

Chair Wm. Weston J. Newton

*First Vice-Chair:
Joseph H. Jefferson, Jr.*

Legislative Oversight Committee

*Kambrell H. Garvin
Rosalyn D. Henderson-Myers
Jeffrey E. "Jeff" Johnson
John R. McCravy, III
Adam M. Morgan
Melissa Lackey Oremus
Marvin R. Pendarvis
Chris Wooten*



South Carolina House of Representatives

*Gil Gatch
William M. "Bill" Hixon
Kimberly O. Johnson
Josiah Magnuson
Timothy A. "Tim" McGinnis
Travis A. Moore
Russell L. Ott
Michael F. Rivers, Sr.
John Taliaferro (Jay) West, IV*

*Jennifer L. Dobson
Research Director*

*Cathy A. Greer
Administration Coordinator*

**Post Office Box 11867
Columbia, South Carolina 29211
Telephone: (803) 212-6810 • Fax: (803) 212-6811
Room 228 Blatt Building**

*Charles L. Appleby, IV
Legal Counsel*

*Lewis Carter
Research Analyst/Auditor*

*Riley E. McCullough
Research Analyst*

March 11, 2022

VIA EMAIL

W. Hartley Powell, Director
South Carolina Department of Revenue
300-A Outlet Pointe Boulevard
Columbia, South Carolina 29210
Director@dor.sc.gov; laura.watts@dor.sc.gov

RE: Legislative Oversight Study

Dear Director Powell:

The Economic Development, Transportation, and Natural Resources Subcommittee appreciates the agency's partnership in the oversight process. Based on information provided during the study of the Department of Commerce, various members request answers to the following questions be gathered.

Implementation of LAC Recommendations

1. Please provide a chart listing the recommendations directed to DOR from the Legislative Audit Council Audit of the Department of Commerce and, for each¹:
 - a. whether the agency plans to implement the recommendation
 - i. If no, why not?
 - ii. If yes, actions taken by the agency thus far to implement the recommendation

¹ For example, on page 52, Recommendation 20. The S.C. Department of Revenue should allocate resources so that the job development credit audit program is able to fulfill its statutorily required duty to audit each company claiming job development credits in excess of \$10,000 in a calendar year, at least once every three years.

Data about companies and employees

2. Please provide a list of the data fields the agency maintains on each business in the state and, for each, any limitations in how that information can be shared (e.g., cannot be shared without the business' permission).
3. Please explain Business One Stop, including, but not limited to, other state agencies involved.

Incentives and Audits

4. Please provide any ideas for terms that, if included in a performance agreement between the Department of Commerce and a company receiving an incentive, may make it easier for DOR to collect any money owed via the GEAR program.
5. Please list the types of audits the agency is required to perform on companies receiving incentives or grants and, for each, the number of companies on which it is to be performed, the number that have been performed, and if it is not 100%, the reason why.²
6. Please list the information the agency tracks related to statutory and discretionary incentives for businesses and, for each, the name of the document in which it is reported and location online?³
7. Please list any statutory incentives of which the agency has no record of an entity utilizing in the last 20 years or since creation of the incentive.
8. For companies that received job tax credits in the last ten years, please provide the following:
 - a. Number of companies receiving job tax credits;
 - b. Of those companies, number the agency audited to verify the number of jobs listed by the company; and
 - c. If the agency has not audited all the companies, please explain why and what would be needed to audit all of them.
9. What information can you provide about companies that have claimed statutory tax credits, abatements, etc. (e.g., name, year, amount, etc.)?
 - a. If DOR was provided a list of company names, could it state which statutory tax credits, abatements, etc. were claimed and received?
 - b. For any information that must remain confidential, please cite the applicable laws requiring it remain confidential.

² For example, S.C. Code §12-10-80(A)(11) requires DOR to audit each qualifying business with Job Development Credit claims in excess of \$10,000 in a calendar year "at least once every three years to verify proper sources and uses of the funds." DOR reports that its auditors have completed 15 to 29 audits per year over the past three calendar years, but there have been an average of 138 to 184 companies claiming JDCs over the past four years

³ Department of Commerce, Incentives Presentation, slide 7, available here [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Incentives%20-%20\(5.21.21\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Incentives%20-%20(5.21.21).pdf)

10. What information can DOR provide about statutory tax credits, abatements, etc. in an aggregated format (e.g., number of companies who received each type, by year, etc.)?
11. Please explain DOR's process for auditing the information companies provide to receive tax credits.
12. How many times, if ever, has DOR found a company to have claimed an inaccurate number of new jobs for purposes of obtain job tax credits?
 - a. What action is taken when this occurs?
13. Please explain the timing for the different events involved in the job tax credits (e.g., when taxes are paid and to whom -is it annual and is it to DOR or DEW, when documents are provided showing new jobs created, when credit/return is applied/provided, when audit may occur, etc.)
14. How many employees would be needed to complete audits of companies that receive Job Development Credits and claim more than \$10,000 in a calendar year, if you utilize the average number of companies that fall within this category in each of the last five years?
15. How many employees do you currently have assigned full time to this task?
 - a. Is this number sufficient or are more needed?
16. How many companies should have had an audit pursuant to S.C. Code Section 12-10-80?
 - a. How many of those companies have had audits?
 - b. Are the audits to check if the company is currently maintaining what is required or whether the company was maintaining what was required when Coordinating Council on Economic Development (CCED) initially certified the company?
 - c. How many of those audited have determined the information provided by the company was not accurate and, for each, please provide the jobs and investment the company claimed and the jobs and investment SCDOR found.
17. Would DOR oppose conducting a random audit immediately after a company is first certified (e.g., not every company will be audited, but some will be)?

Admissions Tax

18. Please explain from whom admissions tax is collected?
19. Does an entity that is registered as a South Carolina Non-Profit with the Secretary of State's Office qualify for the admissions tax exemption, if they are not registered as a federal non-profit with the IRS? If not, please explain why.
20. How are funds collected from admissions tax utilized?

Director Powell

Page 4

Please provide responses to the questions by Friday, March 25, 2022.

The agency's responses will be posted online for transparency to the public. Accordingly, please do not provide any information that may not be posted online due to legal or contract prohibitions, that may harm the competitive advantage of the state in recruiting and retaining business, or that may jeopardize the life, health, or safety of anyone.

In responding to these questions, please remember the Committee's expectations, which are provided in the Committee's Standard Practice 6. The Subcommittee looks forward to working collaboratively with the Department of Commerce during the oversight process. Thank you and your team for your service to the citizens of South Carolina.

Sincerely,

A handwritten signature in blue ink that reads "Bill Hixon". The signature is written in a cursive, slightly slanted style.

Representative William M. "Bill" Hixon
Subcommittee Chair

cc: The Honorable Wm. Weston J. Newton
Economic Development, Transportation, and Natural Resources Subcommittee