

General Assembly

Raised Bill No. 5127

February Session, 2022

LCO No. 1160



Referred to Committee on COMMERCE

Introduced by:

(CE)

AN ACT ESTABLISHING THE JOBSCT TAX REBATE PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (Effective July 1, 2022, and applicable to taxable years
- 2 *commencing on or after January 1, 2023*) (a) As used in this section:
- 3 (1) "Commissioner" means the Commissioner of Economic and
- 4 Community Development;
- 5 (2) "Discretionary FTE" means an FTE that is paid qualified wages
- 6 and does not meet the threshold wage requirements to be a qualified
- 7 FTE but is approved by the commissioner pursuant to subdivision (4) of
- 8 subsection (c) of this section;
- 9 (3) "Distressed municipality" has the same meaning as provided in section 32-9p of the general statutes;
- 11 (4) "Full-time equivalent" or "FTE" means the number of employees
- 12 employed at a qualified business, calculated in accordance with
- 13 subsection (d) of this section;

- 14 (5) "Full-time job" means a job in which an employee is required to 15 work at least thirty-five or more hours per week. "Full-time job" does 16 not include a temporary or seasonal job;
- (6) "Median household income" means the median annual household
 income for residents in a municipality as calculated from the U.S.
 Census Bureau's five-year American Community Survey or another
 data source, at the sole discretion of the commissioner;

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- (7) "New employee" means a person or persons hired by the qualified business to fill a full-time equivalent position. A new employee does not include a person who was employed in this state by a related person with respect to the qualified business within twelve months prior to a qualified business' application to the commissioner for a rebate allocation notice for a job creation rebate pursuant to subsection (c) of this section;
- 28 (8) "New FTEs" means the number of FTEs that (A) did not exist in this state at the time of a qualified business' application to the 29 30 commissioner for a rebate allocation notice for a job creation rebate 31 pursuant to subsection (c) of this section, (B) are not the result of FTEs acquired due to a merger or acquisition, (C) are filled by a new 32 33 employee, (D) are qualified FTEs, and (E) are not FTEs hired to replace 34 FTEs that existed in the state after January 1, 2020. The commissioner 35 may issue guidance on the implementation of this definition;
- 36 (9) "New FTEs created" means the number of new FTEs that the 37 qualified business is employing at a point-in-time at the end of the 38 relevant time period;
 - (10) "New FTEs maintained" means the total number of new FTEs employed throughout a relevant time period;
- (11) "Opportunity zone" means a population census tract that is a low-income community that is designated as a "qualified opportunity zone" pursuant to the Tax Cuts and Jobs Act of 2017, P.L. 115-97, as amended from time to time;

- 45 (12) "Part-time job" means a job in which an employee is required to 46 work less than thirty-five hours per week. "Part-time job" does not 47 include a temporary or seasonal job;
- 48 (13) "Qualified business" means a person that is (A) engaged in 49 business in an industry related to finance, insurance, manufacturing, 50 clean energy, bioscience, technology, digital media or any similar 51 industry, as determined by the sole discretion of the commissioner, and 52 (B) subject to taxation under chapter 207, 208 or 228z of the general 53 statutes;
- (14) "Qualified FTE" means an FTE who is paid qualified wages of at least eighty-five per cent of the median household income for the location where the FTE position is primarily located, scaled in proportion to the FTE fraction, or thirty-seven thousand five hundred dollars, scaled in proportion to the FTE fraction, whichever is greater;
- 59 (15) "Qualified wages" means wages sourced to this state pursuant to 60 section 12-705 of the general statutes;
 - (16) "Rebate period" means the calendar years in which a tax rebate provided for in this section is to be paid pursuant to a contract executed pursuant to subsection (c) of this section; and
 - (17) "Related person" means (A) a corporation, limited liability company, partnership, association or trust controlled by the qualified business, (B) an individual, corporation, limited liability company, partnership, association or trust that is in control of the qualified business, (C) a corporation, limited liability company, partnership, association or trust controlled by an individual, corporation, limited liability company, partnership, association or trust that is in control of the qualified business, or (D) a member of the same controlled group as the qualified business. For the purposes of this subdivision, "control" means (i) ownership, directly or indirectly, of stock possessing fifty per cent or more of the total combined voting power of all classes of the stock of a corporation entitled to vote, (ii) ownership, directly or

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indirectly, of fifty per cent or more of the capital or profits interest in a partnership, limited liability company or association, or (iii) ownership, directly or indirectly, of fifty per cent or more of the beneficial interest in the principal or income of a trust. The ownership of stock in a corporation, of a capital or profits interest in a partnership, of a limited liability company or association or of a beneficial interest in a trust shall be determined in accordance with the rules for constructive ownership of stock provided in Section 267(c) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, other than paragraph (3) of said section.

- (b) There is established a JobsCT tax rebate program under which qualified businesses that create jobs in this state, in accordance with the provisions of this section, may be allowed a tax rebate, which shall be treated as a credit against the tax imposed under chapter 208 or 228z of the general statutes or as an offset of the tax imposed under chapter 207 of the general statutes.
- (c) (1) To be eligible to claim a rebate under this section, a qualified business shall apply to the commissioner in accordance with the provisions of this subsection. The application shall be on a form prescribed by the commissioner and may require information, including, but not limited to, the number of new FTEs to be created by the qualified business, the number of current FTEs employed by the qualified business, feasibility studies or business plans for the increased number of FTEs, projected state and local revenue that may reasonably derive as a result of the increased number of FTEs and any other information necessary to determine whether there will be net benefits to the economy of the municipality or municipalities in which the qualified business is primarily located and the state.
- (2) Upon receipt of an application, the commissioner shall determine (A) whether the qualified business making the application will be reasonably able to meet the FTE hiring targets and other metrics as presented in such application, (B) whether such qualified business'

109 proposed job growth would provide a net benefit to economic 110 development and employment opportunities in the state, and (C) 111 whether such qualified business' proposed job growth will exceed the 112 number of jobs at the business that existed prior to January 1, 2020. The 113 commissioner may require the applicant to submit additional 114 information to evaluate an application. Each qualified business making 115 an application shall satisfy the requirements of this subdivision, as 116 determined by the commissioner, to be eligible for the JobsCT tax rebate 117 program.

- (3) The commissioner, upon consideration of an application and any additional information, may approve an application in whole or in part or may approve an application with amendments. If the commissioner disapproves an application, the commissioner shall identify the defects in such application and explain the specific reasons for the disapproval. The commissioner shall render a decision on an application not later than ninety days after the date of its receipt by the commissioner.
- 125 (4) The commissioner may approve an application in whole or in part 126 by a qualified business that creates new discretionary FTEs or may approve such an application with amendments if a majority of such new 127 128 discretionary FTEs are individuals who (A) because of a disability, are 129 receiving or have received services from the Department of Aging and 130 Disability Services; (B) are receiving employment services from the 131 Department of Mental Health and Addiction Services or participating in 132 employment opportunities and day services, as defined in section 17a-133 226 of the general statutes, operated or funded by the Department of 134 Developmental Services; (C) have been unemployed for at least six of 135 the preceding twelve months; (D) have been convicted of a 136 misdemeanor or felony; (E) are veterans, as defined in section 27-103 of 137 the general statutes; (F) have not earned any postsecondary credential 138 and are not currently enrolled in an postsecondary institution or 139 program; or (G) are currently enrolled in a workforce training program 140 fully or substantially paid for by the employer that results in such 141 individual earning a postsecondary credential.

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- (5) The commissioner may combine approval of an application with the exercise of any of the commissioner's other powers, including, but not limited to, the provision of other financial assistance.
- (6) The commissioner shall enter into a contract with an approved qualified business, which shall include, but need not be limited to, a requirement that the qualified business consent to the Department of Economic and Community Development's access of data compiled by other state agencies, including, but not limited to, the Labor Department, for the purposes of audit and enforcement and, if a qualified business is approved by the commissioner in accordance with subdivision (4) of this subsection, the required wage such business shall pay new discretionary FTEs to qualify for the tax rebates provided for in subsection (f) of this section.
 - (7) Upon signing a contract with an approved qualified business, the commissioner shall issue a rebate allocation notice stating the maximum amount of each rebate available to such business for the rebate period and the specific terms that such business shall meet to qualify for each rebate. Such notice shall certify to the approved qualified business that the rebates may be claimed by such business if it meets the specific terms set forth in the notice.
- (d) For the purposes of this section, the FTE of a full-time job or parttime job is based on the hours worked or expected to be worked by an employee in a calendar year. A job in which an employee worked or is expected to work one thousand seven hundred fifty hours or more in a calendar year equals one FTE. A job in which an employee worked or is expected to work less than one thousand seven hundred fifty hours equals a fraction of one FTE, where the fraction is the number of hours worked in a calendar year divided by one thousand seven hundred fifty. The commissioner shall have the discretion to adjust the calculation of FTE.
- (e) (1) In each calendar year of the rebate period, a qualified business approved by the commissioner pursuant to subdivision (3) of subsection

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- 174 (c) of this section that employs at least twenty-five new FTEs in this state 175 by December thirty-first of the calendar year that is two calendar years
- 176 prior to the calendar year in which the rebate is being claimed shall be
- 177 allowed a rebate equal to the greater of the following amounts:
- 178 (A) The sum of:
- 179 (i) The lesser of (I) the new FTEs created in an opportunity zone or 180 distressed municipality on December thirty-first of the calendar year 181 that is two calendar years prior to the calendar year in which the rebate 182 is being claimed, or (II) the new FTEs maintained in an opportunity zone 183 or distressed municipality in the previous calendar year, multiplied by 184 fifty per cent of the income tax that would be paid on the average wage 185 of the new FTEs, as determined by the applicable marginal rate set forth 186 in chapter 229 of the general statutes for an unmarried individual based 187 solely on such wages; and
- 188 (ii) The lesser of (I) the new FTEs created on December thirty-first of 189 the calendar year that is two calendar years prior to the calendar year in 190 which the rebate is being claimed, or (II) the new FTEs maintained in a location other than an opportunity zone or distressed municipality in 192 the previous calendar year, multiplied by twenty-five per cent of the 193 income tax that would be paid on the average wage of the new FTEs, as 194 determined by the applicable marginal rate set forth in chapter 229 of 195 the general statutes for an unmarried individual based solely on such 196 wages; or
 - (B) The greater of:
- 198 (i) One thousand dollars multiplied by the lesser of (I) the new FTEs 199 created by December thirty-first of the calendar year that is two calendar 200 years prior to the calendar year in which the rebate is being claimed, or (II) the new FTEs maintained in the calendar year immediately prior to the calendar year in which the rebate is being claimed; or 202
- 203 (ii) For tax credits earned, claimed or payable prior to January 1, 2024, 204 two thousand dollars multiplied by the lesser of (I) the new FTEs created

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- by December 31, 2022, or (II) the new FTEs maintained in the calendar year immediately prior to the calendar year in which the rebate is being claimed.
- 208 (2) In no event shall the rebate under this subsection exceed in any 209 calendar year of the rebate period five thousand dollars multiplied by 210 the lesser of (A) the new FTEs created by December thirty-first of the 211 calendar year that is two calendar years prior to the calendar year in 212 which the rebate is being claimed, or (B) the new FTEs maintained in the 213 calendar year immediately prior to the calendar year in which the rebate 214 is being claimed.
 - (3) In no event shall an approved qualified business receive a rebate under this subsection in any calendar year of the rebate period if such business has not maintained at least twenty-five new FTEs in the calendar year immediately prior to the calendar year in which the rebate is being claimed.
 - (f) (1) In each calendar year of the rebate period, a qualified business approved by the commissioner pursuant to subdivision (4) of subsection (c) of this section that employs at least twenty-five new discretionary FTEs in this state by December thirty-first of the calendar year that is two calendar years prior to the calendar year in which the rebate is being claimed shall be allowed a rebate equal to the sum of the amount calculated pursuant to subdivision (1) of subsection (e) of this section and the greater of the following:
 - (A) The sum of:

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(i) The lesser of the new discretionary FTEs (I) created in an opportunity zone or distressed municipality on December thirty-first of the calendar year that is two calendar years prior to the calendar year in which the rebate is being claimed, or (II) maintained in an opportunity zone or distressed municipality in the previous calendar year, multiplied by fifty per cent of the income tax that would be paid on the average wage of the new discretionary FTEs, as determined by the

- applicable marginal rate set forth in chapter 229 of the general statutes
 for an unmarried individual based solely on such wages; and
- 238 (ii) The lesser of the new discretionary FTEs (I) created on December 239 thirty-first of the calendar year that is two calendar years prior to the 240 calendar year in which the rebate is being claimed, or (II) maintained in 241 a location other than an opportunity zone or distressed municipality in 242 the previous calendar year, multiplied by twenty-five per cent of the 243 income tax that would be paid on the average wage of the new 244 discretionary FTEs, as determined by the applicable marginal rate set 245 forth in chapter 229 of the general statutes for an unmarried individual 246 based solely on such wages; or
 - (B) The greater of:

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- (i) Seven hundred fifty dollars multiplied by the lesser of the new discretionary FTEs (I) created by December thirty-first of the calendar year that is two calendar years prior to the calendar year in which the rebate is being claimed, or (II) maintained in the calendar year immediately prior to the calendar year in which the rebate is being claimed; or
- (ii) For tax credits earned, claimed or payable prior to January 1, 2024, one thousand five hundred dollars multiplied by the lesser of (I) the new FTEs created by December 31, 2022, or (II) the new FTEs maintained in the calendar year immediately prior to the calendar year in which the rebate is being claimed.
- (2) In no event shall the rebate under this section exceed in any calendar year of the rebate period five thousand dollars multiplied by the lesser of the new discretionary FTEs (A) created by December thirty-first of the calendar year that is two calendar years prior to the calendar year in which the rebate is being claimed, or (B) maintained in the calendar year immediately prior to the calendar year in which the rebate is being claimed.
 - (3) In no event shall an approved qualified business receive a rebate

- under this subsection in any calendar year of the rebate period if such business has not maintained at least twenty-five new discretionary FTEs in the calendar year immediately prior to the calendar year in which the rebate is being claimed.
 - (g) (1) Notwithstanding the provisions of subdivisions (3) and (4) of subsection (c) of this section, the commissioner may not approve an application in whole or in part if the full amount of rebates that such applicant may be paid pursuant to subsection (e) or (f) of this section would result in the aggregate amount of rebates issued to all approved qualified businesses under this section exceeding forty million dollars in any fiscal year.
 - (2) Notwithstanding the provisions of subdivision (4) of subsection (c) of this section, the commissioner may not approve an application in whole or in part if the full amount of rebates that such applicant may be paid pursuant to subsection (f) of this section would result in the aggregate amount of rebates issued pursuant to subsection (f) of this section exceeding ten million dollars in any fiscal year.
 - (h) (1) A rebate under this section may be granted to an approved qualified business for not more than seven successive calendar years. A rebate shall not be granted until at least twenty-four months after the commissioner's approval of a qualified business' application.
 - (2) An approved qualified business that has fewer than twenty-five new FTEs created in each of two consecutive calendar years or, if such business is approved by the commissioner pursuant to subdivision (4) of subsection (c) of this section, fewer than twenty-five new discretionary FTEs in each of two consecutive calendar years shall forfeit all remaining rebate allocations, unless the commissioner recognizes mitigating circumstances of a regional or national nature, including, but not limited to, a recession.
 - (i) Not later than January thirty-first of each year during the rebate period, each approved qualified business shall provide information to

the commissioner regarding the number of new FTEs or new discretionary FTEs created or maintained during the prior calendar year and the qualified wages of such new employees. Any information provided under this subsection shall be subject to audit by the Department of Economic and Community Development.

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- (j) Not later than March fifteenth of each year during the rebate period, the Department of Economic and Community Development shall issue the approved qualified business a rebate voucher that sets forth the amount of the rebate, as calculated pursuant to subsections (e) and (f) of this section, and the taxable year against which such rebate may be claimed. The approved qualified business shall claim such rebate as a credit against the taxes due under chapter 208 or 228z of the general statutes or as an offset of the tax imposed under chapter 207 of the general statutes. The commissioner shall annually provide to the Commissioner of Revenue Services a report detailing all rebate vouchers that have been issued under this section.
- (k) Beginning on January 1, 2023, and annually thereafter, the commissioner, in consultation with the office of the State Comptroller and the Auditors of Public Accounts, shall submit a report to the Office of Policy and Management on the expenses of the JobsCT tax rebate program and the number of FTEs and discretionary FTEs created and maintained.
- 320 Sec. 2. (NEW) (Effective July 1, 2022, and applicable to taxable years commencing on or after January 1, 2023) As used in this section, "affected business entity" and "member" have the same meanings as provided in subsection (a) of section 12-699 of the general statutes. An affected business entity that receives a rebate under section 1 of this act shall claim such rebate as a credit against the tax due under chapter 228z of the general statutes. If the amount of the rebate allowed pursuant to section 1 of this act exceeds the liability for the tax imposed under chapter 228z of the general statutes, the Commissioner of Revenue Services shall treat such excess as an overpayment and shall refund the amount of such excess, without interest, to the taxpayer. With respect to

an affected business entity granted a rebate pursuant to section 1 of this act, the credit available to the members of such entity pursuant to subdivision (1) of subsection (g) of section 12-699 of the general statutes shall be based upon the amount of tax due under chapter 228z of the general statutes from such entity prior to the application of the rebate granted pursuant to section 1 of this act and any other payments made against such tax due.

- Sec. 3. Subsection (b) of section 12-211a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1*, 2022, and applicable to taxable years commencing on or after January 1, 2023):
- [(b) (1) For a calendar year commencing on or after January 1, 2011, and prior to January 1, 2013, the amount of tax credit or credits otherwise allowable against the tax imposed under this chapter for such calendar year may exceed the amount specified in subsection (a) of this section only by the amount computed under subparagraph (A) of subdivision (2) of this subsection, provided in no event may the amount of tax credit or credits otherwise allowable against the tax imposed under this chapter for such calendar year exceed one hundred per cent of the amount of tax due from such taxpayer under this chapter with respect to such calendar year of the taxpayer prior to the application of such credit or credits.
- (2) (A) The taxpayer's average monthly net employee gain for a calendar year shall be multiplied by six thousand dollars.
- (B) The taxpayer's average monthly net employee gain for a calendar year shall be computed as follows: For each month in the calendar year, the taxpayer shall subtract from the number of its employees in this state on the last day of such month the number of its employees in this state on the first day of the calendar year. The taxpayer shall total the differences for the twelve months in the calendar year, and such total, when divided by twelve, shall be the taxpayer's average monthly net employee gain for the calendar year. For purposes of this computation, only employees who are required to work at least thirty-five hours per

- week and only employees who were not employed in this state by a related person, as defined in section 12-217ii, within the twelve months prior to the first day of the calendar year may be taken into account in computing the number of employees.
- (C) If the taxpayer's average monthly net employee gain is zero or less than zero, the taxpayer may not exceed the amount specified in subsection (a) of this section.]
- 370 (b) The amount of the rebate computed under section 1 of this act
 371 shall be treated as an offset of the tax due under chapter 207 and may
 372 exceed the amount specified in subsection (a) of this section. If the
 373 amount of the rebate allowed pursuant to section 1 of this act exceeds
 374 the taxpayer's liability for the tax imposed under this chapter, the
 375 commissioner shall treat such excess as an overpayment and shall
 376 refund the amount of such excess, without interest, to the taxpayer.
- Sec. 4. Subsection (b) of section 12-217zz of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1*, 2022, and applicable to taxable years commencing on or after January 1, 2023):
 - [(b) (1) For an income year commencing on or after January 1, 2011, and prior to January 1, 2013, the amount of tax credit or credits otherwise allowable against the tax imposed under this chapter for such income year may exceed the amount specified in subsection (a) of this section only by the amount computed under subparagraph (A) of subdivision (2) of this subsection, provided in no event may the amount of tax credit or credits otherwise allowable against the tax imposed under this chapter for such income year exceed one hundred per cent of the amount of tax due from such taxpayer under this chapter with respect to such income year of the taxpayer prior to the application of such credit or credits.
 - (2) (A) The taxpayer's average monthly net employee gain for an income year shall be multiplied by six thousand dollars.
 - (B) The taxpayer's average monthly net employee gain for an income

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year shall be computed as follows: For each month in the taxpayer's income year, the taxpayer shall subtract from the number of its employees in this state on the last day of such month the number of its employees in this state on the first day of its income year. The taxpayer shall total the differences for the twelve months in such income year, and such total, when divided by twelve, shall be the taxpayer's average monthly net employee gain for the income year. For purposes of this computation, only employees who are required to work at least thirty-five hours per week and only employees who were not employed in this state by a related person, as defined in section 12-217ii, within the twelve months prior to the first day of the income year may be taken into account in computing the number of employees.

- (C) If the taxpayer's average monthly net employee gain is zero or less than zero, the taxpayer may not exceed the seventy per cent limit imposed under subsection (a) of this section.]
- (b) The amount of the rebate computed under section 1 of this act
 shall be treated as a credit and may exceed the amount specified in
 subsection (a) of this section. If the amount of the rebate allowed
 pursuant to section 1 of this act exceeds the taxpayer's liability for the
 tax imposed under this chapter, the commissioner shall treat such excess
 as an overpayment and shall refund the amount of such excess, without
 interest, to the taxpayer.
- Sec. 5. Section 12-217aa of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2022, and applicable to income years beginning on or after January 1, 2023*):
 - (a) Except as otherwise provided in section 12-217t and subsection (c) of this section, whenever a company is eligible to claim more than one corporation business tax credit, the credits shall be claimed for the income year in the following order: (1) Any credit that may be carried backward to a preceding income year or years shall first be claimed (A) with any credit carry-back that will expire first being claimed before any credit carry-back that will expire later or will not expire at all, and (B) if

the credit carry-backs will expire at the same time, in the order in which the company may receive the maximum benefit; (2) any credit that may not be carried backward to a preceding income year or years and that may not be carried forward to a succeeding income year or years shall next be claimed, in the order in which the company may receive the maximum benefit; and (3) any credit that may be carried forward to a succeeding income year or years shall next be claimed (A) with any credit carry-forward that will expire first being claimed before any credit carry-forward that will expire later or will not expire at all, and (B) if the credit carry-forwards will expire at the same time, in the order in which the company may receive the maximum benefit.

- (b) In no event shall any credit be claimed more than once.
- (c) The rebate allowed pursuant to section 1 of this act shall be claimed after all other credits have been claimed.

This act shall take effect as follows and shall amend the following sections:			
Section 1	July 1, 2022, and applicable to taxable years	New section	
	commencing on or after		
	January 1, 2023		
Sec. 2	July 1, 2022, and	New section	
	applicable to taxable years		
	commencing on or after		
	January 1, 2023		
Sec. 3	July 1, 2022, and	12-211a(b)	
	applicable to taxable years	, ,	
	commencing on or after		
	January 1, 2023		
Sec. 4	July 1, 2022, and	12-217zz(b)	
	applicable to taxable years	, ,	
	commencing on or after		
	January 1, 2023		

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Sec. 5	July 1, 2022, and	12-217aa
	applicable to income years	
	beginning on or after	
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