



General Assembly

January Session, 2005

Raised Bill No. 1352

LCO No. 4880

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Referred to Committee on Finance, Revenue and Bonding

Introduced by:
(FIN)

**AN ACT CONCERNING PERIODIC REAUTHORIZATION OF CERTAIN
TAX EXPENDITURES.**

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

1 Section 1. (NEW) (*Effective October 1, 2005*) (a) (1) On or before
2 January 1, 2006, and biennially thereafter, the Secretary of the Office of
3 Policy and Management shall submit a report on the corporate income
4 tax expenditures listed in subsection (b) of this section to the joint
5 standing committee of the General Assembly having cognizance of
6 matters relating to finance, revenue and bonding and, upon request, to
7 any member of the General Assembly.

8 (2) Such report shall consider the public need for the
9 reestablishment of such expenditures, and shall include, but not be
10 limited to, an evaluation of the impact of each such expenditure on the
11 economic development of the state and of towns within the state
12 through (A) new or increased revenues to the state or local tax base, (B)
13 stable or increased employment, (C) encouragement of new or
14 increased business activity, either in related fields or in service
15 businesses, (D) impact on the cost of goods or services, and (E)
16 maintenance of a competitive advantage for this state. Such report
17 shall include recommendations regarding the termination,

18 modification, consolidation or reestablishment of any tax expenditure
19 program subject to this section.

20 (b) The report required pursuant to subsection (a) of this section
21 shall include tax expenditures pursuant to subparagraphs (B) and (C)
22 of subdivision (9) of subsection (a) of section 12-213 of the general
23 statutes, as amended by this act, subparagraph (A) of subdivision (2) of
24 subsection (a) of section 12-214 of the general statutes, as amended by
25 this act, subparagraph (D) of subdivision (1) of subsection (a) of section
26 12-217 of the general statutes, as amended by this act, subparagraphs
27 (A) and (B) of subdivision (4) of subsection (a) of section 12-217 of the
28 general statutes, as amended by this act, subsection (c) of section 12-
29 217 of the general statutes, as amended by this act, and sections 12-
30 217j, 12-217n, 12-217o, 12-217t, 12-217w and 12-217ee of the general
31 statutes, as amended by this act.

32 (c) Prior to the termination, modification, consolidation or
33 reestablishment of any tax expenditure, the joint standing committee
34 of the General Assembly having cognizance of matters relating to
35 finance, revenue and bonding shall hold a public hearing, receiving
36 testimony from the public and from any interested parties. Said
37 committee shall report to the General Assembly for its consideration of
38 the termination, modification, consolidation or reestablishment of each
39 such expenditure. Any termination shall be effective on January first of
40 the year following the General Assembly's decision.

41 (d) No tax expenditure made pursuant to any of the sections listed
42 in subsection (b) of this section shall be included in the biennial budget
43 for the fiscal years 2008 to 2009, inclusive, and in each biennial budget
44 thereafter unless such expenditure is approved by the General
45 Assembly.

46 (e) Nothing in this section shall prohibit the General Assembly from
47 terminating a tax expenditure prior to the termination date established
48 in the statute authorizing each such expenditure, or from considering
49 any other legislation concerning such expenditure.

50 Sec. 2. Subdivision (9) of subsection (a) of section 12-213 of the
51 general statutes is repealed and the following is substituted in lieu
52 thereof (*Effective October 1, 2005*):

53 (9) (A) "Gross income" means gross income, as defined in the
54 Internal Revenue Code, and, in addition, means any interest or exempt
55 interest dividends, as defined in Section 852(b)(5) of the Internal
56 Revenue Code, received by the taxpayer or losses of other calendar or
57 fiscal years, retroactive to include all calendar or fiscal years beginning
58 after January 1, 1935, incurred by the taxpayer which are excluded
59 from gross income for purposes of assessing the federal corporation
60 net income tax, and in addition, notwithstanding any other provision
61 of law, means interest or exempt interest dividends, as defined in said
62 Section 852(b)(5) of the Internal Revenue Code, accrued on or after the
63 application date, as defined in section 12-242ff, with respect to any
64 obligation issued by or on behalf of the state, its agencies, authorities,
65 commissions and other instrumentalities, or by or on behalf of its
66 political subdivisions and their agencies, authorities, commissions and
67 other instrumentalities;

68 (B) ["Gross income"] From the effective date of this section until
69 December 31, 2006, "gross income" shall not include the amount which
70 for federal income tax purposes is treated as a dividend received by a
71 domestic United States corporation from a foreign corporation on
72 account of foreign taxes deemed paid by such domestic corporation,
73 when such domestic corporation elects the foreign tax credit for federal
74 income tax purposes;

75 (C) ["Gross income"] From the effective date of this section until
76 December 31, 2006, "gross income" shall not include any amount which
77 for federal income tax purposes is treated as a dividend received
78 directly or indirectly by a taxpayer from a passive investment
79 company.

80 Sec. 3. Subdivision (2) of subsection (a) of section 12-214 of the
81 general statutes is repealed and the following is substituted in lieu

82 thereof (*Effective October 1, 2005*):

83 (2) The following companies shall be exempt from the tax imposed
84 under this chapter: (A) [~~Insurance~~] From the effective date of this
85 section until December 31, 2006, insurance companies incorporated or
86 organized under the laws of any other state or foreign government and
87 for income years commencing on or after January 1, 1999, until
88 December 31, 2006, domestic insurance companies; (B) companies
89 exempt by the federal corporation net income tax law, and any
90 company which qualifies as a domestic international sales corporation
91 (DISC), as defined in Section 992 of the Internal Revenue Code and as
92 to which a valid election under subsection (b) of said Section 992 to be
93 treated as a DISC is effective, but excluding companies, other than any
94 company which so qualifies as, and so elects to be treated as, a DISC,
95 which elect not to be subject to such tax under any provision of said
96 Internal Revenue Code other than said subsection (b) of Section 992;
97 (C) companies subject to gross earnings taxes under chapter 210; (D)
98 companies all of whose properties in this state are operated by
99 companies subject to gross earnings taxes under chapter 210; (E)
100 cooperative housing corporations, as defined for federal income tax
101 purposes; (F) any organization or association of two or more persons
102 established and operated for the exclusive purpose of promoting the
103 success or defeat of any candidate for public office or of any political
104 party or question or constitutional amendment to be voted upon at any
105 state or national election or for any other political purpose; (G) any
106 company which is not owned or controlled, directly or indirectly, by
107 any other company, the gross annual revenues of which in the most
108 recently completed year did not exceed one hundred million dollars
109 and which engaged in the research, design, manufacture, sale or
110 installation of alternative energy systems or motor vehicles powered in
111 whole or in part by electricity, natural gas or solar energy including
112 their parts and components, provided at least seventy-five per cent of
113 the gross annual revenues of such company are derived from such
114 research, design, manufacture, sale or installation; (H) any company
115 which engages in the research, design, manufacture or sale in

116 Connecticut of aero-derived gas turbine systems in advanced
117 industrial applications, which applications are developed after October
118 1, 1992, which are limited to simple-cycle systems, humid air, steam or
119 water injection, recuperation or intercooling technologies, including
120 their parts and components, to the extent that such company's net
121 income is directly attributable to such purposes; (I) any non-United
122 States corporation, which shall be any foreign corporation, as defined
123 in Section 7701(a)(5) of the Internal Revenue Code, whose sole activity
124 in this state during the income year consists of the trading in stocks,
125 securities or commodities for such corporation's own account, as
126 defined in Section 864(b)(2)(A)(ii) of said Internal Revenue Code; and
127 (J) for income years commencing on or after January 1, 2001, S
128 corporations.

129 Sec. 4. Subsection (a) of section 12-217 of the general statutes is
130 repealed and the following is substituted in lieu thereof (*Effective*
131 *October 1, 2005*):

132 (a) (1) In arriving at net income as defined in section 12-213, whether
133 or not the taxpayer is taxable under the federal corporation net income
134 tax, there shall be deducted from gross income, (A) all items deductible
135 under the Internal Revenue Code effective and in force on the last day
136 of the income year except (i) any taxes imposed under the provisions
137 of this chapter which are paid or accrued in the income year and in the
138 income year commencing January 1, 1989, and thereafter, any taxes in
139 any state of the United States or any political subdivision of such state,
140 or the District of Columbia, imposed on or measured by the income or
141 profits of a corporation which are paid or accrued in the income year,
142 and (ii) deductions for depreciation, which shall be allowed as
143 provided in subsection (b) of this section, and (B) additionally, in the
144 case of a regulated investment company, the sum of (i) the exempt-
145 interest dividends, as defined in the Internal Revenue Code, and (ii)
146 expenses, bond premium, and interest related to tax-exempt income
147 that are disallowed as deductions under the Internal Revenue Code,
148 and (C) in the case of a taxpayer maintaining an international banking

149 facility as defined in the laws of the United States or the regulations of
150 the Board of Governors of the Federal Reserve System, as either may
151 be amended from time to time, the gross income attributable to the
152 international banking facility, provided, no expense or loss attributable
153 to the international banking facility shall be a deduction under any
154 provision of this section, and (D) additionally, from the effective date
155 of this section until December 31, 2006, in the case of all taxpayers, all
156 dividends as defined in the Internal Revenue Code effective and in
157 force on the last day of the income year not otherwise deducted from
158 gross income, including dividends received from a DISC or former
159 DISC as defined in Section 992 of the Internal Revenue Code and
160 dividends deemed to have been distributed by a DISC or former DISC
161 as provided in Section 995 of said Internal Revenue Code, other than
162 thirty per cent of dividends received from a domestic corporation in
163 which the taxpayer owns less than twenty per cent of the total voting
164 power and value of the stock of such corporation, and (E) additionally,
165 in the case of all taxpayers, the value of any capital gain realized from
166 the sale of any land, or interest in land, to the state, any political
167 subdivision of the state, or to any nonprofit land conservation
168 organization where such land is to be permanently preserved as
169 protected open space or to a water company, as defined in section 25-
170 32a, where such land is to be permanently preserved as protected open
171 space or as Class I or Class II water company land.

172 (2) No deduction shall be allowed for (A) expenses related to
173 dividends which are allowable as a deduction or credit under the
174 Internal Revenue Code and (B) federal taxes on income or profits,
175 losses of other calendar or fiscal years, retroactive to include all
176 calendar or fiscal years beginning after January 1, 1935, interest
177 received from federal, state and local government securities, if any
178 such deductions are allowed by the federal government.

179 (3) Notwithstanding any provision of this section, [to the contrary,]
180 no dividend received from a real estate investment trust shall be
181 deductible under this section by the recipient unless the dividend is:

182 (A) Deductible under Section 243 of the Internal Revenue Code; or (B)
183 received by a qualified dividend recipient from a qualified real estate
184 investment trust and, as of the last day of the period for which such
185 dividend is paid, persons, not including the qualified dividend
186 recipient or any person that is either a related person to, or an
187 employee or director of, the qualified dividend recipient, have
188 outstanding cash capital contributions to the qualified real estate
189 investment trust that, in the aggregate, exceed five per cent of the fair
190 market value of the aggregate real estate assets, valued as of the last
191 day of the period for which such dividend is paid, then held by the
192 qualified real estate investment trust. For purposes of this section, a
193 "related person" is as defined in subdivision (7) of subsection (a) of
194 section 12-217m, "real estate assets" is as defined in Section 856 of the
195 Internal Revenue Code, a "qualified dividend recipient" means a
196 dividend recipient who has invested in a qualified real estate
197 investment trust prior to April 1, 1997, and a "qualified real estate
198 investment trust" means an entity that both was incorporated and had
199 contributed to it a minimum of five hundred million dollars worth of
200 real estate assets prior to April 1, 1997, and that elects to be a real estate
201 investment trust under Section 856 of the Internal Revenue Code prior
202 to April 1, 1998.

203 (4) Notwithstanding anything in this section, [to the contrary,] (A)
204 from the effective date of this section until December 31, 2006, any
205 excess of the deductions provided in this section for any income year
206 commencing on or after January 1, 1973, over the gross income for
207 such year or the amount of such excess apportioned to this state under
208 the provisions of section 12-218, shall be an operating loss of such
209 income year and shall be deductible as an operating loss carry-over for
210 operating losses incurred prior to income years commencing January
211 1, 2000, in each of the five income years following such loss year, and
212 for operating losses incurred in income years commencing on or after
213 January 1, 2000, in each of the twenty income years following such loss
214 year, provided the portion of such operating loss which may be
215 deducted as an operating loss carry-over in any income year following

216 such loss year shall be limited to the lesser of (i) any net income greater
217 than zero of such income year following such loss year, or in the case
218 of a company entitled to apportion its net income under the provisions
219 of section 12-218, the amount of such net income which is apportioned
220 to this state pursuant thereto, or (ii) the excess, if any, of such
221 operating loss over the total of such net income for each of any prior
222 income years following such loss year, such net income of each of such
223 prior income years following such loss year for such purposes being
224 computed without regard to any operating loss carry-over from such
225 loss year allowed by this subparagraph and being regarded as not less
226 than zero, and provided, further, the operating loss of any income year
227 shall be deducted in any subsequent year, to the extent available
228 therefor, before the operating loss of any subsequent income year is
229 deducted, and (B) from the effective date of this section until December
230 31, 2006, any net capital loss, as defined in the Internal Revenue Code
231 effective and in force on the last day of the income year, for any
232 income year commencing on or after January 1, 1973, shall be allowed
233 as a capital loss carry-over to reduce, but not below zero, any net
234 capital gain, as so defined, in each of the five following income years,
235 in order of sequence, to the extent not exhausted by the net capital gain
236 of any of the preceding of such five following income years, and (C)
237 any net capital losses allowed and carried forward from prior years to
238 income years beginning on or after January 1, 1973, for federal income
239 tax purposes by companies entitled to a deduction for dividends paid
240 under the Internal Revenue Code other than companies subject to the
241 gross earnings taxes imposed under chapters 211 and 212, shall be
242 allowed as a capital loss carry-over.

243 (5) This section shall not apply to a life insurance company as
244 defined in the Internal Revenue Code effective and in force on the last
245 day of the income year. For purposes of this section, the unpaid loss
246 reserve adjustment required for nonlife insurance companies under the
247 provisions of Section 832(b)(5) of the Internal Revenue Code of 1986, or
248 any subsequent corresponding internal revenue code of the United
249 States, as from time to time amended, shall be applied without making

250 the adjustment in Subparagraph (B) of said Section 832(b)(5).

251 Sec. 5. Subsection (c) of section 12-217 of the general statutes is
252 repealed and the following is substituted in lieu thereof (*Effective*
253 *October 1, 2005*):

254 (c) (1) Notwithstanding the provisions of subsections (a) and (b) of
255 this section, "net income", in the case of an S corporation, means the
256 percentage of the nonseparately computed income or loss, as defined
257 in Section 1366(a)(2) of the Internal Revenue Code, of such S
258 corporation, without separate state adjustment pursuant to section
259 12-233 or 12-226a for the compensation of any officer or employee, to
260 which shall be added (A) any taxes imposed under the provisions of
261 this chapter which are paid or accrued in the income year and (B) any
262 taxes in any state of the United States or any political subdivision of
263 such state, or the District of Columbia, imposed on or measured by the
264 income or profits of a corporation which are paid or accrued in the
265 income year as provided in subdivision (2) of this subsection.

266 (2) [For] From the effective date of this section until December 31,
267 2006, for income years commencing prior to January 1, 1997, "net
268 income" means one hundred per cent of the amount computed under
269 subdivision (1) of this subsection; for income years commencing on or
270 after January 1, 1997, and prior to January 1, 1998, "net income" means
271 ninety per cent of the amount computed under subdivision (1) of this
272 subsection; for income years commencing on or after January 1, 1998,
273 and prior to January 1, 1999, "net income" means seventy-five per cent
274 of the amount computed under subdivision (1) of this subsection; for
275 income years commencing on or after January 1, 1999, and prior to
276 January 1, 2000, "net income" means fifty-five per cent of the amount
277 computed under subdivision (1) of this subsection; for income years
278 commencing on or after January 1, 2000, and prior to January 1, 2001,
279 "net income" means thirty per cent of the amount computed under
280 subdivision (1) of this subsection; for income years commencing on or
281 after January 1, 2001, net income of S corporations as computed under

282 subdivision (1) of this subsection shall not be subject to the tax under
283 this chapter. Any S corporation subject to the tax on net income as
284 provided in this section shall be eligible for any credit against the tax
285 otherwise available to taxpayers under this chapter only to the extent
286 and in the same percentage as net income of such S corporation is
287 subject to taxation under this chapter, except that any S corporation
288 with an income year commencing on or after January 1, 1999, but
289 before December 31, 2000, shall be eligible for the entire credit
290 available under sections 8-395, 12-633, 12-634, 12-635 and 12-635a.

291 Sec. 6. Section 12-217j of the general statutes is amended by adding
292 subsection (c) as follows (*Effective October 1, 2005*):

293 (NEW) (c) The credit allowed pursuant to this section shall be
294 available from the effective date of this section until December 31,
295 2006.

296 Sec. 7. Subsection (a) of section 12-217n of the general statutes is
297 repealed and the following is substituted in lieu thereof (*Effective*
298 *October 1, 2005*):

299 (a) [There] From the effective date of this section until December 31,
300 2006, there shall be allowed as a credit against the tax imposed by this
301 chapter the amount determined under subsection (c) of this section in
302 respect of the research and development expenses paid or incurred
303 during any income year, subject to the limitations of this section.

304 Sec. 8. Section 12-217o of the general statutes is repealed and the
305 following is substituted in lieu thereof (*Effective October 1, 2005*):

306 [There] From the effective date of this section until December 31,
307 2006, there shall be allowed as a credit against the tax imposed on any
308 corporation under this chapter with respect to any taxable year of such
309 corporation commencing on or after January 1, 1997, (1) that has more
310 than two hundred fifty full-time, permanent employees but not more
311 than eight hundred full-time, permanent employees whose wages,

312 salaries or other compensation is paid in this state, as the phrase is
313 used in subsection (c) of section 12-218, an amount equal to five per
314 cent of the amount spent by the corporation on machinery and
315 equipment acquired for and installed in a facility in this state, which
316 amount exceeds the amount spent by such corporation during the
317 preceding income year of the corporation for such expenditures or (2)
318 that has not more than two hundred fifty full-time, permanent
319 employees whose wages, salaries or other compensation is paid in this
320 state, as the phrase is used in subsection (c) of section 12-218, an
321 amount equal to ten per cent of the amount spent by the corporation
322 on machinery and equipment acquired for and installed in a facility in
323 this state, which amount exceeds the amount spent by such
324 corporation during the preceding income year of the corporation for
325 such expenditures. In addition, any amount spent (1) by a corporation
326 whose income year, for federal income tax purposes, commences on
327 the first day of January, February, March, April or May, (2) on
328 machinery and equipment acquired for and installed in a facility in
329 this state, (3) during that portion of its income year in 1995 that expired
330 on May 31, 1995, shall be deemed to have been spent during its income
331 year commencing in 1997 and shall be added to any amount actually
332 spent on machinery and equipment acquired for and installed in a
333 facility in this state during its income year commencing in 1997,
334 provided the credit percentage to which such corporation shall be
335 entitled for its income year commencing in 1997 shall be based on the
336 number of full-time, permanent employees during its income year
337 commencing in 1997.

338 Sec. 9. Subsection (a) of section 12-217t of the general statutes is
339 repealed and the following is substituted in lieu thereof (*Effective*
340 *October 1, 2005*):

341 (a) [There] From the effective date of this section until December 31,
342 2006, there shall be allowed as a credit against the tax imposed by
343 chapter 207, this chapter, chapter 208a, 209, 210, 211, or 212 or against
344 the tax imposed pursuant to section 12-202a in an amount determined

345 under the provisions of subsection (b) of this section with respect to
346 the personal property taxes paid during any income year, on electronic
347 data processing equipment. For the purposes of this section "electronic
348 data processing equipment" means computers, printers, peripheral
349 computer equipment, bundled software and any computer-based
350 equipment acting as a computer as defined under Section 168 of the
351 Internal Revenue Code of 1986, or any subsequent corresponding
352 internal revenue code of the United States, as from time to time
353 amended, and any other such equipment reported as a Code 20 on the
354 Personal Property Declaration as prescribed by the Secretary of the
355 Office of Policy and Management pursuant to section 12-27.

356 Sec. 10. Subsection (b) of section 12-217w of the general statutes is
357 repealed and the following is substituted in lieu thereof (*Effective*
358 *October 1, 2005*):

359 (b) [There] From the effective date of this section until December 31,
360 2006, there shall be allowed a credit for any corporation against the tax
361 imposed under this chapter in an amount paid or incurred by such
362 corporation for any new fixed capital investment during the income
363 year in which such fixed capital is acquired as follows: For any income
364 year commencing on or after January 1, 1998, and prior to January 1,
365 1999, equal to three per cent of such amount paid or incurred by the
366 corporation during such income year; for any income year
367 commencing on or after January 1, 1999, and prior to January 1, 2000,
368 equal to four per cent of such amount paid or incurred by the
369 corporation during such income year; and for any income year
370 commencing on or after January 1, 2000, equal to five per cent of such
371 amount paid or incurred by the corporation during such income year.

372 Sec. 11. Subsection (a) of section 12-217ee of the general statutes is
373 repealed and the following is substituted in lieu thereof (*Effective*
374 *October 1, 2005*):

375 (a) [Any] From the effective date of this section until December 31,
376 2006, any taxpayer that (1) is a qualified small business, (2) qualifies for

377 a credit under section 12-217j or section 12-217n, and (3) cannot take
 378 such credit in the taxable year in which the credit could otherwise be
 379 taken as a result of having no tax liability under this chapter may elect
 380 to carry such credit forward under this chapter or may apply to the
 381 commissioner as provided in subsection (b) of this section to exchange
 382 such credit with the state for a credit refund equal to sixty-five per cent
 383 of the value of the credit. Any amount of credit refunded under this
 384 section shall be refunded to the taxpayer under the provisions of this
 385 chapter, except that such credit refund shall not be subject to the
 386 provisions of section 12-227. Payment of the capital base tax under
 387 section 12-219 for an income year commencing on or after January 1,
 388 2002, in which year the taxpayer reports no net income, as defined in
 389 section 12-213, or payment of the minimum tax of two hundred fifty
 390 dollars under section 12-219 or 12-223c for any income year, shall not
 391 be considered a tax liability for purposes of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	New section
Sec. 2	<i>October 1, 2005</i>	12-213(a)(9)
Sec. 3	<i>October 1, 2005</i>	12-214(a)(2)
Sec. 4	<i>October 1, 2005</i>	12-217(a)
Sec. 5	<i>October 1, 2005</i>	12-217(c)
Sec. 6	<i>October 1, 2005</i>	12-217j
Sec. 7	<i>October 1, 2005</i>	12-217n(a)
Sec. 8	<i>October 1, 2005</i>	12-217o
Sec. 9	<i>October 1, 2005</i>	12-217t(a)
Sec. 10	<i>October 1, 2005</i>	12-217w(b)
Sec. 11	<i>October 1, 2005</i>	12-217ee(a)

Statement of Purpose:

To provide for the biennial reauthorization by the General Assembly of corporate income tax expenditures over five million dollars.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

