must have a grant agreement with each recipient. Each grant agreement must contain provisions relating to the grantee’s obligation to provide jobs and require an annual certification of compliance. The grant agreement must require that, if a grantee fails to satisfy the conditions of a grant, then all future payments must be suspended until the grantee certifies compliance with the terms. Copies of all grant agreements must be provided to the department.

(f) The provisions of this section expire five years from the effective date of this section.”

SECTION 7. A. Section 12‑37‑220(B)(33) of the 1976 Code is amended to read:

“(33)(a) All personal property including aircraft of an air carrier which operates an air carrier hub terminal facility in this State for a period of ten consecutive years from the date of qualification, if its qualifications are maintained. An air carrier hub terminal facility is defined in Section 55‑11‑500.

(b) All aircraft, including associated personal property, owned by a company owning aircraft meeting the requirements of Section 55‑11‑500(a)(3)(i) without regard to the other requirements of Section 55‑11‑500. An aircraft qualifying for the exemption allowed by this subitem may not be used by the operator of the aircraft as the basis for an exemption pursuant to subitem (a) of this item.”

B. This section takes effect upon approval by the Governor and applies for property tax years beginning after 2006.

SECTION 8. A. Section 12‑65‑30 of the 1976, as added by Act 313 of 2008, is amended to read:

“Section 12‑65‑30. (A) Subject to the terms and conditions of this chapter, a taxpayer who rehabilitates a textile mill site is eligible for either:

(1) a credit against real property taxes levied by local taxing entities; or

(2) a credit against income taxes imposed pursuant to Chapter 6 and Chapter 11 of this title or corporate license fees pursuant to Chapter 20 of this title, or ~~both~~ insurance premium taxes imposed by Chapter 7, Title 38, or any of them.

(B) If the taxpayer elects to receive the credit pursuant to subsection (A)(1), the following provisions apply:

(1) The taxpayer shall file a Notice of Intent to Rehabilitate with the municipality, or the county if the textile mill site is located in an unincorporated area, in which the textile mill site is located before incurring its first rehabilitation expenses at the textile mill site. Failure to provide the Notice of Intent to Rehabilitate results in qualification of only those rehabilitation expenses incurred after notice is provided.

(2) Once the Notice of Intent to Rehabilitate has been provided to the county or municipality, the municipality or the county shall first by resolution determine the eligibility of the textile mill site and the proposed rehabilitation expenses for the credit. A proposed rehabilitation of a textile mill site must be approved by a positive majority vote of the local governing body. For purposes of this subsection, “positive majority vote” is as defined in Section 6‑1‑300(5). If the county or municipality determines that the textile mill site and the proposed rehabilitation expenses are eligible for the credit, there must be a public hearing and the municipality or county shall approve the textile mill site for the credit by ordinance. Before approving a textile mill site for the credit, the municipality or county shall make a finding that the credit does not violate a covenant, representation, or warranty in any of its tax increment financing transactions or an outstanding general obligation bond issued by the county or municipality.

(3)(a) The amount of the credit is equal to twenty‑five percent of the actual rehabilitation expenses made at the textile mill site times the local taxing entity ratio of each local taxing entity that has consented to the credit pursuant to item (4), if the actual rehabilitation expenses incurred in rehabilitating the textile mill site are between eighty percent and one hundred twenty‑five percent of the estimated rehabilitation expenses set forth in the Notice of Intent to Rehabilitate. If the actual rehabilitation expenses exceed one hundred twenty‑five percent of the estimated expenses set forth in the Notice of Intent to Rehabilitate, the taxpayer qualifies for the credit based on one hundred twenty‑five percent of the estimated expenses as opposed to the actual expenses it incurred in rehabilitating the textile mill site. If the actual rehabilitation expenses are below eighty percent of the estimated rehabilitation expenses, the credit is not allowed. The ordinance must provide for the credit to be taken as a credit against up to seventy‑five percent of the real property taxes due on the textile mill site each year for up to eight years.

(b) The local taxing entity ratio is set as of the time the Notice of Intent to Rehabilitate is filed and remains set for the entire period that the credit may be claimed by the taxpayer.

(4) Not fewer than forty‑five days before holding the public hearing required by subsection (B)(2), the governing body of the municipality or county shall give notice to all affected local taxing entities in which the textile mill site is located of its intention to grant a credit against real property taxes for the textile mill site and the amount of estimated credit proposed to be granted based on the estimated rehabilitation expenses. If a local taxing entity does not file an objection to the tax credit with the municipality or county on or before the date of the public hearing, the local taxing entity is considered to have consented to the tax credit.

(5) The credit against real property taxes for each applicable phase or portion of the textile mill site may be claimed beginning for the property tax year in which the applicable phase or portion of the textile mill site is first placed in service.

(C) If the taxpayer ~~has acquired the textile mill site after December 31, 2007, and~~ elects to receive the credit pursuant to subsection (A)(2), the following provisions apply:

(1) The ~~taxpayer shall file with the department a notice of Intent to Rehabilitate before incurring its first~~ amount of the credit is equal to twenty‑five percent of the actual rehabilitation expenses made at the textile mill site. ~~Failure to provide the Notice of Intent to Rehabilitate results in qualification of only those rehabilitation expenses incurred after the notice is provided.~~

(2) ~~The amount of the credit is equal to twenty‑five percent of the actual rehabilitation expenses made at the textile mill site if the actual rehabilitation expenses incurred in rehabilitating the textile mill site are between eighty percent and one hundred twenty‑five percent of the estimated rehabilitation expenses set forth in the Notice of Intent to Rehabilitate. If the actual rehabilitation expenses exceed one hundred twenty‑five percent of the estimated expenses set forth in the Notice of Intent to Rehabilitate, the taxpayer qualifies for the credit based on one hundred twenty‑five percent of the estimated expenses as opposed to the actual expenses it incurred in rehabilitating the textile mill site. If the actual rehabilitation expenses are below eighty percent of the estimated rehabilitation expenses, the credit is not allowed.~~ If the taxpayer has acquired the textile mill site after December 31, 2007, the provisions of this item (2) apply to the textile mill site; provided, however, that transfers between affiliated taxpayers of phases of any textile mill site may not be deemed an acquisition for this purpose. The taxpayer shall file with the department a Notice of Intent to Rehabilitate prior to receiving the building permits for the applicable rehabilitation at the textile mill site or phase thereof. Failure to provide the Notice of Intent to Rehabilitate prior to receiving the building permits for the applicable rehabilitation at the textile mill site or phase thereof results in qualification of only those rehabilitation expenses incurred after the notice is provided. If the actual rehabilitation expenses exceed one hundred twenty‑five percent of the estimated expenses set forth in the Notice of Intent to Rehabilitate, the taxpayer qualifies for the credit based on one hundred twenty‑five percent of the estimated expenses as opposed to the actual expenses incurred in rehabilitating the textile mill site.

(3) The entire credit is earned in the taxable year in which the applicable phase or portion of the textile mill site is placed in service but must be taken in equal installments over a five‑year period beginning with the tax year in which the applicable phase or portion of the textile mill site is placed in service. Unused credit may be carried forward for the succeeding five years.

(4) If the taxpayer qualifies for both the credit allowed by this subsection and the credit allowed pursuant to Section 12‑6‑3535, the taxpayer may claim both credits.

(5) The credit allowed by this subsection is limited in use to fifty percent of ~~either~~ each of the following:

(a) the taxpayer’s income tax liability for the taxable year if taxpayer claims the credit allowed by this section as a credit against income tax imposed pursuant to Chapter 6 or Chapter 11 of this title;

(b) the taxpayer’s corporate license fees for the taxable year if the taxpayer claims the credit allowed by this section as a credit against license fees imposed pursuant to Chapter 20; or

(c) the taxpayer’s insurance premium taxes imposed by Chapter 7, Title 38.

(6)(a) If the taxpayer leases the textile mill site, or part of the textile mill site, the taxpayer may transfer any applicable ~~remaining~~ credit associated with the rehabilitation expenses incurred with respect to that part of the site to the lessee of the site. The provisions of item ~~(5)~~ (7) of this subsection apply to a lessee that is an entity taxed as a partnership. If a taxpayer sells the textile mill site, or any phase or portion of the textile mill site, the taxpayer may transfer all, or part of the ~~remaining~~ credit, associated with the rehabilitation expenses incurred with respect to that phase or portion of the site to the purchaser of the applicable portion of the textile mill site.

(b) To the extent that the taxpayer transfers the credit, the taxpayer must notify the department of the transfer in the manner the department prescribes.

(7) To the extent that the taxpayer is a partnership or a limited liability company taxed as a partnership, the credit may be passed through to the partners or members and may be allocated by the taxpayer among any of its partners or members on an annual basis including, without limitation, an allocation of the entire credit to ~~one~~ any partner or member who was a member or partner at any time during the year in which the credit is allocated.

(D) A taxpayer is not eligible for the credit if the taxpayer owned the otherwise eligible textile mill site when the site was operational and immediately prior to its abandonment.”

B. Chapter 65, Title 12 of the 1976 Code is amended by adding:

“Section 12‑65‑50. (A) Entire textile mill sites placed in service on or before December 31, 2007, must be governed by the former provisions of Chapter 32, Title 6, in effect as of December 31, 2007.

(B) The provisions of this chapter shall apply to all textile mill sites or portions thereof placed in service on or after January 1, 2008.

(C) For any textile mill sites in which a portion but not all of the textile mill site was placed in service on or before December 31, 2007, the taxpayer may elect to either:

(1) have the portion of the textile mill site that was placed in service on or before December 31, 2007, governed by the former provisions of Chapter 32, Title 6, in effect as of December 31, 2007, as if the portion were an entire textile mill site; or

(2) have the portion be governed by this chapter such that the portion must be deemed to be a phase of the textile mill site placed in service on a date subsequent to December 31, 2007, identified by the taxpayer.”

C. Chapter 65, Title 12 of the 1976 Code is amended by adding:

“Section 12‑65‑60. The taxpayer may apply to the municipality or county in which the textile mill site is located for a certification of the textile mill site made by ordinance or binding resolution of the governing body of the municipality or county. The certification shall include findings that the:

(1) textile mill site was a textile mill as defined in Section 12‑65‑20(3);

(2) textile mill site has been abandoned as defined in Section 12‑65‑20(1); and

(3) geographic area of the textile mill site consistent with Section 12‑65‑20(4).

The taxpayer may conclusively rely upon the certification in determining the credit allowed; provided, however, that if the taxpayer is relying upon the certification, the taxpayer shall include a copy of the certification on the first return for which the credit is claimed.”

D. This section takes effect upon approval by the Governor.

SECTION 9. If any section, subsection, part, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this severability, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 10. Except where otherwise provided, this act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT1/**

This bill, as amended by the House of Representatives would reduce sales tax collections by $4,980,000 in FY 2009-10. Of this amount, general fund sales and use tax would be reduced by $4,820,000, EIA funds by $80,000 and Homestead Exemption funds by $80,000 in FY2009-10. In the second and third years, sales and use tax would be reduced by an additional $4,740,000 in FY2010-11 and FY2011-12, respectively. Of this amount, general fund sales and use tax would be reduced by $4,660,000, EIA funds by $40,000 and Homestead Exemption funds by $40,000 in FY2010-11 and FY2011-12, respectively. general fund sales and use tax would be reduced by $4,500,000 each year in FY 2012-13 and FY 2013-14. The remainder of this fiscal impact provides a detailed analysis of the bill Sections that are expected to impact revenues. Any Sections of the bill not specifically addressed below are not expected to have an impact on state or local revenues.

**Explanation of Amendments (April 2, 2009) – By the House of Representatives**

**Section 34.** Section 34 would add an appropriately numbered item to Section 12-37-220 to exempt all property used in the operation of a facility with a capital investment of twenty million dollars or more at a single site that is owned by an organization that qualifies as a tax exempt organization pursuant to Internal Revenue Code Section 501(c)(3) when the facility is principally used for researching and testing the impact of natural hazards such as wind, fire, water, earthquake, and hail on building materials used in residential, commercial, and agricultural buildings. There is at least one entity that has announced it is proceeding on a project in Chester County South Carolina that will qualify for this property tax exemption. According to the entity’s website, the facility expects to invest $25,000,000 for a research campus facility and an additional $15,000,000 to cover maintenance, repairs, and to help defray annual infrastructure-related costs, such as access to power. When fully operational, the project expects to employ approximately twenty employees. Chester County has already exempted this entity from 85% of its property taxes through a special source revenue credit for the first ten years. Since most of these entities property taxes are already exempt, this Section is not expected to negatively impact local property tax revenues.

**Section 37**. This section would add item (b) to §12-37-220 (B) (33) that would exempt all personal property, including aircraft, owned by a company owning aircraft meeting the requirements of Section 55-11-500(a)(3)(i) without regard to the other requirements of Section 55-11-500. An aircraft qualifying for the exemption allowed by this subitem may not be used by the operator of the aircraft as the basis for an exemption pursuant to subitem (a) of this item. Section 55-11-500 relates to air carrier hub terminal facilities. Section 55-11-500 (a)(3)(i) states the specially equipped planes are used for the transportation of specialized cargo. There is at least one entity in the State that would qualify for this property tax exemption. Conversations with the Department of Revenue revealed that the Hub exemption has not been used very often and they have only received one request regarding the specialized cargo provision to date. DOR informed us they would construe the specialized cargo provision very strictly but without a clear definition of specially equipped and specialized cargo it may be difficult to narrow the scope of this exemption Statewide. Since all personal property is exempted by this bill and there is no definition of specialized cargo, local property tax revenues could be effected depending on which entities qualify for this exemption.

**Section 38**. This amendment would add Section 4-1-180 to allow counties that create a multicounty business park to designate a portion or that entire park as a designated economic development site for “extraordinary commercial facilities” to be reimbursed sales tax revenue collected from retail sales within facilities located at a multicounty business park. The reimbursement rate would equal three-fourths of the total sales tax revenue collected in the designated economic development site. The sales tax revenue would be transferred from the General Fund of the State and allocated to the counties in a multicounty business park agreement pursuant to Section 4-1-170 and Section 13 of Article VIII of the Constitution of this State. Only sales tax revenue collected pursuant to Section 12-36-2620(1), the first four pennies of sales tax revenue, is transferred back to the counties. The collection of the EIA penny, pursuant to Section 12-36-2620(2), and the Homestead Exemption Fund penny, pursuant to Section 12-36-1110, is not affected by this amendment. To qualify as a designated economic development site, the commercial facility must meet the following conditions: the extraordinary commercial facility must have capital investment of at least $100,000,000; there must be at least 1,000 new jobs at the time the facility is initially staffed; and the facility must generate at least $6,000,000 in total sales tax receipts each year. The qualified capital investment must either be placed in service, or have a certificate of occupancy issued, after July 1, 2009. The qualified new jobs must be created at the time the facility is initially staffed. If at any time the number of jobs falls below an average of 500 jobs for the most recent four quarters, the receipt of payments shall be suspended until the next filing of an annual report that shows the average of 500 jobs during the next reporting period. Based upon the qualifications of a designated economic development site in a multicounty business park, multiplying $6,000,000 by 0.75 yields a reduction in general fund sales and use tax revenue of an estimated $4,500,000 in FY2009-10, and each fiscal year through FY2013-14. The provisions of Section 4-1-180 expire five years from the effective date of this section.

**Explanation of Amendments (March 26, 2009) – By the House Ways and Means Committee**

Amendment #1 would add an appropriately numbered item to Section 12-36-2120 to exempt sales and use tax on the purchase of machinery and equipment, including lighting, filming and computer equipment, building and other raw materials used in test specimens, and electricity and electrical transformers and substations purchased for use in the operation of a facility placed in service after July 2, 2009. The non-profit facility would be used principally for the researching and testing of the impact of natural disasters such as wind, fire, water, earthquake, and hail on building materials and construction methods used in residential, commercial and agricultural buildings. To qualify for the sales and use tax exemption, the non-profit organization must invest at least $20,000,000 in real or personal property in this state over a three year period. There is at least one entity that has announced it is proceeding on a project in South Carolina that will qualify for this sale tax exemption. The project will focus its research on mitigating insurance losses due to catastrophic events by testing the effects of the natural hazards of wind, fire, flood, earthquake, and hail on architectural models. According to the entity’s website, the facility expects to invest $25,000,000 for a research campus facility and an additional $15,000,000 to cover maintenance, repairs, and to help defray annual infrastructure-related costs, such as access to power. When fully operational, the project expects to employ approximately twenty employees. We expect that one-half of the $40,000,000 investment will occur in the first year of operation with the remaining investment equally divided between the subsequent two years. Based upon the Board of Economic Advisors’ cost-benefit model methodology, capital investment project expenditures typically are divided as 60 percent for labor expenses and 40 percent for materials and equipment expenditures. Multiplying a capital investment of $20,000,000 in the first year by 40 percent and applying a sales and use tax rate of six percent yields an estimated $480,000 in FY2009-10 in sales and use taxes that would be collected from this project in the absence of this amendment. Of this amount, general fund sales and use tax would be reduced by $320,000, EIA funds by $80,000 and Homestead Exemption funds by $80,000 in FY2009-10. In the second and third years, sales and use tax would be reduced by an additional $240,000 in FY2010-11 and FY2011-12, respectively. Of this amount, general fund sales and use tax would be reduced by $160,000, EIA funds by $40,000 and Homestead Exemption Funds by $40,000 in FY2010-11 and FY2011-12, respectively.

**Explanation of the Bill filed March 24, 2009**

This bill is not expected to impact state or local revenues.

*Approved By:*

William C. Gillespie

Board of Economic Advisors

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

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑6‑1145 SO AS TO PROVIDE FOR DETERMINATION OF TREATMENT OF GAINS AND LOSSES APPORTIONED TO THIS STATE BY THE INTERNAL REVENUE CODE STANDARDS; BY ADDING SECTION 12‑36‑2575 SO AS TO PROVIDE FOR FILING OF A RETURN FOR EACH SALES OR USE TAX LIABILITY PERIOD EVEN IF NO TAX LIABILITY ACCRUES FOR THAT PERIOD; TO AMEND SECTION 12‑4‑320, AS AMENDED, RELATING TO POWERS AND DUTIES OF THE DEPARTMENT OF REVENUE, SO AS TO PROVIDE FOR ADOPTION OF FEDERAL RELIEF FOR CERTAIN ADVERSELY AFFECTED TAXPAYERS; TO AMEND SECTION 12‑6‑590, AS AMENDED, RELATING TO TREATMENT OF “S” CORPORATIONS FOR TAX PURPOSES, SO AS TO INCLUDE ADDITIONAL REFERENCES TO THE INTERNAL REVENUE CODE FOR SIMILAR STATE TREATMENT; TO AMEND SECTION 12‑6‑2250, AS AMENDED, RELATING TO THE APPORTIONMENT OF INCOME DERIVED BY A TAXPAYER TO THE TAXPAYER’S CONDUCT OF BUSINESS IN THIS STATE, SO AS TO CHANGE THE WORD “ALLOCATED” TO “APPORTIONED”; TO AMEND SECTION 12‑6‑2295, RELATING TO INCLUSIONS AND EXCLUSIONS IN CONNECTION WITH THE TERMS “SALES” AND “GROSS RECEIPTS” AS USED IN THE APPORTIONMENT OF INCOME TO THIS STATE FOR STATE INCOME TAX PURPOSES, SO AS TO FURTHER SPECIFY RENTAL AND SALES INCOME FROM TANGIBLE AND INTANGIBLE, REAL AND PERSONAL PROPERTY IN THE ORDINARY COURSE OF THE TAXPAYER’S TRADE OR BUSINESS; TO AMEND SECTION 12‑6‑3360, AS AMENDED, RELATING TO THE JOB TAX CREDIT AGAINST THE STATE INCOME TAX, SO AS TO DELETE A REFERENCE TO GENERAL CONTRACTORS IN CONNECTION WITH THE TERM “CORPORATE OFFICE”; TO AMEND SECTION 12‑6‑3376, RELATING TO A CREDIT AGAINST THE STATE INCOME TAX FOR THE PURCHASE OR LEASE OF A PLUG‑IN HYBRID VEHICLE, SO AS TO REQUIRE THAT THE CREDIT BE THE FIRST CLAIMED FOR THAT VEHICLE, TO PROVIDE FOR REGULATIONS PROMULGATED BY THE STATE ENERGY OFFICE, TO FURTHER PROVIDE FOR CLAIMING THE CAPPED CREDIT, AND TO PROVIDE FOR THE EFFECT OF A REPEAL OF THE CAPS ON THE CREDIT; TO AMEND SECTION 12‑6‑3377, RELATING TO THE ALTERNATIVE MOTOR VEHICLE FUEL CREDIT AGAINST THE STATE INCOME TAX, SO AS TO FURTHER PROVIDE FOR THE CALCULATION OF THE CREDIT FOR BUSINESS USE AND TO DELETE A PROVISION DEEMING THE FEDERAL TAX TREATMENT OF THE ALTERNATIVE FUEL CREDIT TO BE PERMANENT; TO AMEND SECTION 12‑6‑3535, AS AMENDED, RELATING TO A CREDIT AGAINST THE STATE INCOME TAX FOR REHABILITATION OF A HISTORIC STRUCTURE, SO AS TO INCLUDE A CREDIT AGAINST THE CORPORATE LICENSE FEES; TO AMEND SECTION 12‑6‑3550, AS AMENDED, RELATING TO THE VOLUNTARY CLEANUP INCOME TAX CREDIT, SO AS TO CLARIFY THAT THE CREDIT IS ONE AGAINST THE STATE INCOME TAX; TO AMEND SECTION 12‑6‑3585, AS AMENDED, RELATING TO THE INDUSTRY PARTNERSHIP FUND CREDIT AGAINST STATE TAXES, SO AS TO ALLOW THE CREDIT TO BE USED AGAINST THE TAXPAYER’S APPLICABLE STATE INCOME TAX, BANK TAX, INSURANCE PREMIUM TAX, OR LICENSE FEE LIABILITY; TO AMEND SECTION 12‑6‑3610, AS AMENDED, RELATING TO INCOME TAX CREDIT FOR PROPERTY USED FOR DISTRIBUTION OR DISPENSING OF RENEWABLE FUEL, SO AS TO DELETE CERTAIN TRANSITIONAL PROVISIONS; TO AMEND SECTION 12‑6‑3630, RELATING TO A CREDIT AGAINST CERTAIN STATE TAXES FOR A CONTRIBUTION TO THE SOUTH CAROLINA HYDROGEN INFRASTRUCTURE DEVELOPMENT FUND, SO AS TO FURTHER PROVIDE FOR CLAIMING THE CREDIT; TO AMEND SECTION 12‑8‑1530, RELATING TO QUARTERLY RETURNS OF WITHHELD TAX, SO AS TO REQUIRE RETURNS EVEN IN PERIODS WHEN NO TAX HAS BEEN WITHHELD; TO AMEND SECTION 12‑8‑1550, RELATING TO STATEMENTS REQUIRED TO BE FILED WITH THE DEPARTMENT OF REVENUE, SO AS TO PROVIDE FOR PRESCRIPTION BY THE DEPARTMENT OF EITHER ELECTRONIC OR MAGNETIC MEDIA METHOD FOR SUBMISSION OF CERTAIN INFORMATION; TO AMEND SECTION 12‑10‑80, AS AMENDED, RELATING TO THE JOB DEVELOPMENT TAX CREDIT, SO AS TO MAKE TECHNICAL CORRECTIONS AND ADD A CROSS REFERENCE; TO AMEND SECTION 12‑20‑100, RELATING TO LICENSE TAX ON UTILITIES AND ELECTRIC COOPERATIVES, SO AS TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 12‑21‑2575, RELATING TO METHODS OF ACCOUNTING FOR ADMISSIONS OTHER THAN TICKETS, SO AS TO PROVIDE THAT THE TICKETS BE COLLECTED AND RETAINED TO ACCOUNT FOR ADMISSIONS; TO AMEND SECTION 12‑36‑910, AS AMENDED, RELATING TO THE FIVE PERCENT SALES TAX ON THE PROCEEDS OF THE SALE OF TANGIBLE PERSONAL PROPERTY, SO AS TO DELETE A REDUNDANCY AS TO THE TAX ON PROCEEDS FROM THE SALE OF A WARRANTY, MAINTENANCE, OR SIMILAR CONTRACT FOR TANGIBLE PERSONAL PROPERTY; TO AMEND SECTION 12‑36‑2120, AS AMENDED, RELATING TO EXEMPTIONS FROM THE STATE’S SALES TAX, SO AS TO SPECIFY NOTIFICATION REQUIREMENTS FOR CLAIMING THE EXEMPTION ON THE CONSTRUCTION MATERIALS USED IN CERTAIN SINGLE MANUFACTURING AND DISTRIBUTION FACILITIES AND TO PROVIDE FOR ASSESSMENT OF ANY TAX DUE, TO SPECIFY THAT THE EXEMPTION IN CONNECTION WITH THE SALE OF CURRENCY APPLIES TO CURRENCY THAT IS LEGAL TENDER, AND TO CLARIFY THE EXEMPTION AS TO DURABLE MEDICAL EQUIPMENT AND RELATED SUPPLIES; TO AMEND SECTION 12‑37‑90, RELATING TO DUTIES OF A FULL‑TIME COUNTY ASSESSOR, SO AS TO DELETE THE AUTHORITY OF THE DEPARTMENT OF REVENUE TO ALTER A VALUE OF REAL PROPERTY AS SET BY THE ASSESSOR; TO AMEND SECTION 12‑37‑220, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO PROVIDE FOR EXEMPTION OF THE REAL PROPERTY OF DEFINED TAX EXEMPT ORGANIZATIONS AND TO CORRECT A CROSS REFERENCE; TO AMEND SECTION 12‑44‑30, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO CORRECT A CROSS REFERENCE IN THE DEFINITION OF “SPONSOR”; TO AMEND SECTION 12‑54‑70, AS AMENDED, RELATING TO EXTENSION OF TIME FOR FILING RETURNS OR PAYING TAX, SO AS TO FURTHER DEFINE THE LENGTH OF THE EXTENSION; TO AMEND SECTION 12‑54‑85, AS AMENDED, RELATING TO TIME LIMITATION FOR ASSESSMENT OF TAXES OR FEES BY THE DEPARTMENT OF REVENUE, SO AS TO PROVIDE FOR THE INSTANCE OF A TAXPAYER LACKING A VALID BUSINESS PURPOSE; TO AMEND SECTION 12‑54‑240, AS AMENDED, RELATING TO DISCLOSURE OF RECORDS AND REPORTS FILED WITH THE DEPARTMENT OF REVENUE, SO AS TO REQUIRE THAT THE DISCLOSURE MUST BE WILFUL TO GIVE RISE TO THE PENALTIES; TO AMEND SECTION 12‑63‑20, AS AMENDED, RELATING TO THE ENERGY FREEDOM AND RURAL DEVELOPMENT ACT, SO AS TO DEFINE “BIODIESEL” FOR THAT PURPOSE; TO AMEND SECTION 30‑2‑320, RELATING TO DISCLOSURE OF IDENTIFYING INFORMATION IN CONNECTION WITH PUBLIC RECORDS, AND SECTION 37‑20‑180, RELATING TO DISCLOSURE OF IDENTIFYING INFORMATION IN CONNECTION WITH PUBLICATION OF A SOCIAL SECURITY NUMBER, BOTH SO AS TO ALLOW DISCLOSURE BY AND TO THE DEPARTMENT OF REVENUE FOR THE PURPOSE OF CARRYING OUT ITS DUTIES AND RESPONSIBILITIES; TO AMEND SECTION 44‑43‑1360, AS AMENDED, RELATING TO ADMINISTRATION OF DONATE LIFE SOUTH CAROLINA, SO AS TO CORRECT A CROSS REFERENCE; AND TO REPEAL SECTION 12‑20‑175, RELATING TO REDUCTION OF LICENSE FEES DUE TO TAX CREDITS AND SECTION 12‑36‑30, RELATING TO THE DEFINITION OF “PERSON” FOR PURPOSES OF THE SALES AND USE TAX.

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

SECTION 1.A. Article 9, Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12‑6‑1145. The determination of whether gains and losses are treated as ordinary or capital under Internal Revenue Code Section 1231 for federal income tax purposes will determine whether the Section 1231 gains and losses allocated or apportioned to South Carolina will be treated as long term capital gains and losses, or ordinary gains and losses.”

B. This section takes effect upon approval by the Governor and applies to tax years beginning after December 31, 2008.

SECTION 2. Article 25, Chapter 36, Title 12 of the 1976 Code is amended by adding:

“Section 12‑36‑2575. (A) A person who has been issued a retail license pursuant to Section 12‑36‑510 shall file a return for each filing period as required pursuant to this article even if the person does not have a sales or use tax liability or use tax remittance responsibility for a filing period. For a filing period in which the person does not have a sales or use tax liability or use tax remittance responsibility, the return still must be completed in its entirety as required in Section 12‑36‑2570(B).

(B) A person liable for the use tax pursuant to Section 12‑36‑1330(A) who has obtained a Purchaser’s Certificate of Registration from the department must file a return for each filing period as required pursuant to this article even if the person does not have a use tax liability for a filing period. For a filing period in which the person does not have a use tax liability, the return still must be completed in its entirety as required in Section 12‑36‑2570(B).”

SECTION 3. Section 12‑4‑320(6) of the 1976 Code is amended to read:

“(6) for damage caused by war, terrorist act, or natural disaster or service ~~with the United States armed forces or national guard~~ in or near a hazard duty zone, extend the date for filing returns, payments of taxes, collection of taxes, and conducting audits, and waive interest and penalties. The department, in its discretion, automatically may adopt federal special filing and tax payment relief provisions allowed for adversely affected taxpayers.”

SECTION 4.A. Section 12‑6‑590 of the 1976 Code, as last amended by Act 116 of 2007, is further amended by adding at the end:

“(C) If Internal Revenue Code Section 1374 (Tax Imposed on Certain Built‑In Gains and Capital Gains) or 1375 (Tax Imposed on Certain Passive Investment Income) imposes a federal income tax, a South Carolina tax is similarly imposed using the rates set forth in Section 12‑6‑530. If the exception in Internal Revenue Code Section 1374(c) is effective for federal tax purposes, then this exception is applicable for South Carolina income tax purposes.”

B. This section takes effect upon approval by the Governor and applies to tax years after 2006.

SECTION 5.A. Section 12‑6‑2250(B) of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

“(B) For taxable years beginning in 2007 through 2010 only, a taxpayer in subsection (A) shall apportion income by using the method provided in Section 12‑6‑2250(A) and, if applicable, the method provided in Section 12‑6‑2252. If the calculation permitted in Section 12‑6‑2252 results in a reduction in income ~~allocated~~ apportioned to this State, the reduction is allowed as follows:

Taxable year beginning in: Percentage of reduction allowed:

2007 20

2008 40

2009 60

2010 80~~.~~”

B. This section takes effect upon approval by the Governor and applies for tax years beginning after 2006.

SECTION 6.A. Section 12‑6‑2295(A) of the 1976 Code, as added by Act 116 of 2007, is amended to read:

“(A) The terms ‘sales’ as used in Section 12‑6‑2280 and ‘gross receipts’ as used in Section 12‑6‑2290 include, but are not limited to, the following items if they have not been separately allocated:

(1) receipts from the sale or rental of tangible real or personal property maintained for sale or rental to customers in the ordinary course of the taxpayer’s trade or business including inventory;

(2) ~~receipts from the sale of accounts receivable acquired in the ordinary course of trade or business for services rendered or from the sale or rental of property maintained for sale or rental to customers in the ordinary course of the taxpayer’s trade or business if the accounts receivable were created by the taxpayer or a related party. For purposes of this item, a related person includes a person that bears a relationship to the taxpayer as described in Section 267 of the Internal Revenue Code;~~

~~(3)~~ receipts from the use of intangible property ~~in this State~~ including, but not limited to, royalties from patents, copyrights, trademarks, and trade names;

~~(4)~~(3) net gain from the sale of tangible personal property or intangible property used in the trade or business unless otherwise provided in item (1) or (4)~~.~~ ~~For purposes of this subsection, property used in the trade or business means property subject to the allowance for depreciation, real property used in the trade or business, and intangible property used in the trade or business which is:~~

~~(a)~~ ~~not property of a kind that properly would be includible in inventory of the business if on hand at the close of the taxable year; or~~

~~(b)~~ ~~held by the business primarily for sale to customers in the ordinary course of the trade or business~~;

(4) net gains from the sale of accounts receivable, loans, or other intangible property held for sale in the ordinary course of the taxpayer’s trade or business;

(5) receipts from services ~~if the entire income‑producing activity is within this State. If the income‑producing activity is performed partly within and partly without this State, sales are attributable to this State to the extent the income‑producing activity is performed within this State~~;

(6) receipts from the sale of intangible property which are unable to be attributed to any particular state or states are excluded from the numerator and denominator of the factor.”

B. This section takes effect upon approval by the Governor and applies to tax years beginning after December 31, 2008.

SECTION 7.A. Section 12‑6‑3360(A) of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

“(A) Taxpayers that operate manufacturing, tourism, processing, warehousing, distribution, research and development, corporate office, qualifying service‑related facilities, extraordinary retail establishment, 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.~~ 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. This section takes effect upon approval by the Governor and applies to tax years beginning after December 31, 2005.

SECTION 8.A. Section 12‑6‑3376 of the 1976 Code, as added by Act 83 of 2007, is amended to read:

“Section 12‑6‑3376. (A) For taxable years beginning after 2007, and before 2011, a taxpayer is allowed a tax credit against the income tax imposed pursuant to this chapter for the in‑state purchase or lease of a plug‑in hybrid vehicle. The purchase or lease must be the first purchase or lease of the vehicle to qualify for the credit allowed by this section.

(B) A plug‑in hybrid vehicle is a vehicle that shares the same benefits as an internal combustion and electric engine with an all‑electric range of no less than nine miles. The credit is equal to two thousand dollars. The credit allowed by this section is nonrefundable and if the amount of the credit exceeds the taxpayer’s liability for the applicable taxable year, any unused credit may be carried forward for five years.

(C) The State Energy Office may promulgate regulations addressing qualifying vehicles, qualifying leases of those vehicles, and the application process for claiming credits pursuant to this section.

~~(B)~~(D) Notwithstanding the credit amount allowed pursuant to this section, for a ~~fiscal~~ calendar year all claims made pursuant to this section must not exceed two hundred thousand dollars and must apply proportionately to all eligible claimants. To obtain the amount of capped credit available to a taxpayer, each taxpayer must submit a request for credit to the State Energy Office on a form prescribed by the State Energy Office. The form must be submitted by January thirty‑first for vehicles purchased in the previous calendar year and the State Energy Office must notify the taxpayer of the amount of credit allocated to that taxpayer by March first of that year. A taxpayer may claim the capped credit for its taxable year which contains the December thirty‑first of the previous calendar year. The department may require a copy of the form issued by the State Energy Office be attached to the return or otherwise provided.”

B. or the state’s fiscal year beginning July 1, 2008, the capped credit is to be determined based on an eighteen‑month period beginning July 1, 2008, through December 31, 2009. Applications must be made by January 31, 2010, for the previous eighteen‑month period commencing July 1, 2008, and ending December 31, 2009. A taxpayer allocated a credit for this eighteen‑month period may claim the credit for its tax year that contains December 31, 2009.

C. To the extent the caps on the credit contained in this section are repealed in legislation enacted before or after this section, the elimination of those caps must be seen as the last expression of the legislature and to the extent any language in this section conflicts with that repeal, it must be considered null and void.

SECTION 9. Section 12‑6‑3377 of the 1976 Code, as added by Act 312 of 2006, is amended to read:

“Section 12‑6‑3377. (A) A South Carolina resident taxpayer who is eligible for ~~and claims~~ the new qualified fuel cell motor vehicle credit, the new advanced lean burn technology motor vehicle credit, the new qualified hybrid motor vehicle credit based on the combined city/highway metric or standard set by federal Internal Revenue Code Section 30B, and the new qualified alternative fuel motor vehicle credit allowed pursuant to Internal Revenue Code Section 30B is allowed a credit against the income taxes imposed pursuant to this chapter in an amount equal to twenty percent of ~~that~~ the federal income tax credit, without consideration of limitations on the amount of the federal credit allowable that result from the federal alternative minimum tax. For credits associated with business use of the vehicle, the credit must be calculated without consideration of reductions in the credit that result from being part of the general business credit in Internal Revenue Code Section 38. The credit allowed by this section is nonrefundable and if the amount of the credit exceeds the taxpayer’s liability for the applicable taxable year, any unused credit may be carried forward and claimed in the five succeeding taxable years.

(B) The credit amount allowed by this section must be calculated without regard to the phaseout period limits of Internal Revenue Code Section 30B(f) ~~and for purposes of the credits allowed pursuant to this section, the provisions of Internal Revenue Code Section 30B are deemed permanent law~~.”

SECTION 10.A. Section 12‑6‑3535(A) of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

“(A) A taxpayer who is allowed a federal income tax credit pursuant to Section 47 of the Internal Revenue Code for making qualified rehabilitation expenditures for a certified historic structure located in this State is allowed to claim a credit against income taxes and corporate license fees imposed by Chapter 20 of this title. For the purposes of this section, ‘qualified rehabilitation expenditures’ and ‘certified historic structure’ are defined as provided in the Internal Revenue Code Section 47 and the applicable treasury regulations. The amount of the credit is ten percent of the expenditures that qualify for the federal credit. To claim the credit allowed by this subsection, a taxpayer filing a paper return must attach a copy of the section of the federal income tax return showing the credit claimed, along with other information that the Department of Revenue determines is necessary for the calculation of the credit provided by this subsection.”

B. This section takes effect upon approval by the Governor and applies to tax years beginning after 2007.

SECTION 11.A. Section 12‑6‑3550(A) of the 1976 Code, as last amended by Act 342 of 2008, is further amended to read:

“(A) A taxpayer is allowed a credit against income taxes due pursuant to this chapter for costs of voluntary cleanup activity by a nonresponsible party pursuant to Article 7, Chapter 56, ~~of~~ Title 44, the Brownfields/Voluntary Cleanup Program, in the manner provided in this section.”

B. This section takes effect upon approval by the Governor, and applies to a party to a voluntary cleanup contract entered into pursuant to Section 44‑56‑750 after June 10, 2008.

SECTION 12.A. Section 12‑6‑3585(C) of the 1976 Code, as last amended by Act 116 of 2007, and (E) as added by Act 319 of 2006, is amended to read:

“(C) The use of the credit is limited to the taxpayer’s applicable income, bank, or premium tax or license fee liability for the tax year of the taxpayer after the application of all other credits. An unused credit may be carried forward ten tax years of the taxpayer after the end of the tax year of the taxpayer during which the qualified contribution was made.

(E) ‘Taxpayer’ means an individual, corporation, partnership, trust, bank, insurance company, or other entity having a state income, bank, or insurance premium tax or license fee liability who has made a qualified contribution.”

B. This section takes effect upon approval by the Governor and is effective for tax years beginning after December 31, 2005.

SECTION 13. Section 12‑6‑3630 of the 1976 Code, as added by Act 83 of 2007, is amended to read:

“Section 12‑6‑3630. (A) For taxable years beginning after 2007, and before 2012, a taxpayer is allowed a credit against the income tax imposed pursuant to Chapter 6 ~~or~~ of this title, bank tax imposed pursuant to Chapter 11 of this title, license fees imposed pursuant to Chapter 20 of this title, or insurance premium tax imposed pursuant to Chapter 7, Title 38, or a combination of them, for a qualified contribution made by a taxpayer to the South Carolina Hydrogen Infrastructure Development Fund established pursuant to Chapter 46, Title 11. A contribution is not a qualified contribution if it is subject to a condition or limitation regarding the use of the contribution.

(B) The credit is equal to twenty‑five percent of a qualified contribution made by a taxpayer to the fund. The credit must be claimed in the year in which the qualified contribution is made. The credit must be used against the taxpayer’s ~~liability on~~ income ~~taxes~~ tax, bank tax, premium insurance ~~taxes~~ tax, or license ~~fees~~ fee liability after the application of all other credits applicable to the taxpayer’s tax liability. Unused credits may be carried forward for ten years ~~after the tax year in which a qualified contribution was made~~. The credit is nonrefundable.

(C) A taxpayer who claims a credit for a qualified contribution pursuant to this section may not claim a deduction for the same qualified contribution.

(D) ~~A taxpayer who claims a credit pursuant to this section must attach to his tax return a copy of a form provided by the authority identifying the taxpayer’s qualified contribution.~~ The department may require that a copy of the form identifying the taxpayer’s qualified contribution be attached to the taxpayer’s return or otherwise provided. The ~~Department of Revenue~~ department may require from the taxpayer additional information identifying the taxpayer’s qualified contribution as it considers appropriate.”

SECTION 14. Section 12‑8‑1530(A) of the 1976 Code is amended to read:

“(A) A withholding agent shall file a quarterly return in a form prescribed by the department indicating the total amount withheld pursuant to this chapter during the calendar quarter. ~~The~~Unless the withholding agent has complied with the provisions of subsection (B), a return must be filed ~~even in quarters when no income tax has been withheld~~for every period even if no income tax has been withheld. The return must be filed on or before dates required for filing federal quarterly withholding returns specified in Internal Revenue Code Section 6071 and Internal Revenue Code Regulation Section 31.6071(a)(1), except the fourth quarter return. The fourth quarter return is due on or before the last day of February following the calendar year of the withholding.”

SECTION 15. Section 12‑8‑1550(C) of the 1976 Code is amended to read:

“(C) Where essentially the same information required to be submitted by Section 12‑8‑1540 is required to be submitted to ~~the Internal Revenue Service~~a federal agency on magnetic media, ~~the same method must be used for purposes of this section~~or by other electronic means, the department may prescribe either an electronic or magnetic media method for submitting this information.”

SECTION 16.A. Section 12‑10‑80(C)(3)(f) of the 1976 Code, as last amended by Act 313 of 2008, is further amended to read:

“(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;”

B. Section 12‑10‑80(J) of the 1976 Code, as added by Act 313 of 2008, is amended to read:

“(J) Where the qualifying business that creates new jobs under this ~~section~~chapter is a qualifying service‑related facility as defined in Section 12‑6‑3360(M)(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~~any monthly average described in Section 12‑6‑3360.”

SECTION 17. Section 12‑20‑100(A)(1) of the 1976 Code is amended to read:

“(1) one dollar for each thousand dollars, or fraction of a thousand dollars, of fair market value of property owned and used within this State in the conduct of business as determined ~~by the department~~for property tax purposes for the preceding taxable year; and”

SECTION 18. Section 12‑21‑2575 of the 1976 Code is amended to read:

“Section 12‑21‑2575. ~~In lieu~~Instead of the issuance of tickets to be collected and retained as provided for in this article, the department may authorize or approve other methods of accounting for paid admissions.”

SECTION 19. Section 12‑36‑910(B)(6) and (7) of the 1976 Code, as added by Act 161 of 2005 and Act 386 of 2006, respectively, are amended to read:

“(6) ~~gross proceeds accruing or proceeding from the sale or renewal of warranty, maintenance, or similar service contracts for tangible property, whether or not such contracts are purchased in conjunction with the sale of tangible personal property.~~

~~(7)~~ gross proceeds accruing or proceeding from the sale or renewal of warranty, maintenance, or similar service contracts for tangible personal property, whether or not the contracts are purchased in conjunction with the sale of tangible personal property.”

SECTION 20.A. Section 12‑36‑2120(67) of the 1976 Code, as last amended by Act 116 of 2007, is amended to read:

“(67) effective July 1, 2011, construction materials used in the construction of a new or expanded single manufacturing or distribution facility, or one that serves both purposes, with a capital investment of at least one hundred million in real and personal property at a single site in the State over an eighteen‑month period. The taxpayer must provide notice of the exemption, and the Department of Revenue may assess taxes owing in the manner provided in Section 12‑36‑2120(51). To qualify for this exemption, the taxpayer shall notify the department before the first month it uses the exemption and shall make the required investment over the eighteen‑month period beginning on the date provided by the taxpayer to the department in its notices. The taxpayer shall notify the department in writing that it has met the investment requirement or, after the expiration of the eighteen‑month period, that it has not met the investment requirement. The department may assess any tax due on construction materials purchased tax‑free pursuant to this item but due the State as a result of the taxpayer’s failure to meet the investment requirement. The running of the periods of limitations for assessment of taxes provided in Section 12‑54‑85 is suspended for the time period beginning with notice to the department before the taxpayer uses the exemption and ending with notice to the department that the taxpayer either has met or has not met the investment requirement.”

B. Notwithstanding the sales and use rates imposed pursuant to Chapter 36, Title 12 of the 1976 Code, the rate of tax imposed pursuant to that chapter on the gross proceeds of qualifying construction materials used in the construction of a single manufacturing or distribution facility, as provided in item (67), is four percent for sales from July 1, 2007, through June 30, 2008, three percent for sales from July 1, 2008, through June 30, 2009, two percent for sales from July 1, 2009, through June 30, 2010, and one percent for sales from July 1, 2010, through June 30, 2011.

C. Section 12‑36‑2120(70) of the 1976 Code, as added by Act 34 of 2007, is amended to read:

“(70)(a) gold, silver, or platinum bullion, or any combination of this bullion;

(b) coins that are or have been legal tender in the United States or other jurisdiction; and

(c) currency that is or has been legal tender in the United States or other jurisdiction.

~~The department shall prescribe documentation that must be maintained by retailers claiming the exemption allowed by this item. This~~ Sufficient documentation must be ~~sufficient~~ maintained by the retailer to identify each individual sale for which the exemption is claimed.”

D. Section 12‑36‑2120(74) of the 1976 Code, as added by Act 99 of 2007, is amended to read:

“(74) durable medical equipment and related supplies:

(a) as defined under federal and state Medicaid and Medicare laws; and

(b) which is paid directly by funds of this State or the United States under the Medicaid or Medicare programs, where state or federal law or regulation authorizing the payment prohibits the payment of the ~~sale~~ sales or use tax~~; and~~

~~(c)~~ ~~sold by a provider who holds a South Carolina retail sales license and whose principal place of business is located in this State~~.”

E. This section takes effect July 1, 2007.

SECTION 21. Subsection (h) of the second undesignated paragraph in Section 12‑37‑90 of the 1976 Code is amended to read:

“(h) be the sole person responsible for the valuation of real property, except that required by law to be appraised and assessed by the department, and the values set by the assessor may be altered only by the assessor or by legally constituted appellate boards~~, the department,~~ or the courts;”

SECTION 22. Section 12‑37‑220(B)(16)(c) of the 1976 Code, as added by Act 352 of 2008, is amended to read:

“(c) ~~The exemption allowed pursuant to subitem (a) of this item extends to real property owned by an organization described in subitem (a) and which~~The real property of any religious, charitable, eleemosynary, educational, or literary society, corporation, or other association if that organization qualifies as a tax exempt organization pursuant to Internal Revenue Code Section 501(c)(3), ~~when~~and the ~~real~~ property is held for a future use by the organization ~~that would qualify for the exemption allowed pursuant to subitem (a) of this item~~ or held for investment by the organization in sole pursuit of the organization’s exempt purposes and, while held, this real property is not rented or leased for a purpose unrelated to the exempt purposes of the organization and the use of the real property does not inure to the benefit of any private stockholder or individual. Real property donated to the organization which receives the exemption allowed pursuant to this subitem is allowed the exemption for no more than three consecutive property tax years. If real property acquired by the organization by purchase receives the exemption allowed pursuant to this subitem and is ~~subsequently~~later sold without ever having been put to the exempt use, the exemption allowed pursuant to this subitem is ~~deemed~~ considered terminated as of December thirty‑first preceding the year of sale and the property is subject to property tax for the year of sale to which must be added a recapture amount equal to the property tax that would have been due on the real property for not more than the four preceding years in which the real property received the exemption allowed pursuant to this subitem. The recapture amount is ~~deemed~~considered property tax for all purposes for payment and collection.”

SECTION 23. Section 12‑37‑220(B)(23) of the 1976 Code is amended to read:

“(23) Notwithstanding ~~any other~~another provision of law, property ~~heretofore~~exempt from ad valorem taxation by reason of the imposition upon ~~such~~that property or the owner of ~~such~~that property of a tax other than an ad valorem tax pursuant to the provisions of Section 12‑11‑30, Section 12‑13‑50, or Section ~~12‑21‑1080~~12‑21‑1085 ~~shall continue to be entitled to such exemption~~is exempt.”

SECTION 24. Section 12‑44‑30(18) of the 1976 Code, as last amended by Act 69 of 2003, is further amended to read:

“(18) ‘Sponsor’ means one or more entities ~~which~~that sign the fee agreement with the county and ~~makes~~make 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)~~(14) 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), each sponsor or sponsor affiliate is not required to invest the minimum investment if the total investment at the project exceeds ten million dollars.”

SECTION 25. Section 12‑54‑70(a) of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

“(a) The department may allow ~~further~~an extension of time for the filing of returns or remitting of tax due required by the provisions of law administered by the department. The request for an extension must be filed with the department on or before the day the return of the tax is due. Except as otherwise provided~~in this section~~, the department may allow an extension of time ~~not to exceed~~up to six months, or if applicable, the extended time period allowed to file the taxpayer’s corresponding federal return. A tentative return is required reflecting one hundred percent of the anticipated tax to be paid for the taxable period, to be accompanied by a remittance for the tentative tax liability. Interest at the rate provided in Section 12‑54‑25, calculated from the date the tax was originally due, must be added to the balance due whenever an extension to file or to remit tax due is granted.”

SECTION 26. Section 12‑54‑85(C) of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

“(C) Taxes may be determined and assessed after the thirty‑six month limitation if:

(1) there is fraudulent intent to evade the taxes;

(2) the taxpayer failed to file a return or document as required by law;

(3) there is a twenty percent understatement of the total of all taxes required to be shown on the return or document. The taxes in this case may be assessed at any time within seventy‑two months from the date the return or document was filed or due to be filed, whichever is later. For the purpose of this item, the total of all taxes required to be shown on the return is the total of all taxes required to be shown on the return before any reduction for estimated payments, withholding payments, other prepayments, or discount allowed for timely filing of the return and payment of the tax due, but that amount must be reduced by ~~another credit~~ other credits that may be claimed on the return;

(4) the person liable for any taxes consents in writing, before the expiration of the time prescribed in this section for assessing taxes due, to the assessment of the taxes after the time prescribed by this section; or

(5) the tax is a use tax imposed under Chapter 36 of this title, or a local use tax administered and collected by the department on behalf of a local jurisdiction, and the assessment of the use tax is the result of information received from, or as a result of exchange agreements with, other state or local taxing authorities, regional or national tax administration organizations, or the federal government. The use taxes in this case may be assessed at any time within twelve months after the department receives the information, but no later than seventy‑two months after the last day the use tax may be paid without penalty.”

SECTION 27. Section 12‑54‑240(A) of the 1976 Code is amended to read:

“(A) Except in accordance with proper judicial order or as otherwise provided by law, it is unlawful for a person wilfully to divulge or make known in any manner any particulars set forth or disclosed in any report or return required ~~under~~pursuant to Chapters 6, 8, 11, 13, 16, 20, or 36 or Article 17~~of~~, Chapter 21 of this title. A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both. If the offender is an officer or an employee of the State and is convicted of a violation of this section, he must be dismissed from office and is disqualified from holding any public office in this State for a period of five years ~~thereafter~~after that. If the offender is an officer or employee of a company retained by the State on an independent contract basis ~~under~~pursuant to subsection (B)(3) of this section or pursuant to Section 12‑4‑350 and the officer or employee is convicted of a violation of this section, the contract is immediately terminated and the company is not eligible to contract with the State for this purpose for a period of five years ~~thereafter~~after that.”

SECTION 28.A. Section 30‑2‑320(6) and (7) of the 1976 Code, as added by Act 190 of 2008, is amended to read:

“(6) on a document filed in the official records of the courts; ~~and~~

(7) to an employer for employment verification or in the course of administration or provision of employee benefit programs, claims, and procedures related to employment including, but not limited to, termination from employment, retirement from employment, injuries suffered during the course of employment, and other such claims, benefits, and procedures; and

(8) by the South Carolina Department of Revenue or its agents or employees for the purposes of administering and collecting any tax, debt, or fee administered by that department and otherwise performing its duties and responsibilities.”

B. Section 37‑20‑180(B)(9) and (10) of the 1976 Code, as added by Act 190 of 2008, is amended to read:

“(9) to a recorded document in the official records of a county; ~~or~~

(10) to a document filed in the official records of the court; or

(11) to the South Carolina Department of Revenue or its agents or employees for the purposes of administering and collecting any tax, debt, or fee administered by that department and otherwise performing its duties and responsibilities.”

C. Upon approval by the Governor, this section takes effect December 31, 2008.

SECTION 29. Section 44‑43‑1360 of the 1976 Code, as last amended by Act 92 of 2007, is further amended to read:

“Section 44‑43‑1360. The board may employ a director and other staff as necessary to carry out the provisions of this article; ~~however~~except that, administration of this article may not exceed twenty percent of the total funds credited to Donate Life South Carolina, excluding the administrative fee paid to the Department of Revenue pursuant to Sections ~~12‑6‑5065~~12‑6‑5060 and 59‑1‑143.”

SECTION 30. Section 12‑20‑175 of the 1976 Code is repealed.

SECTION 31. Section 12‑36‑30 of the 1976 Code is repealed.

SECTION 32. Section 12‑36‑2120 of the 1976 Code, as amended by Act 338 of 2008, is amended by adding an appropriately numbered item to read:

“(\_\_\_) Machinery and equipment including lighting, filming and computer equipment, building and other raw materials used in test specimens, and electricity and electrical transformers and substations purchased for use in the operation of a facility placed in service on or after July 2, 2009 owned by an organization which qualifies as a tax exempt organization pursuant to the Internal Revenue Code Section 501(c)(3) when the facility is principally used for researching and testing the impact of such natural hazards as wind, fire, water, earthquake, and hail on building materials and construction methods used in residential, commercial, and agricultural buildings. To qualify for this exemption, the taxpayer shall notify the department of its intent to qualify and shall invest at least twenty million dollars in real or personal property at a single site in this State over a three‑year period beginning on the date provided by the taxpayer to the department in its notices. After the taxpayer notifies the department of its intent to qualify and use this exemption, the department shall issue an appropriate exemption certificate to the taxpayer to be used for qualifying purposes. Within six months of the third anniversary of the taxpayer’s first use of the exemption, the taxpayer shall notify the department in writing that it has met the twenty million dollar investment requirement or that it has not met the twenty million dollar investment requirement. The department may assess any tax due on the machinery and equipment and all other materials purchased tax‑free pursuant to this item but due the State as a result of the taxpayer’s failure to meet the twenty million dollar investment requirement. The running of the periods of limitations for assessment of taxes provided in Section 12‑54‑85 is suspended for the time period beginning with notice to the department before the taxpayer uses the exemption and ending with notice to the department that the taxpayer either has met or has not met the twenty million dollar investment requirement.

SECTION 33. Section 12‑2‑25(B) of the 1976 Code is amended to read:

“(B) For all South Carolina tax purposes:

(1) a single‑member limited liability company, which is not taxed for South Carolina income tax purposes as a corporation, is not regarded as an entity separate from its owner;

(2) a ‘qualified subchapter S subsidiary’, as defined in Section 1361(b)(3)(B) of the Internal Revenue Code, is not regarded as an entity separate from the “S’ corporation that owns the stock of the qualified subchapter ‘S’ subsidiary; and

(3) a grantor trust, to the extent that it is a grantor trust, is not regarded as an entity separate from its grantor.”

SECTION 34. Section 12‑37‑220 of the 1976 Code, as last amended by Act 357 of 2008, is further amended by adding an item at the end to read:

“(51) All property used in the operation of a facility with a capital investment of twenty million dollars or more at a single site that is owned by an organization that qualifies as a tax exempt organization pursuant to Internal Revenue Code Section 501(c)(3) when the facility is principally used for researching and testing the impact of natural hazards such as wind, fire, water, earthquake, and hail on building materials used in residential, commercial, and agricultural buildings.”

SECTION 35. Notwithstanding the provisions of Section 12‑43‑217 of the 1976 Code, a county otherwise scheduled to implement a countywide property tax equalization and reassessment program effective beginning for the 2009 property tax year, by ordinance may postpone that implementation for one additional year.

SECTION 36. A. Section 12‑62‑20 of the 1876 Code, as last amended by Act 359 of 2008, is further amended to read:

“Section 12‑62‑20. For purposes of this chapter:

(1) ‘Company’ means a corporation, partnership, limited liability company, or other business entity.

(2) ‘Department’ means the South Carolina Department of Parks, Recreation and Tourism.

(3) ‘Motion picture’ means a feature‑length film, video, episodic television series, or commercial made in whole or in part in South Carolina, and intended for national theatrical or television viewing or as a television pilot produced by a motion picture production company.

(a) The term ‘motion picture’ does not include the production of television coverage of news and athletic events or a production produced by a motion picture production company if records, as required by 18 U.S.C. 2257, are to be maintained by that motion picture production company with respect to any performer portrayed in that single media or multimedia program.

(b) In the case of an episodic television series, an entire season of episodes is considered one production. The rebate is computed based on all of the motion picture production company’s production expenditures incurred with respect to the production of the entire season’s episodes.

(4) ‘Motion picture production company’ means a company engaged in the business of producing motion pictures intended for a national theatrical release or for television viewing. ‘Motion picture production company’ does not mean or include a company owned, affiliated, or controlled, in whole or in part, by a company or person that is in default on a loan made by the State or a loan guaranteed by the State.

(5) ‘Payroll’ means ~~salary, wages, or other compensation subject to South Carolina income tax withholdings.~~ payment for services to individuals who are directly involved in a production filmed in South Carolina. If an individual directly involved in the filming of a production in South Carolina is represented by a personal service company, loan out company, or payroll services company, only the motion picture production company may qualify for the rebate pursuant to Section 12‑62‑50 for payments to the personal service company, loan out company, or payroll services company. For the purpose of this chapter, personal service companies, loan out companies, and payroll services companies referenced in this section are not subject to the requirements of Chapter 68 of Title 40. It does not include that portion of the payments to an individual or payments to personal service company or loan out company associated with an individual that result in the individual or company receiving more than one million dollars for a single motion picture.

(6) ‘Director’ means the director of the South Carolina Department of Parks, Recreation and Tourism, or his designee.

(7) ‘Rebate’ means money that is transferred from the department to a motion picture production company that is associated with either payroll of individuals subject to South Carolina income tax withholding or South Carolina supplier expenditures for a motion picture.”

B. Section 12‑62‑50 of the 1976 Code, as last amended by Act 359 of 2008, is further amended to read:

“Section 12‑62‑50. (A)~~(1)~~ ~~The South Carolina Film Commission may rebate to a motion picture production company a portion of the South Carolina payroll of the employment of persons subject to South Carolina income tax withholdings in connection with production of a motion picture. The rebate may not exceed fifteen percent of the total aggregate South Carolina payroll for persons subject to South Carolina income tax withholdings employed in connection with the production when total production costs in South Carolina equal or exceed one million dollars during the taxable year. The rebates in total may not annually exceed ten million dollars and shall come from the state’s general fund. For purposes of this section, “total aggregate payroll” does not include the salary of an employee whose salary is equal to or greater than one million dollars for each motion picture.~~

~~(2)(a)~~ ~~For purposes of this section, an employee is an individual directly involved in the filming or post‑production of a motion picture in South Carolina and who is an employee of a:~~

~~(i)~~ ~~motion picture production company that is directly involved in the filming or post‑production of a motion picture in South Carolina; or~~

~~(ii)~~ ~~personal service corporation retained by a motion picture production company to provide persons used directly in the filming or post‑production of a motion picture in South Carolina; or~~

~~(iii)~~ ~~payroll services or loan out company that is retained by a motion picture production company to provide employees who work directly in the filming or post‑production of a motion picture in South Carolina.~~

~~(b)~~ ~~For his wages to qualify for the rebate, the employee must be certified by the department as a qualifying employee and the employee must have had South Carolina income tax withholding withheld and remitted to the Department of Revenue by a company described in item (2)(a).~~

~~(3)~~ ~~The rebate applies with respect to an employee described in subitem (a)(ii) or (iii) only if, before commencement of filming in South Carolina, the personal services corporation, payroll services company, or loan out company is approved and certified by the department, and makes an irrevocable assignment of its rebate to the motion picture production company that produced the motion picture. The assignment must be made on a form provided by the Department of Revenue, which must include a waiver of confidentiality pursuant to Section 12‑54‑240. Upon assignment, the rebate may be paid only to the motion picture production company.~~

~~(B)(1)~~ ~~The rebate provided in subsection (A) is available to the motion picture production company at the end of all filming in South Carolina in connection with the motion picture. The motion picture production company producing the motion picture must apply to the department for a certificate of completion once filming in South Carolina is complete. The motion picture production company must provide the information the department considers necessary to determine if the one million dollar expenditure requirement has been met.~~

~~(2)~~ ~~A motion picture production company may claim the rebate by filing a request for rebate with the department once the certificate of completion is obtained. The request for rebate must be filed by the last day of February of the year following the year in which the certificate of completion is obtained. To claim the rebate, the motion picture production company and all companies described in subsection (A)(2)(a)(ii) or (iii) must be current with respect to all taxes due and owing the State at the time of filing the request for rebate. If the motion picture production company or a company described in subsection (A)(2)(a)(ii) or (iii) is not current with respect to all taxes due and owing the State, the motion picture production company is permanently barred from claiming the rebate.~~

~~(3)~~ ~~The motion picture production company must attach to its request for rebate a copy of the certificate of completion and a copy of all assignments of the rebate, if applicable.~~

~~(C)~~ ~~A motion picture production company claiming a rebate pursuant to this section, and all companies described in subsection (A)(2)(a)(ii) or (iii), must make payroll books and records available for inspection to the commission and the department at the times requested by the commission or the department. Each motion picture production company claiming the rebate, at the time of filing, must provide a report to both the commission and the department that includes the project’s name, the name of each employee that worked on the motion picture, the social security number for each employee, the dates employed, the dates the employee worked on the motion picture, a job description for each employee, the total gross wages for each employee, the South Carolina taxable wages subject to withholding for each employee, the amount of rebate attributable to that employee, and other information considered necessary by the commission or the department. The report also must contain the total amount of withholding attributable to all employees that worked on the motion picture in South Carolina.~~

~~(D)~~ ~~For purposes of this section, and as an exception to Section 12‑54‑240, a motion picture production company and a company described in subsection (A)(2)(a)(ii) or (iii) agree that the commission and the department may share or provide information concerning the request for rebate and the certificate of completion among the respective taxpayers and the respective agencies.~~ The department may return to a motion picture production company a portion of the South Carolina payroll of individuals subject to South Carolina income tax withholding incurred in connection with production of a motion picture in South Carolina in the form of a rebate to that company. The rebate may not exceed fifteen percent of the total aggregate South Carolina payroll in connection with the motion picture and is not available unless total production costs of the motion picture in South Carolina equal or exceed one million dollars within twelve months from the date the incentive application is approved by the department. Rebate funding pursuant to this section may not exceed ten million dollars annually and must come from the State’s general fund. The distribution of rebates associated with payroll may not exceed the amount available to the department.

(B)(1) For purpose of this section, only the motion picture production company may qualify for the rebate for individuals whose services are provided through any of the following entities:

(i) a motion picture production company that is directly involved in the filming or post‑production of a motion picture in South Carolina;

(ii) a personal service company retained by a motion picture production company to provide individuals used directly in the filming or post‑production of a motion picture in South Carolina; or

(iii) a payroll services or loan out company that is retained by a motion picture production company to provide individuals who work directly in the filming or post‑production of a motion picture in South Carolina.

(C)(1) The rebate provided in subsection (A) is available to the motion picture production company at the end of all filming in South Carolina in connection with the motion picture. The motion picture production company producing the motion picture must apply to the department for a certificate of completion once filming in South Carolina is complete. The motion picture production company must provide the information the department considers necessary to determine if the one million dollar expenditure requirement has been met.

(2) A motion picture production company may receive the rebate by filing a request with the department within ninety days of obtaining the certificate of completion or earlier if requested by the department in writing. To receive the rebate, the motion picture production company must be current with respect to all taxes due and owing the State at the time of filing the request for rebate. If the motion picture production company is not current with respect to taxes due and owing to the State, the motion picture production company may be permanently barred from claiming the rebate.

(3) The motion picture production company must attach to its request for rebate a copy of the certificate of completion and a copy of the assignment, if applicable.

(4) A motion picture production company claiming a rebate must make payroll books and records available for inspection to the department at the times requested by the department. Each motion picture production company claiming the rebate, at the time of filing, must provide a report to the department that includes the project’s name, the name of each individual that worked on the motion picture, the social security number for each individual, and if applicable, the EIN of any loan out company or personal service company of that individual, the date range and the number of hours the individual worked on the motion picture, a job description for each individual, the amount paid to the loan out company or personal service company representing the individual, total gross payments for each individual, the amount subject to withholding for each individual or company, the amount of rebate attributed to all individuals or companies to whom payroll is attributed, and other information considered necessary by the South Carolina Film Commission or the department.

(D) For purposes of this section, and as an exception to Section 12‑54‑240, a motion picture production company and a company described in subsection (B)(1)(i), (ii) or (iii) agree that the South Carolina Film Commission and the department may share or provide information concerning the request for rebate and the certificate of completion among the respective companies, the department and the Department of Revenue.”

C. Section 12‑62‑55 of the 1976 Code, as last amended by Act 359 of 2008, is further amended to read:

“Section 12‑62‑55. At the time the motion picture production company is certified by the department, it may make an irrevocable assignment of future payments attributable to the rebates made pursuant to Section ~~12‑62‑40~~ 12‑62‑50 or ~~12‑62‑50~~ 12‑62‑60 to a designated trustee. For purposes of this chapter, ‘designated trustee’ means the single financier or financial institution designated ~~by the council~~ to receive all assignments of payments made pursuant to this chapter and to the terms of an agreement entered into by the qualifying motion picture production company. If a qualifying motion picture production company elects to assign payments to the designated trustee, the election must be made on a form provided by the department, including a waiver of confidentiality pursuant to Section 12‑54‑240, and the payments may be paid only to the designated trustee. The qualifying motion picture production company must file ~~an application for~~ the form for assignment with the ~~director no later than thirty days after filming begins in South Carolina~~ department before applying for the rebate.”

D. Section 12‑62‑60 of the 1976 Code, as last amended by Act 359 of 2008, is further amended to read:

“Section 12‑62‑60. (A)(1) An amount equal to twenty‑six percent of the general fund portion of admissions tax collected by the State of South Carolina for the previous fiscal year must be funded annually by September first to the department for the exclusive use of the South Carolina Film Commission. The department may rebate to a motion picture production company up to fifteen percent of the expenditures made by the motion picture production company in the State if the motion picture production company has a minimum in‑state expenditure of one million dollars. The distribution of rebates may not exceed the amount annually funded to the department for the South Carolina Film Commission from the admissions tax collected by the State.

(2) This subsection does not apply to payroll paid ~~for motion picture production employees~~ to individuals subject to Section 12‑62‑50 or money paid to the companies described in Section ~~12‑62‑50(A)(2)(a)(ii) or (iii)~~ 12‑62‑50(B)(1)(i), (ii), or (iii). Unexpended funds from this source may be carried over to the next and succeeding fiscal years.

(B) Up to seven percent of the amount provided to the department in subsection (A) may be used exclusively for marketing and special events.

(C) The allocations to motion picture production companies contemplated by this chapter must be made by the department. The department may adopt rules and promulgate regulations for the application for and award of the rebate.

(D) One percent of the general fund portion of admissions tax collected by the State of South Carolina must be funded to the department for the exclusive use of the South Carolina Film Commission for the promotion of collaborative production and educational efforts between institutions of higher learning in South Carolina and motion picture related entities. The department~~, in conjunction with the South Carolina Film Commission,~~ shall adopt rules and promulgate regulations necessary to administer this section. Unexpended funds from this source may be carried over to the next and succeeding fiscal years.

(E) The department shall report annually to the chairman of the Senate Finance Committee and the chairman of the House Ways and Means Committee on the use of all funds pursuant to this section. The report is a public record pursuant to the Freedom of Information Act, Chapter 4 of Title 30, and must be posted annually on the ~~commission’s~~ South Carolina Film Commission’s web site by January first.”

E. Section 12‑62‑70(B) of the 1976 Code, as last amended by Act 359 of 2008, is further amended to read:

“(B) The State or its political subdivisions may not charge a location or facility fee for properties they own if the properties are used for seven or fewer days as a location or facility in the production of a motion picture that is approved by the department pursuant to the South Carolina Motion Picture Incentive Act. A property may be used for a total of only twenty‑one days without location or facility fees in a calendar year. The motion picture production company may be on site no longer than seven days within a thirty‑day period without a location or facility fee charge. State‑owned or political subdivision‑owned properties may recoup all costs they expend on behalf and at the direction of the motion picture production company. State‑owned or political subdivision‑owned properties also may recoup a location or facility fee, after the first seven days, not to exceed two thousand five hundred dollars a day. State‑owned or political subdivision‑owned properties also may recoup costs required to repair damage caused by the motion picture production company to real or personal property of the state agency or political subdivision. The motion picture production company shall reimburse all costs, at the property’s normal and customary rates, to the state agency or political subdivisions incurring the costs within twenty‑one calendar days of completion of production activities on site. The motion picture production company may use the publicly owned property only on the days agreed to and approved by the state agency or political subdivision.”

F. Section 12‑62‑90 of the 1976 Code, as last amended by Act 359 of 2008, is further amended to read:

“Section 12‑62‑90. The end credit roll of a motion picture that utilizes a South Carolina tax credit or rebate must recognize the State of South Carolina with the following statement: ‘Filmed in South Carolina ~~pursuant to the South Carolina Motion Picture Incentive Act~~ www.FilmSC.com’, except that the State of South Carolina reserves the right to refuse the use of South Carolina’s name in the credits of a motion picture filmed or produced in the State.”

SECTION 37. A. Section 12‑37‑220(B)(33) of the 1976 Code is amended to read:

“(33)(a) All personal property including aircraft of an air carrier which operates an air carrier hub terminal facility in this State for a period of ten consecutive years from the date of qualification, if its qualifications are maintained. An air carrier hub terminal facility is defined in Section 55‑11‑500.

(b) All personal property, including aircraft, owned by a company owning aircraft meeting the requirements of Section 55‑11‑500(a)(3)(i) without regard to the other requirements of Section 55‑11‑500. An aircraft qualifying for the exemption allowed by this subitem may not be used by the operator of the aircraft as the basis for an exemption pursuant to subitem (a) of this item.”

B. Notwithstanding the general effective date of this act, this section takes effect upon approval of this act by the Governor and applies for property tax years beginning after 2006.

SECTION 38. A. The General Assembly recognizes and finds that:

(1) the people of South Carolina are enduring extraordinary levels of unemployment and are likely to do so for the immediately foreseeable future and, further, that the national economy is undergoing changes that affect many of the businesses and industries that have traditionally provided jobs for the citizens and residents of South Carolina;

(2) there is a need for a program to provide inducements for the creation of jobs in the commercial and retail sector under conditions that will ensure: (i) significant capital investment, and (ii) the creation and maintenance of significant new employment, all under conditions that restrict the cost of funding that inducement to sources of funds related to the creation of revenues that do not exist presently;

(3) it has heretofore authorized the creation of industrial or business parks by counties to encourage and promote economic development which creation has been instrumental in the efforts of the State to attract and retain significant investment and employment;

(4) the risks of this existing and time‑tested program are minimized;

(5) by providing counties a means of funding grants to certain private entities for the purpose of defraying a portion of the cost of infrastructure related to these developments after the developments have been constructed, certain initial levels of employment have been satisfied and new sales tax revenue targets have been met and the level of investment and number of jobs required to be created before the provision of the grants is designed to avoid speculative risk and, together with demonstrated revenues, are designed to ensure that the benefit to the public in new investment and jobs will render the public the primary beneficiary of the incentive notwithstanding the incidental benefits that may be derived by the private grantees; and

(6) that the inducement authorized by this act will serve the public welfare by providing for additional employment and will serve the affected counties by additional employment and by an increase in their local tax base.

B. Chapter 1, Title 4 of the 1976 Code is amended by adding:

“Section 4‑1‑180. (A)(1) ‘Extraordinary commercial facilities’ means commercial facilities, including facilities for the retail sale of goods, in a designated economic development site that meets the initial qualifying criteria.

(2) ‘New capital investment’ means facilities that either have been placed in service, or for which a certificate of occupancy has been issued, after July 1, 2009.

(3) ‘New job’ means a job created in this State at the time a new facility is initially staffed.

(B) Counties that create a multicounty business park may designate a portion or all of that park as a designated economic development site for extraordinary commercial facilities. Initial qualifying criteria for a designated economic development site are: (i) the value of new capital investment within the designated economic development site, including the value of capital investment in all its components, regardless of how those components are owned or controlled, is not less than an aggregate amount of one hundred million dollars; (ii) there is an aggregate of not fewer than one thousand new jobs measured by number of employees; and (iii) there are total sales tax receipts at a rate of six million dollars each year, which may be based on an annualized number using the two most recent quarters.

(C) The number of new jobs may be based on a quarterly report filed with the South Carolina Employment Security Commission or the Bureau of Labor Statistics; except that a certificate based on those reports need not include copies of the reports so as to ensure the maintenance of privacy of information in the reports.

(D) The counties making a designation of an economic development site shall notify the South Carolina Department of Revenue of the boundaries of the designated site.

(E)(1) In addition to the matters specified in Section 4‑1‑170, the agreement relating to the designated economic development site may provide that an amount equal to three‑fourths of the revenues collected in the designated economic development site from sales taxes imposed pursuant to Section 12‑36‑2620(1) must be paid quarterly by the Department of Revenue from the general fund of the State to the counties and allocated in accordance with the provisions of the agreement for the qualifying period, except during a suspension period.

(2) The qualifying period must begin no earlier than the first day of the third calendar month after the counties creating a designated economic development site: (i) provide the department with a certificate satisfactory to the department that contains information that the extraordinary commercial facilities in a designated economic development site meet the initial qualifying criteria; and (ii) provide the department with a copy of the agreement specifying the percentage of funds to be remitted to the counties. The qualifying period must end at the end of the fifteenth year after the commencement of the qualifying period.

(3) To maintain receipt of payments, the counties must file with the department an annual report showing the number of employees at the site for the most recent four quarters. If the report does not show an average of five hundred jobs during the reporting period, quarterly payments must be suspended until the next annual report shows an average of five hundred jobs during that reporting period. A suspension period is the time between the two filings, and payments must not be made to the counties during the suspension period.

(4) A county that receives revenues from this source may treat those revenues in the same fashion as fees in lieu of taxes and issue special sources revenue bonds or provide for credits or payments as provided in Section 4‑1‑175.

(5) If a county uses funds to reimburse another governmental or private entity for expenditures incurred by it, the county must have a grant agreement with each recipient. Each grant agreement must contain provisions relating to the grantee’s obligation to provide jobs and require an annual certification of compliance. The grant agreement must require that, if a grantee fails to satisfy the conditions of a grant, then all future payments must be suspended until the grantee certifies compliance with the terms. Copies of all grant agreements must be provided to the department.

(f) The provisions of this section expire five years from the effective date of this section.”

SECTION 39. Unless otherwise provided herein, this act takes effect upon approval by the Governor.

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