

REPORT OF THE ECONOMIC DEVELOPMENT SUBCOMMITTEE

(Caskey, Hosey, Whitmire, Lowe, and Weeks - Staff Contact: Teesha Trapp)

HOUSE BILL 4087

H. 4087 -- Reps. G.M. Smith, West, Kirby, Ballentine, Robbins, Hewitt, M.M. Smith, Davis, Hiott, Long, Hager and Ott: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-6-3410, RELATING TO CORPORATE INCOME TAX CREDIT FOR CORPORATE HEADQUARTERS, SO AS TO PROVIDE CHANGES TO STAFFING REQUIREMENTS AND CERTAIN TIMING; BY AMENDING SECTION 12-6-3460, RELATING TO THE RECYCLING FACILITY TAX CREDIT DEFINITIONS, SO AS TO LOWER THE MINIMUM LEVEL OF INVESTMENT FOR A QUALIFIED RECYCLING FACILITY AND TO INCLUDE CERTAIN PRODUCTS TO THE DEFINITION OF "POSTCONSUMER WASTE MATERIAL"; BY AMENDING SECTIONS 12-10-20; 12-10-30, 12-10-40, 12-10-45, 12-10-50, 12-10-60, AND 12-10-80, ALL RELATING TO THE ENTERPRISE ZONE ACT OF 1995, SO AS TO ALLOW REMOTE EMPLOYEES WORKING IN SOUTH CAROLINA TO BE INCLUDED IN CERTAIN JOB CREATION REQUIREMENTS AND TO CREATE A NEW PROVISION TO INCENTIVIZE CERTAIN COMPANIES; AND BY AMENDING SECTION 12-10-95, RELATING TO THE ENTERPRISE ZONE ACT CREDIT AGAINST WITHHOLDING FOR RETRAINING, SO AS TO PROVIDE WHO IS ELIGIBLE FOR THE CREDIT AND THE AMOUNT OF THE CREDIT ALLOWED.

Received by Ways and Means:

March 7, 2023

Summary of Bill:

This bill amends the Corporate Income Tax Credit that incentivizes businesses to establish or expand their headquarter facilities in the State. The proposed changes are an effort to improve statute and make the credit available to more businesses.

This bill also lowers the minimum investment level for a qualified recycling facility to receive a recycling tax credit and updates the definition of postconsumer waste material to include additional eligible materials based on future emerging markets.

This bill includes remote employees working in South Carolina to be counted for job creation requirements; incentivizes existing industries in high-growth sectors to upskill and retrain existing employees and re-invest into their training budget; and provides other general updates to the statute.

Estimated Revenue Impact:

Reduction in General Fund Revenue of approximately \$7,070,000

Other Notes/Comments:

Received **FAVORABLE REPORT** with **AMENDMENT** from Economic Development subcommittee on March 28, 2023.

SOUTH CAROLINA
HOUSE AMENDMENT

AMENDMENT NO. _____

David Good
March 28, 2023

ADOPTED	REJECTED	TABLED	ADJOURN DEBATE	RECONSIDERED	ROO

Clerk of the House

ADOPTION NO. _____

BILL NO: H. 4087

(Reference is to the original version)

The Economic Development Subcommittee proposes the following amendment (LC-4087.DG0001H):

Amend the bill, as and if amended, SECTION 2, by striking Section 12-6-3460(3) and (4) and inserting:

(3) "Qualified recycling facility" means a facility certified as a qualified recycling facility by a duly authorized representative of the department which includes all real and personal property incorporated into or associated with the facility located or to be located within this State that will be used by the taxpayer to manufacture or fabricate products for sale composed of at least fifty percent postconsumer waste material by weight or by volume. The minimum level of investment for a qualified recycling facility must be at least ~~three~~ one hundred million dollars incurred by the end of the fifth calendar year after the year in which the taxpayer begins construction or operation

of the facility.

(4) “Postconsumer waste material” means any product generated by a business or consumer which has served its intended end use and which has been separated from the solid waste stream for the purpose of recycling and includes, but is not limited to, scrap metal and iron, and used plastics, paper, glass, batteries, solar panels, turbines and related structures, and rubber.

Amend the bill further, by adding an appropriately numbered SECTION to read:

SECTION X. Section 12-6-3360 of the S.C. Code is amended by adding:

(Q)(1) Notwithstanding any other provision of law, to recruit an eligible business to this State or to expand in this State, and subject to approval by the Joint Bond Review Committee, the Secretary of Commerce is authorized to allow an eligible business to sell, exchange, or otherwise transfer tax credits earned pursuant to this section. A tax credit or increment of a tax credit may be transferred only once. The credit may be transferred to any taxpayer. A taxpayer to whom a credit has been transferred may use the credit for the taxable year in which the transfer occurred and unused amounts may be carried forward to succeeding taxable years, but the transferred credit may not be used more than ten years after it was originally earned. With regard to the sale or exchange of a credit allowed under this section, general income tax principles apply for purposes of the state income tax.

(2) For purposes of this section, an eligible business is a business that is:

- (a) headquartered in this State; or
- (b) whose primary business is in:
 - (i) research and development;
 - (ii) the production of microchips, semiconductors, or circuit boards and other electronics components;
 - (iii) the production of pharmaceuticals, including active pharmaceutical ingredients;

- (iv) advanced manufacturing;
- (v) life sciences; or
- (vi) new, emerging, or high technologies.

Renumber sections to conform.
Amend title to conform.



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number: H. 4087 Introduced on March 7, 2023
Author: G.M. Smith
Subject: Income Tax Credits
Requestor: House Ways and Means
RFA Analyst(s): Jolliff
Impact Date: March 27, 2023

Fiscal Impact Summary

This bill amends several code sections dealing with the current corporate headquarters tax credit, tax credits for recycling facilities, and job development and retraining credits.

The Department of Revenue (DOR) and the Department of Commerce will manage the changes to these tax credits with existing staff and resources.

The bill allows a business to contract with the State Board for Technical and Comprehensive Education (Tech Board) or a technical college to assist with program administration of job retraining credits for a quarterly fee. The Tech Board responded that the number of companies that may retain these services is currently unknown. The provision would only have an impact on expenditures and revenues for the Tech Board if businesses choose to retain services. The Tech Board would charge fees to cover these additional costs.

Section 1 expands the corporate headquarters tax credit to apply to pass-through businesses and makes changes to the job and investment requirements. These changes would reduce General Fund individual income tax by \$1,782,000 and corporate income tax by \$1,780,000, for a total reduction of approximately \$3,562,000 beginning in FY 2023-24.

Section 2 amends the recycling facilities credit by lowering the investment threshold from \$300 million to \$100 million and expanding the qualifying post-consumer waste materials to include used batteries, solar panels, and turbines in addition to the current list of scrap metal and iron and used plastics, paper, glass, and rubber. The tax credit may be claimed against corporate income tax, sales or use tax, or corporate license tax, or any similar taxes. We estimate the changes will reduce General Fund corporate income or license taxes by \$654,000 per year and sales tax by \$907,000, for a total reduction of \$1,561,000 beginning in FY 2023-24.

Section 3 makes changes to the Job Development Credit (JDC) requirements to allow remote employees to count for JDC purposes at the Coordinating Council for Economic Development's discretion. This change to allow the Council to approve JDCs for remote employees working in South Carolina conforms to the changes in practice in response to the pandemic and will not impact total JDCs. The section also makes changes to the timing of credits for companies claiming operating leases as qualifying expenditures. We estimate that this may accelerate credit

usage and reduce General Fund withholdings tax revenue by approximately \$640,000 beginning in FY 2023-24.

Section 4 makes changes to job retraining credits by expanding qualifying industries to include warehousing and distribution and expanding qualifying retraining programs to include upskilling, management development, or recertification in production-related competencies. The changes in total would decrease General Fund withholdings tax revenue by approximately \$1,307,000 beginning in FY 2023-24.

The table below summarizes the impact by section. In total, the bill would reduce General Fund revenue by approximately \$7,070,000 beginning in FY 2023-24.

Section 1 – Corporate Headquarters	(\$3,562,000)
Section 2 – Recycling Facility	(\$1,561,000)
Section 3 – Job Development Credits	(\$640,000)
Section 4 – Job Retraining Credits	(\$1,307,000)
Total	(\$7,070,000)

Explanation of Fiscal Impact

Introduced on March 7, 2023

State Expenditure

This bill amends several code sections dealing with the current corporate headquarters tax credit, tax credits for recycling facilities, and job development and retraining credits.

Department of Revenue. The bill will require DOR to update forms and systems for the changes to tax credits. The agency may incur some additional staff time for auditing job retraining credits given the expected expansion in the number of qualifying companies. However, the agency expects to manage the additional responsibilities with existing staff and resources.

Department of Commerce. The Department of Commerce anticipates that they will be able to administer the changes to job development credits with existing staff and resources. Therefore, there is no impact to the agency.

State Board for Technical and Comprehensive Education. The bill allows a business to contract with the Tech Board or a technical college to assist with program administration of job retraining credits for a quarterly fee. The Tech Board responded that the number of companies that may retain these services is currently unknown. The provision would only have an impact on expenditures and revenues for the Tech Board if businesses choose to retain services. The Tech Board would charge fees to cover these additional costs.

State Revenue

Section 1

This section amends Section 12-6-3410, the corporate headquarters tax credit. The credit currently is for a corporation establishing or expanding a headquarters in this state or a research and development facility. The bill eliminates the reference to corporation and replaces it with taxpayer or business unit and expands the credit to apply to individual income tax in addition to corporate income tax, bank tax, and corporate license fees, allowing pass-through businesses to also claim the credit. The bill also specifies that a taxpayer or business doing business solely in South Carolina does not meet the definition of a headquarters.

Currently, the corporation must have qualifying real property costs of \$50,000 for the establishment or expansion of the headquarters. Additionally, it must create at least 40 new full-time jobs performing headquarters related functions or research and development functions. The credit amount is 20 percent of the qualifying real property costs. The bill requires that the 40 jobs have gross wages equal to or greater than twice the per capita income of the state based on the most recent per capita income data available as of the end of the tax year in which the jobs are filled, and the employees must be provided a benefits package including health care. The bill also eliminates research and development jobs from qualifying jobs for the credit.

Currently, a headquarters that meets the real property qualifications and job requirements may also qualify for an additional credit of 20 percent of the cost of tangible personal property. To qualify for the personal property component, the headquarters or research and development establishment must create at least 75 new, full-time jobs with an average compensation of more than twice the South Carolina per capita income. The bill removes the 75 new jobs requirement and eliminates research and development jobs.

The table below provides the history of corporate headquarters tax credits reported for corporate income taxpayers. No taxpayer claimed the credit against bank or insurance taxes in recent years. The average credit level in 2020-21 of \$68,595 would translate into total qualifying expenditures of \$342,975.

Corporate Headquarters Tax Credits - History

Year	Returns	Amount	Average per Return
2017-18	26	\$422,791	\$16,261
2018-19	23	\$212,690	\$9,247
2019-20	18	\$2,492,653	\$138,481
2020-21	26	\$1,783,479	\$68,595

Source: Department of Revenue Annual Report

For 2021, state per capita income was \$52,467. We anticipate that many headquarters will meet the new requirement that gross wages must be equal to or greater than twice per capita income in the aggregate when considering all new employees including executives.

According to a publication by the Tax Foundation, most companies in the US are pass-through businesses. C-corporations comprised 8.1 percent of companies compared to 13.6 percent organized as S-corporations, 8.4 percent in partnerships, and 69.8 percent in sole proprietorships.¹ Assuming that sole proprietorships are unlikely to establish a qualifying headquarters, expanding the eligibility to include S-corporations and partnerships would increase the qualifying businesses from 8.1 percent of companies to another 22.0 percent of companies. However, in terms of size, an analysis by the Congressional Research Service noted that 73 percent of corporations and 81 percent of pass-throughs had fewer than 10 employees; 85 percent of corporations and 91 percent of pass-throughs had fewer than 20 employees; 97 percent of corporations and 99 percent of pass-throughs had fewer than 100 employees; and 99 percent of corporations and 99.7 percent of pass-throughs had fewer than 500 employees.² Based on these figures, we anticipate that the number of businesses qualifying for the credit may increase by approximately 150 percent. However, these businesses are likely to have smaller investments and total credits due to the difference in size. Accounting for size, we estimate that expanding headquarters to include pass-through businesses will increase credits by approximately 50 percent. If pass-through businesses claim an additional 50 percent of current credits, this will equate to approximately \$891,000 in additional credits for real property investments, reducing General Fund individual income tax revenue.

Removing research and development jobs may reduce the total credits over time depending on the mix of industries locating in South Carolina. However, reducing the requirements to qualify for the tangible personal property credit is likely to expand the credits. Depending on the business, the cost of personal property can be greater than real property costs. In recent years, personal property values for manufacturing industries exceeded real property, although this will vary by industry. Assuming an equal split between real and personal property on average, the change would then double total credits. Based on this assumption, the change would decrease General Fund corporate income tax revenue by an additional \$1,780,000. Further, the personal property change would increase pass-through business credits by an additional \$891,000, for a General Fund individual income tax reduction of \$1,782,000 overall. In total, these changes would reduce total General Fund revenue by approximately \$3,562,000 beginning in FY 2023-24.

Given the limited data available to estimate these changes and the significant differences in real and personal property costs depending on industry, the impact may vary by year. These credits may be carried forward for ten years, and the timing of the impact may vary depending on a company's tax liability and ability to use these credits.

Section 2

This section amends the recycling facility credit in Section 12-6-3460. The current credit is for 30 percent of the investment in a recycling property, which includes the total cost of acquisition, construction, and installation of all real and personal property. In order to qualify, the business

¹Tax Foundation.org, *Pass-through Business*, <https://taxfoundation.org/tax-basics/pass-through-business>

² Congressional Research Service, *Pass-throughs, Corporations, and Small Businesses: A Look at Firm Size*, March 15, 2018, <https://sgp.fas.org/crs/misc/R44086.pdf>

must be located within South Carolina, and the property must be used by the taxpayer to manufacture products for sale composed of at least 50 percent post-consumer waste material by weight or volume. Currently, the minimum level of investment must be at least \$300 million incurred by the fifth year after the year in which the taxpayer begins construction or operation of the facility. The credit may be used to reduce corporate income tax, sales or use tax, or corporate license tax, or any similar taxes.

The bill lowers the investment required from \$300 million to \$100 million. It also expands the definition of post-consumer waste material to include used batteries, solar panels, and turbines in addition to the current list of scrap metal and iron and used plastics, paper, glass, and rubber.

At 30 percent of \$100 million, the minimum credit level would be \$30 million over the course of the investment period, which must be completed by the fifth year. Since the credit does not expire, companies may carry forward unused credit indefinitely.

The Department of Commerce noted that there were approximately 8 total projects over the \$100 million threshold in the last 5 years and estimated an average investment level of approximately \$150 million. Based on this experience, we would anticipate that this provision will increase earned tax credits for qualifying facilities by at least \$45 million annually beginning in tax year 2023. The tax credit may be claimed against corporate income tax, sales or use tax, or corporate license tax, or any similar taxes. However, very few corporations have a sufficient tax liability to claim this level of credit. Based on available data, we estimate that companies would claim approximately \$654,000 per year against corporate income or license taxes. Further, based on available data and the required investment threshold, we estimate that these facilities may claim approximately \$907,000 against sales tax per tax year. In total, we estimate that the credit expansion will reduce General Fund revenue by approximately \$1,561,000 in FY 2023-24. This amount would continue to grow as companies claim new credits and existing companies continue to claim credit carry forward amounts until the total amounts reach the credits earned. Based on total credits per company of approximately \$45 million, it will take approximately 29 years for a company to exhaust these credits. The timing and amount of the impact may vary if companies have higher or lower tax liabilities, or the investment exceeds \$150 million.

Section 3

This section amends several code sections of the Enterprise Zone Act in Chapter 10, Title 12. The section makes changes to JDC requirements to allow remote employees to count for JDC purposes at the Coordinating Council for Economic Development's discretion. Based on information provided by Commerce, the Council allowed remote employees to qualify for JDCs during the pandemic. This change to allow the Council to approve JDCs for remote employees working in South Carolina conforms to the changes in practice in response to the pandemic and will not impact total JDCs.

The changes also allow a company to get reimbursed for lease expenditures before meeting the minimum job requirement and minimum capital requirement in the revitalization agreement (RVA). The bill provides that if the Council approves an operating lease as an eligible expenditure for a qualifying service-related facility that will create at least 25 jobs for a project

with a compensation level of more than 2.5 times the per capita income in the county where the project is located, the business may be reimbursed on an annual basis for lease payments before certification to the Council that the business has met the minimum job requirement and capital investment provided for in the RVA. The change does not impact total credits but would accelerate the company's ability to claim the credits. Commerce anticipates that this would be an infrequent occurrence for possibly 2 or 3 projects. Based on 2 or 3 projects and average claims, we estimate that this may accelerate credit usage and reduce General Fund withholdings tax revenue by approximately \$640,000 in FY 2023-24.

Section 4

This section makes changes to Job Retraining Credits in Section 12-10-95. Job retraining credits are for businesses engaged in specific industries. Taxpayers are allowed to claim a \$1,000 credit against withholdings for the retraining of an employee. The bill expands qualifying industries to include warehousing and distribution. Further, it expands retraining programs to include upskilling, management development, or recertification in production-related competencies.

The bill also makes changes to the determination of qualifying employees. Currently, the credit may not apply to employees who are subject to a revitalization agreement. The bill changes this requirement to specify that a taxpayer may not claim retraining credits for employees for whom they are claiming JDCs. This change clarifies that employees included in an RVA qualify for retraining credits so long as the company is no longer claiming JDCs for that employee. This change is needed for long-standing companies that continue to expand operations to be able to claim retraining credits on employees under an original RVA for whom the business is no longer claiming JDCs.

The bill also specifies that a qualifying business may contract with the Tech Board to assist with program administration beyond a typical retraining agreement for a quarterly fee not to exceed 20 percent of the retraining credit amount claimed. It is unclear how many companies will elect to receive assistance. The amount of fees that will be generated will depend on further decisions by each company and is undetermined.

Job Retraining Credits - History

Year	Amount
2016-17	\$1,623,955
2017-18	\$2,021,614
2018-19	\$1,651,178
2019-20	\$1,426,313
2020-21	\$905,244
<i>Average</i>	<i>\$1,525,661</i>

Source: Department of Revenue Annual Report

Based on employment data from the Bureau of Labor Statistics, expanding qualifying industries to include warehousing and storage will increase eligible employment by approximately 20

percent. Assuming similar utilization of the credits, this change would expand credits by an additional \$305,000 in FY 2023-24.

Additionally, expanding qualifying training will also likely impact credit utilization. The Bureau of Labor Statistics reported in a 1995 study that 28.4 percent of employees received management training while 30.9 percent received training for professional and technical skills and 21.0 percent received training that was production and construction related.³ If a similar pattern of employee training still holds, expanding training could increase total training eligible for credits by as much as 54.7 percent.

From the increased credits assumed due to the expansion of qualifying industries, we estimate that credits under the current qualifying trainings would likely total approximately \$1,830,600. Increasing that amount by 54.7 percent for the expanded trainings included would result in approximately \$1,002,000 in additional credits. Under these assumptions, the changes in total would decrease General Fund withholdings tax revenue by approximately \$1,307,000 beginning in FY 2023-24.

In total, the bill would reduce General Fund revenue by approximately \$7,070,000 beginning in FY 2023-24. The table below provides the impact by section.

FY 2023-24 General Fund Revenue Impact

Section 1 – Corporate Headquarters	(\$3,562,000)
Section 2 – Recycling Facility	(\$1,561,000)
Section 3 – Job Development Credits	(\$640,000)
Section 4 – Job Retraining Credits	(\$1,307,000)
Total	(\$7,070,000)

Local Expenditure

N/A

Local Revenue

N/A

³ Bureau of Labor Statistics, 1995 *Survey of Employer Provided Training*
<https://www.bls.gov/news.release/sept.t01.htm>



Frank A. Rainwater, Executive Director

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A BILL

11 TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-6-3410,
12 RELATING TO CORPORATE INCOME TAX CREDIT FOR CORPORATE HEADQUARTERS,
13 SO AS TO PROVIDE CHANGES TO STAFFING REQUIREMENTS AND CERTAIN TIMING; BY
14 AMENDING SECTION 12-6-3460, RELATING TO THE RECYCLING FACILITY TAX CREDIT
15 DEFINITIONS, SO AS TO LOWER THE MINIMUM LEVEL OF INVESTMENT FOR A
16 QUALIFIED RECYCLING FACILITY AND TO INCLUDE CERTAIN PRODUCTS TO THE
17 DEFINITION OF "POSTCONSUMER WASTE MATERIAL"; BY AMENDING SECTIONS
18 12-10-20; 12-10-30, 12-10-40, 12-10-45, 12-10-50, 12-10-60, AND 12-10-80, ALL RELATING TO
19 THE ENTERPRISE ZONE ACT OF 1995, SO AS TO ALLOW REMOTE EMPLOYEES WORKING
20 IN SOUTH CAROLINA TO BE INCLUDED IN CERTAIN JOB CREATION REQUIREMENTS
21 AND TO CREATE A NEW PROVISION TO INCENTIVIZE CERTAIN COMPANIES; AND BY
22 AMENDING SECTION 12-10-95, RELATING TO THE ENTERPRISE ZONE ACT CREDIT
23 AGAINST WITHHOLDING FOR RETRAINING, SO AS TO PROVIDE WHO IS ELIGIBLE FOR
24 THE CREDIT AND THE AMOUNT OF THE CREDIT ALLOWED.
25

26 Be it enacted by the General Assembly of the State of South Carolina:
27

28 SECTION 1. Section 12-6-3410 of the S.C. Code is amended to read:
29

30 Section 12-6-3410. (A) A ~~corporation~~ taxpayer or a business unit of a taxpayer establishing a
31 ~~corporate-headquarters facility~~ facility in this State, or expanding or adding to an existing ~~corporate~~
32 ~~headquarters facility~~, is allowed a credit against any tax due pursuant to Section 12-6-510, Section
33 12-6-530, Section 12-11-20, or Section 12-20-50 as set forth in this section or any combination thereof.

34 (B) In order to qualify for this credit, each of the following criteria must be satisfied:

35 (1) The qualifying real property costs of the ~~corporate-headquarters facility~~ establishment,
36 orexpansion, or addition must be at least fifty thousand dollars. Qualifying real property costs are:

37 (a) costs incurred in the design, preparation, and development of establishing, or expanding, ~~or~~
38 ~~adding to a corporate-headquarters facility;~~ and

39 (b)(i) direct construction costs; or
40 (ii) with respect to leased facilities, direct lease costs during the first five years of operations
41 for the ~~corporate-headquarters facility~~.

42 (2) The headquarters establishment or, expansion, or addition must result in the creation of:

43 ~~_____~~ (a) at least forty new full-time jobs that are:

44 ~~_____~~ (a) performing headquarters related functions and services; ~~or research and development related~~

1 ~~functions and services. These jobs must be permanent, full-time positions located in this State; and~~

2 ~~(b) at least twenty of the above-referenced new jobs must be classified as headquarters staff~~
3 ~~employees have gross wages equal to or greater than twice the per capita income of this State based on~~
4 ~~the most recent per capita income data available as of the end of the taxpayer's taxable year in which~~
5 ~~the jobs are filled and are subject to withholding pursuant to Chapter 8 of this title; and~~

6 ~~(c) are provided a benefits package, including health care.~~

7 (C) The amount of the credit is equal to the sum of:

8 ~~(1) twenty percent of the qualifying real property costs listed in subsection (B)(1); and~~

9 ~~(2) (D) A headquarters establishment, expansion, or addition which meets the criteria of~~
10 ~~subsection (B) of this section is entitled to an additional credit equal to twenty percent of cost for~~
11 ~~tangible personal property if the following conditions are met:~~

12 ~~(1)(a) the personal property is:~~

13 ~~(a)(i) capitalized as personal property for income tax purposes under the Internal Revenue Code;~~
14 ~~and~~

15 ~~(b)(ii) purchased for the establishment, or expansion, or addition of a corporate the taxpayer's~~
16 ~~or business unit's headquarters facility, or for the establishment, expansion, or addition of a research~~
17 ~~and development facility which is part of the same corporate project as the headquarters establishment,~~
18 ~~addition, or expansion; and~~

19 ~~(e)(iii) used for corporate headquarters related functions and services or research and~~
20 ~~development related functions and services in South Carolina.~~

21 ~~(2) The establishment, expansion, or addition of a corporate headquarters or research and~~
22 ~~development facility must result in the creation of at least seventy five new full-time jobs performing~~
23 ~~either:~~

24 ~~(a) headquarters related functions and services; or~~

25 ~~(b) research and development related functions and services.~~

26 ~~The seventy five required jobs must have an average cash compensation level of more than twice~~
27 ~~the per capita income of this State based on the most recent per capita income data available as of the~~
28 ~~end of the taxpayer's taxable year in which the jobs are filled.~~

29 ~~(D) Reserved.~~

30 (E)(1)(a) For headquarters facilities which are constructed, the credit can only be claimed for
31 the taxable year when the ~~headquarters establishment, expansion, or addition, and the research and~~
32 ~~development facility establishment, expansion, or addition, in the case of corporations qualifying under~~
33 ~~subsection (D), facility is placed in service for federal income tax purposes. For construction projects~~
34 ~~facilities completed in phases and placed in service for federal income tax purposes in more than one~~
35 ~~taxable year, the corporation credit can be claim claimed the credit on the South Carolina income tax~~
36 ~~return for the taxable year in which property, which qualifies for the credit, that phase of the~~

1 headquarters facility is placed in service for federal income tax purposes. Credits cannot be obtained
2 for costs incurred more than three taxable years after the taxable year in which the first property for
3 which the credit is claimed is placed in service. Notwithstanding any other provisions of this
4 subsection, if the entire project is not completed by the end of the three taxable years, the ~~corporation~~
5 ~~may claim the credit~~ may be claimed for all property placed in service within the time limitation set
6 forth in the preceding sentence. The credit may not be claimed for personal property which is replacing
7 personal property for which the credit can be claimed. The department may for good cause extend the
8 time for incurring additional costs and for claiming the credit if the project is not completed within the
9 time period allowed by this subsection. For purposes of this subsection the term "property" includes
10 qualifying real property and, ~~where the conditions of subsection (D) are met,~~ qualifying personal
11 property.

12 (b) for leased real property the credit must be claimed in the taxable year in which the first direct
13 lease costs are incurred.

14 (2) The ~~corporation taxpayer~~ must meet the staffing requirements of ~~subsections~~ subsection (B)(2)
15 ~~and, if applicable, (D)(2),~~ by the end of the second taxable year following the last taxable year for
16 which the credit is claimed. The ~~corporation taxpayer~~ must have documented plans to meet the initial
17 staffing requirements at the time the credit is claimed. If the ~~corporation taxpayer~~ fails to meet the
18 staffing requirements within the time required by this subsection, the ~~corporation taxpayer~~ must
19 increase its tax liability for the current taxable year by an amount equal to the amount of credit, or any
20 portion of the credit for which the ~~corporation taxpayer~~ would not qualify, which was used to reduce
21 tax in the earlier years.

22 (F) The credit provided in this section is nonrefundable, but an unused credit may be carried forward
23 for ten years. ~~An unused credit may be carried forward fifteen years if the criteria set forth in subsection~~
24 ~~(D)(2) are met.~~ In addition, a taxpayer may assign its rights to the unused credit to a succeeding taxpayer
25 if the taxpayer transfers all or substantially all of the assets of the taxpayer or all or substantially all of
26 the assets of a trade, business, or operating division of a taxpayer to the succeeding taxpayer, and the
27 succeeding taxpayer maintains the ~~corporate headquarters facility of the taxpayer~~ facility. No credit may be
28 claimed for a taxable year during which the taxpayer or succeeding taxpayer fails to meet the qualifying
29 employment requirements provided in this section and the carry forward period is not extended for any
30 year in which the credit may not be claimed for failure to meet the employment requirements. The
31 credit may be claimed for a taxable year in the unextended carry forward period if the taxpayer or
32 succeeding taxpayer requalifies for the credit by meeting the employment requirements during that
33 taxable year.

34 (G) If a fee-in-lieu arrangement under Section 4-29-67 is entered into with respect to all or part of
35 property involving a ~~corporate headquarters~~, and the ~~corporation taxpayer~~ claiming the credit provided
36 under this section is treated as the owner of the property for federal income tax purposes, then the

1 ~~corporation-taxpayer~~ must be treated as the owner of the property for purposes of the credit provided
2 by this section.

3 (H) To the extent that this credit applies to the cost of certain property, the basis of the property for
4 South Carolina income tax purposes must be reduced by the amount of the credit claimed with respect
5 to the property. This basis reduction does not reduce the basis or limit or disallow any depreciation
6 allowable under the law of this State for other than income tax purposes, even if the depreciation is
7 based upon or otherwise relates to income tax depreciation including, without limitation, basis or
8 depreciation which is allowable under this title for property tax purposes. If the ~~corporation-taxpayer~~
9 fails to meet the staffing requirements of subsection ~~(E)(B)(2)~~, the ~~corporation-taxpayer~~ may increase
10 the basis of the property by the amount of the original basis reduction with regard to that property in
11 the year in which the credit is recaptured.

12 (I) The amount of a credit allowed under this section must be reduced by the amount of any past-due
13 debt owed this State by the taxpayer.

14 (J) As used in this section:

15 (1) "~~Corporate~~ Headquarters" means the facility or portion of a facility where ~~corporate~~
16 ~~headquarters~~ staff employees are ~~physically~~-employed, and where the ~~majority of the company's or~~
17 ~~company taxpayer's or the taxpayer's~~ business unit's financial, personnel, legal, planning, information
18 technology, or other headquarters-related functions are handled either on a regional, national, or global
19 basis. A ~~corporate~~-headquarters must be a regional ~~corporate~~-headquarters, ~~or a national corporate~~
20 ~~headquarters, or global corporate headquarters~~ as defined below; ~~provided, however, for taxpayers~~
21 ~~which are subject to tax under Chapter 11 of Title 12, a corporate headquarters must be a regional~~
22 ~~corporate headquarters. A taxpayer or taxpayer's business unit doing business solely within South~~
23 ~~Carolina does not meet the definition of a headquarters.~~

24 (a) National ~~corporate~~-headquarters must be the sole ~~corporate~~ ~~headquarters in the nation~~ office
25 or location in the nation or the world for the taxpayer or a business unit of the taxpayer with multistate
26 operations and must handle headquarters-related functions at least on a national or global basis. A
27 national headquarters is considered to handle headquarters-related functions on a national basis from
28 this State if the corporation has a facility in this State from which the corporation engages in interstate
29 commerce by providing goods or services for customers outside of this State in return for compensation.
30 The function and purpose of the national headquarters is to plan, direct, and control all aspects of the
31 taxpayer or taxpayer's business unit's operations, and it has final authority over regional offices,
32 operating facilities, or any other office of the taxpayer or business unit.

33 (b) Regional ~~corporate~~-headquarters must be the sole ~~corporate~~ ~~headquarters~~ office or location
34 in the region for the taxpayer or a business unit of the taxpayer with multistate operations within the
35 region and must handle headquarters-related functions on a regional basis. A regional headquarters
36 performs a function that is separate from the management of operational facilities within the region. A

1 regional headquarters performs functions similar to the national headquarters, but within a more limited
2 area. For purposes of this section, “region” or “regional” means a geographic area comprised of either:
3 (i) at least five states, including this State; or
4 (ii) two or more states, including this State, if the entire business operations of the ~~corporation~~
5 taxpayer or business unit of the taxpayer are performed within fewer than five states; ~~provided,~~
6 ~~however, that with respect to taxpayers which are subject to tax under Chapter 11 of Title 12, the~~
7 ~~requirement that “the entire business operations of the corporation are performed within fewer than~~
8 ~~five states”, is replaced with “if all branches of the taxpayer, as defined below, are physically located~~
9 ~~in fewer than five states”.~~ For taxpayers which are subject to tax under Chapter 11 of Title 12, such
10 taxpayer must have two or more branches, as that term is defined in Section 34-25-10(8), in each state
11 within its region.

12 (c) A ~~“company business unit”~~ is an organizational unit of a ~~corporation or bank and taxpayer~~
13 that is defined by the particular product or category of products it sells.

14 (2) “New job” means a job created by an employer in this State at the time a new facility, or
15 ~~expansion, or addition~~ is initially staffed, but does not include a job created when an employee is shifted
16 from an existing location in this State to work in a new or expanded facility. An employee may be
17 employed at a temporary location in this State pending completion of the new facility, or ~~expansion, or~~
18 ~~addition.~~

19 (3) ~~“Full time Full time”~~ means a job requiring a minimum of thirty-five hours of an employee's
20 time a week for the entire normal year of ~~corporate~~ operations or a job requiring a minimum of
21 thirty-five hours of an employee's time for a week for a year in which the employee was initially hired
22 for or transferred to the ~~corporate~~ headquarters ~~or research and development facility~~ in this State.

23 (4) “Headquarters-related functions and services” are those functions involving financial,
24 personnel, administrative, legal, planning, information technology, or similar business functions.

25 (5) “Headquarters staff employees” means executive, administrative, or professional workers
26 performing headquarters related functions and services.

27 (a) An executive employee is a full-time employee in which at least eighty percent of his
28 business functions involve the management of the enterprise and directing the work of at least two
29 employees. An executive employee has the authority to hire and fire or has the authority to make
30 recommendations related to hiring, firing, advancement, and promotion decisions, and an executive
31 employee must customarily exercise discretionary powers.

32 (b) An administrative employee is a full-time employee who is not involved in manual work
33 and whose work is directly related to management policies or general headquarters operations. An
34 administrative employee must customarily exercise discretion and independent judgment.

35 (c) A professional employee is an employee whose primary duty is work requiring knowledge
36 of an advanced type in a field of science or learning. This knowledge is characterized by a prolonged

1 course of specialized study. The work must be original and creative in nature, and the work cannot be
2 standardized over a specific period of time. The work must require consistent exercise of discretion
3 and the employee must spend at least eighty percent of the time performing headquarters related
4 functions and services.

5 ~~(6) "Research and development" means laboratory, scientific, or experimental testing and~~
6 ~~development related to new products, new uses for existing products, or improving existing products,~~
7 ~~but "research and development" does not include efficiency surveys, management studies, consumer~~
8 ~~surveys, economic surveys, advertising, promotion, banking, or research in connection with literary,~~
9 ~~historical, or similar projects~~ Reserved.

10 ~~(7) "Research and development facility" means the building or buildings or portion of a building~~
11 ~~where research and development functions and services are physically located~~ Reserved.

12 (8) "Direct lease costs" are cash lease payments. The term does not include any accrued, but
13 unpaid, costs.

14 (9) "Remote employee" is a full-time employee of the taxpayer, including an employee who works
15 for a business unit of the taxpayer, who works for the taxpayer performing headquarters-related
16 functions or services either completely or partially from a home office or other residence within the
17 State.

18
19 SECTION 2. Section 12-6-3460(A) (3) and (4) of the S.C. Code is amended to read:

20
21 (3) "Qualified recycling facility" means a facility certified as a qualified recycling facility by a duly
22 authorized representative of the department which includes all real and personal property incorporated
23 into or associated with the facility located or to be located within this State that will be used by the
24 taxpayer to manufacture products for sale composed of at least fifty percent postconsumer waste
25 material by weight or by volume. The minimum level of investment for a qualified recycling facility
26 must be at least ~~three~~ one hundred million dollars incurred by the end of the fifth calendar year after
27 the year in which the taxpayer begins construction or operation of the facility.

28 (4) "Postconsumer waste material" means any product generated by a business or consumer which
29 has served its intended end use and which has been separated from the solid waste stream for the
30 purpose of recycling and includes, but is not limited to, scrap metal and iron, and used plastics, paper,
31 glass, batteries, solar panels, turbines, and rubber.

32
33 SECTION 3. Sections 12-10-20 through 12-10-80 of the S.C. Code are amended to read:

34
35 Section 12-10-20. The General Assembly finds:

36 (1) that the economic well-being of the citizens of the State is enhanced by the increased development

1 and growth of industry within the State, and that it is in the best interests of the State to induce the
2 location or expansion of manufacturing, processing, services, distribution, warehousing, research and
3 development, corporate offices, technology intensive, and certain tourism projects within the State to
4 promote the public purpose of creating new jobs within the State;

5 (2) that the inducement provided in this chapter will encourage the creation of jobs which would not
6 otherwise exist and will create sources of tax revenues for the State and its political subdivisions;

7 (3) the powers to be granted to the ~~Advisory~~-Coordinating Council for Economic Development by
8 this chapter and the purposes to be accomplished are proper governmental and public purposes and that
9 the inducement of the location or expansion of manufacturing, processing, services, distribution,
10 warehousing, research and development, corporate offices, and certain tourism facilities within the
11 State is of paramount importance.

12 (4) The state's per capita income has not reached the United States average and certain rural, less
13 developed counties have not experienced capital investment, per capita income, and job growth at a
14 level equal to the state's average. The economic well-being of these areas will not be sustained without
15 significant incentive to induce capital investment and job creation.

16
17 Section 12-10-30. As used in this chapter:

18 (1) "Council" means the Coordinating Council for Economic Development.

19 (2) "Department" means the South Carolina Department of Revenue.

20 (3) "Employee" means an employee of the qualifying business who works full time ~~at~~in this State
21 for the benefit of the project, including a remote employee as defined in item (20).

22 (4) "Gross wages" means wages subject to withholding.

23 (5) "Job development credit" means the amount a qualifying business may claim as a credit against
24 employee withholding pursuant to Sections 12-10-80 and 12-10-81 and a revitalization agreement.

25 (6) "New job" means a job created or reinstated as defined in Section 12-6-3360(M)(3).

26 (7) "Qualifying business" means a business that meets the requirements of Section 12-10-50 and
27 other applicable requirements of this chapter.

28 (8) "Project" means an investment for one or more purposes pursuant to this chapter needed for a
29 qualifying business to locate, remain, or expand in this State and otherwise fulfill the requirements of
30 this chapter.

31 (9) "Preliminary revitalization agreement" means the application by the qualifying business for
32 benefits pursuant to Section 12-10-80 or 12-10-81 if the council approves the application and agrees in
33 writing at the time of approval to allow the approved application to serve as the preliminary
34 revitalization agreement. The date of the preliminary revitalization agreement is the date of the council
35 approval.

36 (10) "Revitalization agreement" means an executed agreement entered into between the council and

1 a qualifying business that describes the project and the negotiated terms and conditions for a business
2 to qualify for a job development credit pursuant to Section 12-10-80 or 12-10-81.

3 (11) "Qualifying expenditures" means those expenditures that meet the requirements of Section
4 12-10-80(C) or 12-10-81(D).

5 (12) "Withholding" means employee withholding pursuant to Chapter 8 of this title.

6 (13) "Technology employee" means an employee at a technology intensive facility as defined in
7 Section 12-6-3360(M)(14) who is directly engaged in technology intensive activities at that facility.

8 (14) "Production employee" means an employee directly engaged in manufacturing or processing at
9 a manufacturing or processing facility as defined in Section 12-6-3360(M).

10 (15) "Retraining agreement" means an agreement entered into between a business and the council in
11 which a qualifying business is entitled to retraining credit pursuant to Section 12-10-95.

12 (16) "Retraining credit" means the amount that a business may claim as a credit against withholding
13 pursuant to Section 12-10-95 and the retraining agreement.

14 (17) "Technology intensive activities" means the design, development, and introduction of new
15 products or innovative manufacturing processes, or both, through the systematic application of
16 scientific and technical knowledge at a technology intensive facility as defined in Section
17 12-6-3360(M).

18 (18) "Significant business" means a qualifying business making a significant capital investment as
19 defined in Section 12-44-30(7).

20 (19) "Related person" includes any entity or person that bears a relationship to a business as provided
21 in Internal Revenue Code Section 267 or 707(b). The related person must be a "qualifying business"
22 as defined in item 7, except that the related person does not have to meet the requirements of Section
23 12-10-50(A)(1) or, in case the qualifying business qualifies for the credit against withholding for
24 retraining pursuant to Section 12-10-95 of this chapter, the related person does not have to meet the
25 requirements of Section 12-10-50(B)(1).

26 (20) "Remote employee" is a full-time employee who is hired to fill a job for the project and who
27 works either completely or partially from a home office or other residence within this State.

28
29 Section 12-10-40. The amount of benefits available to qualified businesses is determined by the
30 county designation as defined in Section 12-6-3360(B), in which the ~~business-project~~ is located. For
31 purposes of determining the amount of job development credit that may be claimed for a job filled by
32 a remote employee, the physical location of the project must be used and not the physical location
33 where the remote employee provides services.

34
35 Section 12-10-45. A tire manufacturer that has over one billion dollars in capital investment in this
36 State, and employs over five thousand workers in this State may, after certification by the council,

1 designate up to two census tracts, but not to exceed four hundred acres per site, in any area of the State
2 as an enterprise zone provided that a capital investment of at least one hundred million dollars be made
3 over a five-year period at each site. The tire manufacturer's capital investment must be based upon the
4 gross cost of assets in South Carolina as shown on the manufacturer's property tax and fee-in-lieu of
5 property tax filings. The council will certify the manufacturer if it determines that the available
6 incentives are appropriate for the new project, the total benefits of the new project exceed the costs to
7 the public, and the qualifying business otherwise fulfills the requirements of this chapter.

8
9 Section 12-10-50. (A) To qualify for the benefits provided in this chapter, a business must be
10 located within this State and must:

11 (1) be engaged primarily in a business of the type identified in Section 12-6-3360;

12 (2) provide a benefits package, including health care, to full-time employees at-hired for the
13 project;

14 (3) enter into a revitalization agreement that is approved by the council and that describes a
15 minimum job requirement and minimum capital investment requirement for the project as provided in
16 Section 12-10-90; and

17 (4) have negotiated incentives that council has determined are appropriate for the project, and the
18 council shall certify that:

19 (a) the total benefits of the project exceed the costs to the public; and

20 (b) the business otherwise fulfills the requirements of this chapter.

21 (B) To qualify for benefits pursuant to Section 12-10-95, a business must:

22 (1) be engaged in manufacturing or processing operations or technology intensive activities at a
23 manufacturing, processing, or technology intensive facility as defined in Section 12-6-3360(M);

24 (2) provide a benefits package, including health care, to employees being retrained; and

25 (3) enter into a retraining agreement with the council.

26
27 Section 12-10-60. (A) The council may enter into a revitalization agreement with each qualifying
28 business with respect to the project. The terms and provisions of each revitalization agreement must be
29 determined by negotiations between the council and the qualifying business. The decision to enter into
30 a revitalization agreement with a qualifying business is solely within the discretion of the council based
31 on the appropriateness of the negotiated incentives to the project and the determination that approval
32 of the project is in the best interests of the State. The revitalization agreement must set a date by which
33 the qualifying business shall have completed the project met the required investment and employment
34 levels. Within three months of the completion date After meeting the thresholds, the qualifying business
35 shall document the actual costs of the project in a manner acceptable to the council. Subject to the
36 discretion of the council, a business may be allowed to count jobs filled by remote employees towards

1 the minimum employment levels.

2 ~~—(B) If a qualifying business that entered into a revitalization agreement before January 1, 1997,~~
3 ~~receives council approval to amend its revitalization agreement to increase its minimum job~~
4 ~~requirement, the law in effect on the date of the amendment determines the amount of job development~~
5 ~~credit a qualifying business may claim pursuant to Section 12-10-80 for additional jobs created after~~
6 ~~the date of the amendment. This subsection does not apply to a business whose application for job~~
7 ~~development fees or credits pursuant to Section 12-10-81 has been approved by council before the~~
8 ~~effective date of this act.~~

9
10 Section 12-10-80. (A) A business that qualifies pursuant to Section 12-10-50(A) and has certified
11 to the council that the business has met the minimum job requirement and minimum capital investment
12 provided for in the revitalization agreement may claim job development credits as determined by this
13 section.

14 (1) A business may claim job development credits against its withholding on its quarterly state
15 withholding tax return for the amount of job development credits allowable pursuant to this section.

16 (2) A business that is current with respect to its withholding tax and other tax due and owing the
17 State and that has maintained its minimum employment and investment levels identified in the
18 revitalization agreement may claim the credit on a quarterly basis beginning with the first quarter after
19 the council's certification to the department that the minimum employment and capital investment
20 levels were met for the entire quarter. If a qualifying business is not current as to all taxes due and
21 owing to the State as of the date of the return on which the credit would be claimed, without regard to
22 extensions, the business may claim the credit only in an amount reduced by the amount of taxes due
23 and owing to the State as of the date of the return on which the credit is claimed.

24 (3) A qualifying business may claim its initial job development credit only after the council has
25 certified to the department that the qualifying business has met the required minimum employment and
26 capital investment levels.

27 (4) To be eligible to apply to the council to claim a job development credit, a qualifying business
28 shall create at least ten new, full-time jobs, as defined in Section 12-6-3360(M), at the project described
29 in the revitalization agreement within five years of the effective date of the agreement.

30 (5) A qualifying business is eligible to claim a job development credit pursuant to the revitalization
31 agreement for not more than fifteen years.

32 (6) A ~~company's qualifying business's~~ job development credits shall be suspended during any
33 quarter in which the ~~company qualifying business~~ fails to maintain one hundred percent of the
34 minimum job requirement set forth in the ~~company's qualifying business's~~ revitalization agreement. A
35 company only may claim credits on jobs, including a range of jobs approved by the council, as set forth
36 in the company's final revitalization agreement.

1 (7) Credits may be claimed beginning the quarter subsequent to the council's approval of the
2 ~~company's~~ qualifying business's documentation that the minimum jobs and capital investment
3 requirements have been met.

4 (8) To the extent any return of an overpayment of withholding that results from claiming job
5 development credits is not used as permitted by subsection (C) or by Section 12-10-95, it must be
6 treated as misappropriated employee withholding.

7 (9) Job development credits may not be claimed for purposes of this section with regard to an
8 employee whose job was created in this State before the taxable year of the qualifying business in
9 which it enters into a preliminary revitalization agreement.

10 (10) If a qualifying business claims job development credits pursuant to this section, it shall make
11 its payroll books and records available for inspection by the council and the department at the times the
12 council and the department request. Each qualifying business claiming job development credits
13 pursuant to this section shall file with the council and the department the information and
14 documentation requested by the council or department respecting employee withholding, the job
15 development credit, and the use of any overpayment of withholding resulting from the claiming of a
16 job development credit according to the revitalization agreement.

17 (11) Each qualifying business claiming in excess of ten thousand dollars in a calendar year must
18 furnish to the council and to the department a report that itemizes the sources and uses of the funds.
19 The report must be filed with the council and the department no later than June thirtieth following the
20 calendar year in which the job development credits are claimed, except when a qualifying business
21 obtains the written approval by the council for an extension of that date. Extensions may be granted
22 only for good cause shown. The department shall impose a penalty pursuant to Section 12-54-210 for
23 all reports filed after June thirtieth or the approved extension date, whichever is later. The department
24 shall audit each qualifying business with claims in excess of ten thousand dollars in a calendar year at
25 least once every three years to verify proper sources and uses of the funds.

26 (12) Each qualifying business claiming ten thousand dollars or less in any calendar year must
27 furnish a report prepared by the company that itemizes the sources and uses of the funds. This report
28 must be filed with the council and the department no later than June thirtieth following the calendar
29 year in which the job development credits are claimed, except when a qualifying business obtains the
30 written approval by the council for an extension of that date. Extensions may be granted only for good
31 cause shown. The department shall impose a penalty pursuant to Section 12-54-210 for all reports filed
32 after June thirtieth or the approved extension date, whichever is later.

33 (13) An employer may not claim an amount that results in an employee's receiving a smaller
34 amount of wages on either a weekly or on an annual basis than the employee would receive otherwise
35 in the absence of this chapter.

36 (14)(a) For purposes of this chapter, a qualifying business may designate up to two related persons

1 whose jobs and investments located at the project may be included to determine whether the qualifying
2 business has met and maintained the minimum job requirement and minimum capital investment
3 requirement. Qualified expenditures described in subsection (C) incurred by a related person may be
4 treated as though such qualifying expenditures were incurred by the qualifying business for purposes
5 of claiming the job development credit and each related person may claim the job development credit
6 for the jobs created by such related person and include any qualifying expenditures of the qualifying
7 business or another related person for purposes of claiming the job development credit as if created and
8 made by the related person.

9 (b) A single-member limited-liability company that is not regarded as an entity separate from
10 its owner and a qualified subchapter "S" subsidiary as defined in Section 1361(b)(3)(B) of the Internal
11 Revenue Code that is not regarded as a separate entity from the "S" corporation that owns its stock, is
12 treated as the qualifying business for all purposes under this chapter, including for purposes of claiming
13 the job development credit against withholding but it counts as a related person for purposes of the
14 limit described in subitem (a).

15 (B)(1) The maximum job development credit a qualifying business may claim for new employees is
16 limited to the lesser of withholding tax paid to the State on a quarterly basis or the sum of the following
17 amounts:

18 (a) two percent of the gross wages of each new employee who earns \$8.74 or more an hour but
19 less than \$11.64 an hour;

20 (b) three percent of the gross wages of each new employee who earns \$11.65 or more an hour
21 but less than \$14.55 an hour;

22 (c) four percent of the gross wages of each new employee who earns \$14.56 or more an hour
23 but less than \$21.84 an hour; and

24 (d) five percent of the gross wages of each new employee who earns \$21.85 or more an hour.

25 (2) The hourly gross wage figures in item (1) must be adjusted annually by an inflation factor
26 determined by the Revenue and Fiscal Affairs Office.

27 (C) To claim a job development credit, the qualifying business must incur qualified expenditures at
28 the project or for utility or transportation improvements that serve the project. To be qualified, the
29 expenditures must be:

30 (1) incurred during the term of the revitalization agreement, including a preliminary revitalization
31 agreement, or within sixty days before council's receipt of an application for benefits pursuant to this
32 section;

33 (2) authorized by the revitalization agreement; and

34 (3) used for any of the following purposes:

35 (a) training costs and facilities;

36 (b) acquiring and improving real property whether constructed or acquired by purchase, or in

1 cases approved by the council, acquired by capital or operating lease with at least a five-year term or
2 otherwise;

3 (c) improvements to both public and private utility systems including water, sewer, electricity,
4 natural gas, and telecommunications;

5 (d) fixed transportation facilities including highway, rail, water, and air;

6 (e) construction or improvements of real property and fixtures constructed or improved
7 primarily for the purpose of complying with local, state, or federal environmental laws or regulations;

8 (f) employee relocation expenses, but only for those employees to whom the company is paying
9 gross wages at least two times the lower of the per capita income for either the state or the county in
10 which the project is located;

11 (g) financing the costs of a purpose described in items (a) through (f);

12 (h) training for all relevant employees that enable a company to export or increase a company's
13 ability to export its products, including training for logistics, regulatory, and administrative areas
14 connected to the company's export process and other export process training that allows a qualified
15 company to maintain or expand its business in this State;

16 (i) apprenticeship programs;

17 (j) quality improvement programs of the South Carolina Quality Forum.

18 (D)(1) The amount of job development credits a qualifying business may claim for its use for
19 qualifying expenditures is limited according to the designation of the county as defined in Section
20 12-6-3360(B), as follows:

21 (a) one hundred percent of the maximum job development credits may be claimed by businesses
22 located in counties designated as "Tier IV";

23 (b) eighty-five percent of the maximum job development credits may be claimed by businesses
24 located in counties designated as "Tier III";

25 (c) seventy percent of the maximum job development credits may be claimed by businesses
26 located in counties designated as "Tier II"; or

27 (d) fifty-five percent of the maximum job development credits may be claimed by businesses
28 located in counties designated as "Tier I".

29 (2) The amount that may be claimed as a job development credit by a qualifying business is limited
30 by this subsection and by the revitalization agreement. The council may approve a waiver of ninety-five
31 percent of the limits provided in item (1) for:

32 ~~— (a) a significant business as defined in Section 12-10-30(18); and~~

33 ~~— (b) a related person to a significant business if the related person is located at the project site of~~
34 ~~the significant business and qualifies for job development credits pursuant to this chapter.~~

35 ~~— For purposes of this item, a related person includes any entity or person that bears a relationship to~~
36 ~~a significant business as provided in Internal Revenue Code Section 267 and includes, without~~

1 ~~limitation, a limited liability company of which more than fifty percent of the capital interest or profits~~
2 ~~is owned directly or indirectly by a significant business or by a person or entity, or group of persons or~~
3 ~~entities which owns, more than fifty percent of the capital interest or profits in the significant business.~~

4 (3) The county designation of the county in which the project is located on the date the application
5 for job development credit incentives is received in the ~~Office~~ office of the ~~Coordinating Council~~
6 council remains in effect for the entire period of the revitalization agreement, ~~except as to additional~~
7 ~~jobs created pursuant to an amendment to a revitalization agreement entered into before June 1, 1997,~~
8 ~~as provided in Section 12-10-60. In that case the county designation on the date of the amendment~~
9 ~~remains in effect for the remaining period of the revitalization agreement as to any additional jobs~~
10 ~~created after the effective date of the amendment.~~

11 (E) The council shall certify to the department the maximum job development credit for each
12 qualifying business. After receiving certification, the department shall remit an amount equal to the
13 difference between the maximum job development credit and the job development credit actually
14 claimed to the State Rural Infrastructure Fund as defined and provided in Section 12-10-85.

15 (F) Any job development credit of a qualifying business permanently lapses upon expiration or
16 termination of the revitalization agreement. If an employee is terminated, the qualifying business
17 immediately must cease to claim job development credits as to that employee.

18 (G) For purposes of the job development credit allowed by this section, an employee is a person
19 whose job was created in this State.

20 (H) Job development credits may not be claimed by a governmental employer who employs persons
21 at a closed or realigned military installation as defined in Section 12-10-88(E).

22 (I) A taxpayer who qualifies for the job development credit pursuant to the provisions of this section
23 and who is located in a multicounty business or industrial park jointly established pursuant to Section
24 13 of Article VIII of the Constitution of this State is allowed a job development credit equal to the
25 amount allowed pursuant to subsection (D) for the designation of the county which has the lowest
26 development status of the counties containing the park if:

27 (1) the park is developed and established on the geographical boundary of adjacent counties; and

28 (2) the written agreement, pursuant to Section 4-1-170, requires revenue from the park to be
29 allocated to each county on an equal basis.

30 (J) Where the qualifying business that creates new jobs under this section is a qualifying
31 service-related facility as defined in Section 12-6-3360(M)(13), the determination of the number of
32 jobs created for purposes of eligibility must be based on the total number of new jobs created within
33 five years of the effective date of the revitalization agreement, without regard to monthly or other
34 averaging.

35 (K) For purposes of this section, the job and per capita income thresholds contained in the definition
36 of "qualifying service-related facility" as set forth in Section 12-6-3360(M)(13)(b) must be modified

1 to read as set forth in the item below:

2 (1) a business, other than a business engaged in legal, accounting, banking, or investment services
3 (including a business identified under NAICS Section 55) or retail sales, which has a net increase of at
4 least:

5 (a) one hundred twenty-five jobs ~~at-on the payroll for~~ a single location;

6 (b) one hundred jobs at a single location comprised of a building or portion of a building that
7 has been vacant for at least twelve consecutive months before the ~~taxpayer's~~ business's investment;

8 (c) seventy-five jobs ~~at-on the payroll for~~ a single location and the jobs have an average cash
9 compensation level of more than one and one-half times the lower of state per capita income or per
10 capita income in the county where the jobs are located;

11 (d) fifty jobs ~~at-on the payroll for~~ a single location and the jobs have an average cash
12 compensation level of more than twice the lower of state per capita income or per capita income in the
13 county where the jobs are located; or

14 (e) twenty-five jobs ~~at-on the payroll for~~ a single location and the jobs have an average cash
15 compensation level of more than two and one-half times the lower of state per capita income or per
16 capita income in the county where the jobs are located.

17 (L) For purposes of this section and notwithstanding the provisions of Section 12-10-50(A)(1),
18 subject to the discretion of the council, the definition of "qualifying service-related facility" as defined
19 in Section 12-6-3360(M)(13), as modified by Section 12-10-80(K)(1), shall also include the following:

20 (1) a business engaged in legal, accounting, banking, or investment services operating at a single
21 facility if the single facility would otherwise qualify as a qualifying service-related facility as defined
22 in Section 12-6-3360(M)(13)(b), as modified by subsections (J) and (K) above, if not for the exclusions
23 contained in Section 12-6-3360(M)(13)(b);

24 (2) a business generally engaged in retail sales at a single facility if that single facility would
25 otherwise qualify as a qualifying service-related facility as defined in Section 12-6-3360(M)(13)(b), as
26 modified by subsections (J) and (K) above, if not for the exclusions contained in Section
27 12-6-3360(M)(13)(b) and provided that no retail sales are conducted at that single facility; and

28 (3) In making a determination with regard to Section 12-10-80(L)(1) or Section 12-10-80(L)(2),
29 the council may consider the following:

30 (a) the percentage of such business's annual gross receipts from services or other income
31 producing activity derived from customers or clients located outside of South Carolina for the twelve
32 months preceding the month in which such business applies to the council to claim a job development
33 credit and such percentage may not be less than seventy-five percent;

34 (b) the nature of the new jobs to be created at the project;

35 (c) the wages of the new jobs to be created at the project;

36 (d) the capital investment of the project; and

1 (e) the potential for expansion or growth of the business or industry.

2 (M) If the council approves an operating lease as an eligible expenditure under Section 12-10-80(C)
3 for a qualifying business that qualifies pursuant to subsections (K) or (L) and will create at least
4 twenty-five jobs for a project and all of the jobs will have a cash compensation level of more than two
5 and one half times the per capita income in the county where the project is located, the qualifying
6 business may be reimbursed on an annual basis for lease payments before the certification to the council
7 that the qualifying business has met the minimum job requirement and minimum capital investment
8 provided for in the revitalization agreement. The reimbursements may begin in the first year in which
9 the business creates at least ten new jobs that meet such wage threshold and may continue for up to ten
10 years. This subsection does not apply to build-to-suit lease payments.

11
12 SECTION 4. Section 12-10-95 of the S.C. Code is amended to read:

13
14 Section 12-10-95. (A)(1) Subject to the conditions in this section, a business engaged in
15 manufacturing or processing operations or technology intensive activities at a manufacturing,
16 processing, or technology intensive facility as defined in Section 12-6-3360(M), or warehousing and
17 distribution, and that meets the requirements of Section 12-10-50(B)(2) ~~may negotiate with a technical~~
18 ~~college~~, with approval from the State Board for Technical and Comprehensive Education, ~~to~~ may claim
19 as a credit against withholding one thousand dollars a year for the retraining of a production or
20 technology or warehousing and distribution first line employee or immediate supervisor who has been
21 continuously employed by the business for a minimum of ~~two years~~ one year and is a full-time
22 employee, so long as retraining is necessary for the qualifying business to remain competitive or to
23 introduce new technologies. In addition to the yearly limits, the retraining credit claimed against
24 withholding may not exceed five thousand dollars over five consecutive years for each retrained
25 production or technology first line employee or immediate supervisor.

26 (2) Retraining programs that are eligible for the credit include, but are not limited to:

27 (a) retraining of current employees on newly installed equipment; ~~and~~

28 (b) retraining of current employees on newly implemented technology, such as computer
29 platforms, software implementation and upgrades, Total Quality Management, ISO 9000, and
30 self-directed work teams; and

31 (c) retraining of current employees for the purpose of upskilling, management development, or
32 recertification in production-related competencies.

33 Executive training, ~~management development training, career development,~~ personal enrichment
34 training, and cross-training of employees on equipment or technology that is not new to the company
35 are not eligible for the credit.

36 (B) A qualifying business is eligible to claim as a retraining credit against withholding the lower

1 amount of the following:

2 (1) the retraining credit for the applicable withholding period as determined by subsection (A); or

3 (2) withholding paid to the State for the applicable withholding period.

4 (C) All retraining must be approved by ~~a technical college under the jurisdiction of the State Board~~
5 ~~for Technical and Comprehensive Education. A qualifying business must submit a retraining program~~
6 ~~for approval by the appropriate technical college. The approving technical college may provide the~~
7 ~~retraining itself, subject to the retraining program, or contract with other training entities to provide the~~
8 ~~required retraining, or supervise the employer's approved internal training program.~~ the State Board for
9 Technical and Comprehensive Education.

10 (D) An employer may not receive the credit allowed by this section if the employer requires that the
11 employee reimburse or pay the employer for the direct costs of retraining, or if the employee is required
12 to reimburse or pay the employer indirectly through the forfeiture of leave time, vacation time, or other
13 compensable time. Direct costs of retraining include instructor salaries, development of retraining
14 programs, purchase or rental of materials and supplies, textbooks and manuals, instructional media,
15 such as video tapes, presentations, equipment used for retraining only, not to include production
16 equipment, and reasonable travel costs as limited by the state's travel expense reimbursement policy.

17 (E) The qualifying business must expend at least one dollar ~~fifty cents~~ on retraining eligible
18 employees for every dollar claimed as a credit against withholding for retraining. All training costs,
19 including costs in excess of the retraining credits and matching funds, are the responsibility of the
20 business.

21 (F) A qualifying business may not claim retraining credit for training provided to the following
22 production or technology first line employees or immediate supervisors:

23 (a) temporary or contract employees; and

24 (b) employees who are ~~subject to a~~ included in the minimum job requirement of an ongoing
25 revitalization agreement, including a preliminary revitalization agreement and for which the company
26 is eligible to claim job development credits. A qualifying business may claim retraining credits for
27 employees who are not subject to the job development credit but who are included in the base
28 employment of an ongoing revitalization agreement provided that such employees meet the
29 requirements for retraining eligibility included in this section.

30 (G) ~~Notwithstanding~~ In addition to another provision of this section, the retraining credit allowed by
31 this section is for:

32 (1) training included in a registered apprenticeship programs program; and

33 (2) retraining for all relevant employees that enable a company to export or increase its ability to
34 export its products, including training for logistics, regulatory, and administrative areas connected to
35 its export process and other export process training that allows a qualified company to maintain or
36 expand its business in this State.

1 (H) There is hereby established an annual renewal fee of two hundred fifty dollars to be billed and
2 collected by the department.

3 (I)(1) All approved programs and training must be reviewed annually by the State Board for
4 Technical and Comprehensive Education.

5 (2) A qualifying business may contract with the State Board for Technical and Comprehensive
6 Education or a subsidiary technical college to assist with additional program administration beyond
7 what is required in a typical retraining agreement for a quarterly fee not to exceed twenty percent of
8 the retraining credit amount claimed. Fees must be collected on a quarterly basis.

9 (3) Every three years, the Department of Revenue must audit any business that claimed the job
10 retraining credit pursuant to this section during that time period, solely for the purpose of verifying
11 proper sources and uses of the credits.

12 (J) The State Board for Technical and Comprehensive Education shall establish policies and
13 procedures to provide the oversight and review provisions of this section. By November fifteenth of
14 each year, the State Board for Technical and Comprehensive Education shall submit a statewide
15 aggregated report detailing the utilization of the retraining credit pursuant to this section, as well as the
16 board's activities in regard to oversight, to the Governor, the Chairman of the House Ways and Means
17 Committee, the Chairman of the Senate Finance Committee, the Coordinating Council for Economic
18 Development, and the Department of Revenue. Also, the board shall make the report available in a
19 conspicuous place on the website maintained by the board.

20
21 SECTION 5. This act takes effect upon approval by the Governor and first applies to income tax years
22 beginning after 2022.

23 ----XX----