Bill Number:	H. 4087 Amended by Senate Finance Sales & Income Tax Subcommittee on March 26, 2024
Author:	G.M. Smith
Subject:	Income Tax Credits
Requestor:	Senate Finance
RFA Analyst(s):	Jolliff
Impact Date:	April 2, 2024

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 (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 contract for these services is currently unknown. The provision would only have an impact on expenditures and revenues for the Tech Board if businesses choose to obtain these 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 total General Fund corporate income tax revenue by approximately $2,885,000 and individual income tax revenue by $4,662,000, for a total of $7,547,000 beginning in FY 2024-25. 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 an individual company's tax liability and ability to use these credits. This estimate also includes updated tax information that was not available for previous estimates.

Section 2 amends the recycling facilities credit by lowering the investment threshold from $300 million to $150 million and expanding the credit to include manufacture and fabrication of products from qualifying post-consumer waste materials and 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 credit is for 30 percent of the investment in the recycling property including the total cost of acquisition, construction, and installation of all real and personal property, and may be claimed against corporate income tax, sales or use tax, or corporate license tax, or any similar taxes. At 30 percent of $150 million, the minimum credit level would be $45 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. We estimate the changes will reduce General Fund corporate income or license taxes by $735,000 per year and sales tax by $907,000, for a total reduction of $1,642,000 beginning in FY 2024-25.

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. Additionally, the Department of Commerce indicates that although the changes are effective in tax year 2021, other statutory requirements would prevent retroactively applying these credits. For example, only expenses incurred within 60 days of application are eligible for reimbursement through JDCs. As such, although the changes are effective in tax year 2021, credits would not be retroactive. Therefore, the bill will reduce General Fund income tax withholdings revenue by approximately $640,000 beginning in FY 2024-25.

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 $1,512,000 beginning in FY 2024-25.

The table below summarizes the impact by section. In total, the bill would reduce General Fund revenue by approximately $11,251,000 beginning in FY 2024-25. As noted above, this amount may vary by year.

FY 2024-25 General Fund Revenue Impact

Section 1 – Corporate Headquarters	($7,457,000)
Section 2 – Recycling Facility	($1,642,000)
Section 3 – Job Development Credits	($640,000)
Section 4 – Job Retraining Credits	($1,512,000)
Total	($11,251,000)

Explanation of Fiscal Impact

Amended by Senate Finance Sales & Income Tax Subcommittee on March 26, 2024
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 contract for these services is currently unknown. The provision would only have an impact on expenditures and revenues for the Tech Board if businesses choose to obtain these 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.

Further, 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 currently. 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.

For 2023, state per capita income was $56,123. 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.

The table below provides the history of corporate headquarters tax credits reported for corporate income taxpayers. Credits increased significantly in FY 2021-22 and FY 2022-23, even when considering the increase in total corporate income tax collections. The figures below estimate total credits for FY 2023-24 and FY 2024-25 based on historical credits and the forecast for total corporation income tax by the Board of Economic Advisors as of November 15, 2023. These figures reflect earned credits. Taxpayers may not have sufficient tax liability to use the full amounts listed and may carry forward unused credits.

Corporate Headquarters Tax Credits – History and Estimates

Year	Returns	Amount	Average per Return	Total Corporate Income Tax	Percentage of Total Corporate Income Tax
2017-18	26	$422,791	$16,261	$375,189,587	0.11%
2018-19	23	$212,690	$9,247	$494,214,442	0.04%
2019-20	18	$2,492,653	$138,481	$423,052,193	0.59%
2020-21	26	$1,783,479	$68,595	$669,221,114	0.27%
2021-22	23	$20,681,966	$899,216	$1,129,375,124	1.83%
2022-23(p)	26	$17,561,708	$675,450	$1,262,221,843	1.39%
2023-24(e)	*26*	*$10,881,000*	*$418,500*	*$782,083,000*	*1.39%*
2024-25(e)	*26*	*$10,603,000*	*$407,808*	*$762,083,000*	*1.39%*

Source: Department of Revenue Annual Report
(p) preliminary
(e)-estimates by SC Revenue and Fiscal Affairs for FY 2023-24 and FY 2024-25

In order to estimate the potential increase in credits by expanding the credits to apply to pass-through businesses, we reviewed total taxable income of C-corporations compared to income reported for partnerships and S-corporations. For 2021, the latest detailed tax year available, South Carolina partnership and S-corporation taxable income was 22 percent of taxable income for C-corporations in South Carolina. Based on this relationship, we estimate that adding pass-through businesses would increase total credits by approximately $2,331,000 for FY 2024-25.

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. Corporate income tax credits would increase by another $10,603,000 and individual income tax credits for pass-through entities would increase by another $2,331,000.

Corporations are typically unable to use all tax credits earned. For FY 2021-22, corporations used approximately 27.2 percent of the credits earned in the year. Based on this percentage, we estimate that the actual impact in FY 2024-25 of doubling the corporate headquarters tax credit would be approximately 27.2 percent of $10,603,000, or $2,885,000. Combining these new credits and the estimated impact of $2,331,000 for pass-through businesses, we estimate the total credits used in FY 2024-25 would increase by $5,216,000 for the change to include personal property.

In total, these changes would reduce total General Fund corporate income tax revenue by approximately $2,885,000 and individual income tax revenue by $4,662,000, for a total of $7,547,000 beginning in FY 2024-25. 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 an individual 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 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 as amended lowers the investment required from $300 million to $150 million and expands the credit to apply to fabrication of products in addition to manufacturing. 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 $150 million, the minimum credit level would be $45 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 indicates that based on the last 5 years an additional 1-2 projects per year are likely to qualify for the revised credit. Based on this experience, we would anticipate that this provision will increase earned tax credits for qualifying facilities by at least $45 million per year. 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 the latest available data, we estimate that a company with an investment of approximately $150 million would claim approximately $735,000 per year against corporate income or license taxes. Further, based on available data and the required investment threshold, we estimate that a facility 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 $1,642,000 in FY 2024-25. This amount would continue to grow as companies claim new credits and existing companies continue to claim credit carryforward amounts until the total amounts reach the credits earned. Based on total credits per company of approximately $45 million, it will take approximately 27 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. The bill provides that remote employees must be subject to South Carolina income tax withholdings. This section is effective beginning in tax year 2021. 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.

Additionally, the Department of Commerce indicated that although the changes are effective in tax year 2021, other statutory requirements would prevent retroactively applying these credits. For example, only expenses incurred within 60 days of application are eligible for reimbursement through JDCs. As such, although the changes are effective in tax year 2021, credits would not be retroactive. Therefore, the bill will reduce General Fund income tax withholdings revenue by approximately $640,000 beginning in FY 2024-25.

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 an RVA. 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 and Estimates

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
2021-22	$792,426
2022-23 (p)	$1,104,762
2023-24 (e)	*$1,430,000*
2024-25 (e)	*$1,766,000*

Source: Department of Revenue Annual Report
(p)- preliminary
(e)-estimates by S.C. Revenue and Fiscal Affairs

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 $353,000 in FY 2024-25.

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.[1] 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.

[1] Bureau of Labor Statistics, *1995 Survey of Employer Provided Training* https://www.bls.gov/news.release/sept.t01.htm; Retrieved March 28, 2024.

Including the increase due to the expansion of qualifying industries, we estimate that credits under the current qualifying trainings would likely total approximately $2,119,000. Increasing that amount by 54.7 percent for the expanded trainings included would result in approximately $1,159,000 in additional credits. Under these assumptions, the changes in total would decrease General Fund withholdings tax revenue by approximately $1,512,000 beginning in FY 2024-25.

In total, the bill would reduce General Fund revenue by approximately $11,251,000 beginning in FY 2024-25. The table below provides the impact by section.

FY 2024-25 General Fund Revenue Impact

Section 1 – Corporate Headquarters	($7,457,000)
Section 2 – Recycling Facility	($1,642,000)
Section 3 – Job Development Credits	($640,000)
Section 4 – Job Retraining Credits	($1,512,000)
Total	($11,251,000)

Local Expenditure and Local Revenue
N/A

Amended by House Ways and Means on March 30, 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.[2] 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 passthroughs had fewer than 100 employees; and 99 percent of corporations and 99.7 percent of pass-throughs had fewer than 500 employees.[3] 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.

<u>Section 2</u>
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

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[2] Tax Foundation.org, *Pass-through Business,* https://taxfoundation.org/tax-basics/pass-through-business
[3] 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 as amended lowers the investment required from $300 million to $100 million and expands the credit to apply to fabrication of products in addition to manufacturing. 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
Average	*$1,525,661*

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.[4] 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.

Section X

The newly added section of the amended bill adds a provision to Section 12-6-3360 specifying that in order to recruit an eligible business to this state or to expand in this state, the Secretary of Commerce, with approval by the Joint Bond Review Committee, may allow an eligible business to sell or transfer tax job tax credits.

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.

This bill may impact credit utilization for job tax credits by allowing companies to transfer or sell tax credits to companies with a higher tax liability and ability to utilize the earned tax credits. In a typical year, approximately $60 to $80 million in job tax credits is earned but only $20 to $30 million is claimed due to tax liability. The remainder is carried forward. Based on recent tax filings as much as $620 million in job tax credits is carried forward from prior years. Further, it is not clear if the limitation of 50 percent of tax liability applies to the transferred credit. In

[4] Bureau of Labor Statistics, *1995 Survey of Employer Provided Training* https://www.bls.gov/news.release/sept.t01.htm

selling the credit, the company would potentially be subject to income tax on the proceeds, which could also affect the impact. However, companies may retain some portion of the tax credits to then offset the liability accruing from the sale.

The amount of these credits that will be allowed to be sold or transferred will depend on approval by Commerce and JBRC. Depending on what is approved, the impact could be significant. However, given that the provision will require further action by Commerce and JBRC, the impact is undetermined at this time. The Board of Economic Advisors will monitor this process and adjust the revenue forecast at the time of approval to account for the impact if a business receives approval to sell or transfer credits.

In total, the bill would reduce General Fund revenue by at least $7,070,000 beginning in FY 2023-24. However, the total impact is undermined. 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)
Section X- Job Tax Credit (sale or transfer)	Undetermined
Total	Undetermined

Local Expenditure and Local Revenue
N/A

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.[5] 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 passthroughs had fewer than 100 employees; and 99 percent of corporations and 99.7 percent of pass-throughs had fewer than 500 employees.[6] 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.

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[5] Tax Foundation.org, *Pass-through Business,* https://taxfoundation.org/tax-basics/pass-through-business

[6] 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

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 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.

<u>Section 4</u>
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
Average	*$1,525,661*

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.[7] 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 and Local Revenue

N/A

[7] Bureau of Labor Statistics, *1995 Survey of Employer Provided Training* https://www.bls.gov/news.release/sept.t01.htm

Frank A. Rainwater, Executive Director