



# House of Representatives

General Assembly

**File No. 716**

*January Session, 2007*

Substitute House Bill No. 7400

*House of Representatives, May 2, 2007*

The Committee on Finance, Revenue and Bonding reported through REP. STAPLES of the 96th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING MOTION PICTURE TAX CREDITS.***

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

1 Section 1. Section 12-217jj of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2007, and*  
3 *applicable to income years commencing on or after January 1, 2007*):

4 (a) As used in this section:

5 (1) "Commissioner" means the Commissioner of Revenue Services.

6 (2) "Commission" means the Connecticut Commission on Culture  
7 and Tourism.

8 (3) (A) "Qualified production" means [the process of producing any  
9 type of] entertainment content [which shall include] created in whole  
10 or in part within the state, including motion pictures; documentaries;  
11 long-form, specials, mini-series, series, videos and music videos and  
12 interstitials television programming; interactive television; interactive

13 games; videogames; commercials; infomercials; any format of digital  
14 media created [primarily] for distribution or exhibition to the general  
15 public; and any trailer, pilot, video teaser or demo created primarily to  
16 stimulate the sale, marketing, promotion or exploitation of future  
17 investment in either a product or a qualified production via any means  
18 and media in any digital media format, film or videotape, provided  
19 such program meets all the underlying criteria of a qualified  
20 production.

21 (B) "Qualified production" shall not include [(A)] any ongoing  
22 program created primarily as news, weather or financial market  
23 reports, a production featuring current events, sporting events, an  
24 awards show or other gala event, a production whose sole purpose is  
25 fundraising, a long-form production that primarily markets a product  
26 or service, a production used for corporate training or in-house  
27 corporate advertising or other similar productions, or [(B)] any  
28 production [containing any material or performance that is obscene, as  
29 defined in section 53a-193] for which records are required to be  
30 maintained under 18 USC 2257 with respect to sexually explicit  
31 content.

32 (4) "Eligible production company" means a corporation, partnership,  
33 limited liability company, or other business entity engaged in the  
34 business of producing qualified productions on a one-time or ongoing  
35 basis, and qualified by the Secretary of the State to engage in business  
36 in the state.

37 (5) "Production expenses or costs" means all expenditures clearly  
38 and demonstrably incurred [in the state] in the development,  
39 preproduction, production or postproduction costs of a qualified  
40 production, including:

41 [(A) Expenditures for optioning or purchase of any intellectual  
42 property including, but not limited to, books, scripts, music or  
43 trademarks relating to the development or purchase of a script,  
44 screenplay or format, provided (i) the intellectual property was  
45 produced primarily in the state, (ii) seventy-five per cent of the

46 qualified production based on such intellectual property is produced  
47 in the state, and (iii) the production expenses or costs for such  
48 optioning or purchase are less than thirty-five per cent of the  
49 production expenses or costs incurred in the state. Such expenses or  
50 costs shall include all expenditures generally associated with the  
51 optioning or purchase of intellectual property, including option  
52 money, agent fees and attorney fees relating to the transaction, but  
53 shall not include any and all deferrals, deferments, royalties, profit  
54 participation or recourse or nonrecourse loans which the eligible  
55 production company may negotiate in order to obtain the rights to the  
56 intellectual property;]

57 [(B)] (A) Expenditures incurred [in the state] in the form of either  
58 compensation or purchases including production work, production  
59 equipment, production software, postproduction work,  
60 postproduction equipment, postproduction software, set design, set  
61 construction, props, lighting, wardrobe, makeup, makeup accessories,  
62 special effects, visual effects, audio effects, film processing, music,  
63 sound mixing, editing, location fees, soundstages and any and all other  
64 costs or services directly incurred [in the state] in connection with a  
65 state-certified qualified production;

66 [(C)] (B) Expenditures for distribution, including preproduction,  
67 production or postproduction costs relating to the creation of trailers,  
68 marketing videos, commercials, point-of-purchase videos and any and  
69 all content created on film or digital media, including the duplication  
70 of films, videos, CDs, DVDs and any and all digital files now in  
71 existence and those yet to be created for mass consumer consumption;  
72 the purchase, by a company in the state, of any and all equipment  
73 relating to the duplication or mass market distribution of any content  
74 created or produced in the state by any digital media format which is  
75 now in use and those formats yet to be created for mass consumer  
76 consumption; and

77 [(D)] (C) "Production expenses or costs" does not include the  
78 following: (i) [Talent fees for extras, principal day players and

79 atmosphere, as defined by the Screen Actors Guild, to the extent the  
80 individual performer costs exceed the rates of the Screen Actors Guild  
81 for double scale wages under the current collective bargaining  
82 agreements] Compensation in excess of ten million dollars paid to any  
83 individual or entity representing an individual, for services provided  
84 in the production of a qualified production; (ii) media buys,  
85 promotional events or gifts or public relations associated with the  
86 promotion or marketing of any qualified production; (iii) deferred,  
87 leveraged or profit participation costs relating to any and all personnel  
88 associated with any and all aspects of the production, including, but  
89 not limited to, producer fees, director fees, talent fees and writer fees;  
90 (iv) costs relating to the transfer of the production tax credits; and (v)  
91 any amounts paid to persons or businesses as a result of their  
92 participation in profits from the exploitation of the qualified  
93 production.

94 (6) "State-certified qualified production" means a qualified  
95 production produced by an eligible production company that (A) is in  
96 compliance with regulations adopted pursuant to subsection (e) of this  
97 section, (B) is authorized to conduct business in this state, and (C) has  
98 been approved by the commission as qualifying for a production tax  
99 credit under this section.

100 (b) (1) The Connecticut Commission on Culture and Tourism shall  
101 administer a system of tax credit vouchers within the resources,  
102 requirements and purposes of this section for eligible production  
103 companies producing a state-certified qualified production in the state.  
104 For income years commencing on or after January 1, [2006] 2007, any  
105 eligible production company incurring production expenses or costs in  
106 excess of fifty thousand dollars shall be eligible for a credit against the  
107 tax imposed under this chapter equal to thirty per cent of such  
108 production expenses or costs, provided (A) fifty per cent of such  
109 expenses or costs shall be counted toward such credit when incurred  
110 outside the state and used within the state, and one hundred per cent  
111 of such expenses or costs shall be counted toward such credit when  
112 incurred within the state and used within the state, and (B) on and

113 after January 1, 2012, no expenses or costs incurred outside the state  
114 and used within the state shall be eligible for a credit, and one hundred  
115 per cent of such expenses or costs shall be counted toward such credit  
116 when incurred within the state and used within the state.

117 (2) Any credit allowed pursuant to this subsection may be sold,  
118 assigned or otherwise transferred, in whole or in part, to one or more  
119 taxpayers, [provided such taxpayers may claim such credit only for an  
120 income year in which the eligible production company would have  
121 been eligible to claim such credit] and such taxpayers may sell, assign  
122 or otherwise transfer, in whole or in part, such credit.

123 (3) Any such credit allowed under this subsection shall be claimed  
124 against the tax imposed under this chapter for the income year in  
125 which [final certification for the state-certified qualified production is  
126 made by the commission pursuant to this section,] the production  
127 expenses or costs were incurred and for which a tax credit voucher  
128 was issued pursuant to subsection (c) of this section and may be  
129 carried forward for the three immediately succeeding income years.  
130 Any production tax credit allowed under this subsection shall be  
131 nonrefundable.

132 (c) (1) An eligible production company shall apply to the  
133 commission for [an eligibility certificate] a tax credit voucher not later  
134 than ninety days after the first production expenses or costs are  
135 incurred in the production of a qualified production, and shall provide  
136 with such application such information as the commission may require  
137 to determine such company's eligibility to claim a credit under this  
138 section.

139 (2) Not earlier than three months after the application in subdivision  
140 (1) of this subsection, an eligible production company may apply to the  
141 commission for a production tax credit voucher, and shall provide  
142 with such application such information as the commission may require  
143 pertaining to the amount of such company's production expenses or  
144 costs to date. If the commission determines that such company is  
145 eligible to be issued a production tax credit voucher, the commission

146 shall enter on the voucher the amount of production expenses or costs  
147 that has been established to the satisfaction of the commission, and the  
148 amount of such company's credit under this section. The commission  
149 shall provide a copy of such voucher to the commissioner, upon  
150 request.

151 [(2)] (3) Not later than ninety days after the last production expenses  
152 or costs are incurred in the production of a qualified production, an  
153 eligible production company shall apply to the commission for a  
154 production tax credit [certificate] voucher, and shall provide with such  
155 application such information as the commission may require  
156 pertaining to the amount of [the] such company's production expenses  
157 or costs. If the commission determines that [the] such company is  
158 eligible to be issued a production tax credit [certificate] voucher, the  
159 commission shall enter on the [certificate] voucher the amount of  
160 production expenses or costs that has been established to the  
161 satisfaction of the commission, minus the amount of any credit issued  
162 pursuant to subdivision (2) of this subsection, and the amount of [the]  
163 such company's credit under this section. The commission shall  
164 provide a copy of such [certificate] voucher to the commissioner, upon  
165 request.

166 (d) If an eligible production company sells, assigns or otherwise  
167 transfers a credit under this section to another taxpayer, the transferor  
168 and transferee shall jointly submit written notification of such transfer  
169 to the commission not later than thirty days after such transfer. If such  
170 transferee sells, assigns or otherwise transfers a credit under this  
171 section to a subsequent transferee, such transferee and such  
172 subsequent transferee shall jointly submit written notification of such  
173 transfer to the commission not later than thirty days after such  
174 transfer. The notification after each transfer shall include the credit  
175 [certificate] voucher number, the date of transfer, the amount of such  
176 credit transferred, the tax credit balance before and after the transfer,  
177 the tax identification numbers for both the transferor and the  
178 transferee, and any other information required by the commission.  
179 Failure to comply with this subsection will result in a disallowance of

180 the tax credit until there is full compliance on [both] the part of the  
181 transferor and the transferee, and for a second transfer on the part of  
182 the transferee and the subsequent transferee. The commission shall  
183 provide a copy of the notification of assignment to the commissioner  
184 upon request.

185 (e) Any eligible production company that wilfully submits  
186 information to the commission that it knows to be fraudulent or false  
187 shall, in addition to any other penalties provided by law, be liable for a  
188 penalty equal to the amount of such company's credit entered on the  
189 production tax credit certificate issued under this section.

190 [(e)] (f) The commission, in consultation with the commissioner,  
191 shall adopt regulations, in accordance with the provisions of chapter  
192 54, as may be necessary for the administration of this section.

193 Sec. 2. (NEW) (*Effective January 1, 2008, and applicable to income years*  
194 *commencing on or after January 1, 2008*) (a) As used in this section:

195 (1) "Commissioner" means the Commissioner of Revenue Services.

196 (2) "Commission" means the Connecticut Commission on Culture  
197 and Tourism.

198 (3) "Infrastructure project" means a capital project to provide basic  
199 buildings, facilities or installations needed for the functioning of the  
200 digital media and motion picture industry in this state.

201 (4) "State-certified project" means an infrastructure project  
202 undertaken in this state by an entity that (A) is in compliance with  
203 regulations adopted pursuant to subsection (e) of this section, (B) is  
204 authorized to conduct business in this state, (C) is not in default on a  
205 loan made by the state or a loan guaranteed by the state, nor has ever  
206 declared bankruptcy under which an obligation of the entity to pay or  
207 repay public funds was discharged as a part of such bankruptcy, and  
208 (D) has been approved by the commission as qualifying for an  
209 infrastructure tax credit under this section.

210 (b) (1) There shall be allowed a state-certified project credit against  
211 the tax imposed under chapter 208 of the general statutes to any  
212 taxpayer that invests in a state-certified project. Such credit may be in  
213 the following amounts: (A) For state-certified projects costing greater  
214 than fifteen thousand dollars and less than one hundred fifty thousand  
215 dollars, each taxpayer may be allowed a tax credit of ten per cent of the  
216 investment made by such taxpayer; (B) for state-certified projects  
217 costing one hundred fifty thousand dollars or more, but less than one  
218 million dollars, each taxpayer may be allowed a tax credit of fifteen per  
219 cent of the investment made by such taxpayer; and (C) for state-  
220 certified projects costing one million dollars or more, each taxpayer  
221 may be allowed a tax credit of twenty per cent of the investment made  
222 by such taxpayer.

223 (2) Any credit allowed pursuant to this section may be sold,  
224 assigned or otherwise transferred, in whole or in part, to one or more  
225 taxpayers, and such taxpayers may sell, assign or otherwise transfer, in  
226 whole or in part, such credit. Any taxpayer holding such credit may  
227 claim such credit only for the income year in which a state-certified  
228 project tax credit voucher is issued by the commission pursuant to  
229 subsection (c) of this section.

230 (3) Any such credit allowed pursuant to this section shall be claimed  
231 against the tax imposed under chapter 208 of the general statutes for  
232 the income year in which such tax credit voucher is issued by the  
233 commission pursuant to subsection (c) of this section. If the amount of  
234 the credit allowable under this section exceeds the sum of any taxes  
235 due from a taxpayer, any such excess amount of the credit allowable  
236 under this section may be taken in any of the three immediately  
237 succeeding income years.

238 (4) Any tax credit earned under this section shall be nonrefundable.

239 (c) (1) An entity undertaking an infrastructure project shall apply to  
240 the commission for an eligibility certificate not later than ninety days  
241 after the first expenses or costs are incurred, and shall provide with  
242 such application such information as the commission may require to

243 determine such infrastructure project's eligibility as a state-certified  
244 project.

245 (2) Each application for an eligibility certificate shall include: (A) A  
246 detailed description of the infrastructure project; (B) a preliminary  
247 budget; (C) estimated completion date; and (D) such other information  
248 as the commission may require. The commission may require an  
249 independent audit of all project costs and expenditures prior to  
250 certification. If the commission determines that such project is eligible  
251 to be a state-certified project, the commission shall indicate the amount  
252 of costs or expenditures that has been established to the satisfaction of  
253 the commission, and issue to such entity a tax credit certification letter  
254 for investors indicating the amount of tax credits available under this  
255 section. The commission shall provide a copy of such letter to the  
256 commissioner, upon request.

257 (3) Prior to the issuance of a state-certified project tax credit voucher  
258 to a taxpayer based upon the tax credit certification letter issued  
259 pursuant to subdivision (2) of this subdivision, the entity undertaking  
260 such infrastructure project shall provide the commission with a  
261 description of the progress on such project and an estimated  
262 completion date. The commission may require an independent audit of  
263 all project costs and expenditures prior to issuance of such tax credit  
264 voucher to a taxpayer. No such tax credit voucher may be issued prior  
265 to such time as such state-certified project is shown to be not less than  
266 sixty per cent complete.

267 (d) If a taxpayer sells, assigns or otherwise transfers a credit under  
268 this section to another taxpayer, the transferor and transferee shall  
269 jointly submit written notification of such transfer to the commission  
270 not later than thirty days after such transfer. The notification shall  
271 include the credit certificate number, the date of transfer, the amount  
272 of such credit transferred, the tax credit balance before and after the  
273 transfer, the tax identification numbers for both the transferor and the  
274 transferee and any other information required by the commission.  
275 Failure to comply with this subsection will result in a disallowance of

276 the tax credit until there is full compliance on both the part of the  
277 transferor and the transferee. The commission shall provide a copy of  
278 the notification of assignment to the commissioner upon request.

279 (e) The commission, in consultation with the commissioner, shall  
280 adopt regulations, in accordance with the provisions of chapter 54 of  
281 the general statutes, as may be necessary for the administration of this  
282 section.

283 Sec. 3. Section 32-39 of the general statutes is repealed and the  
284 following is substituted in lieu thereof (*Effective July 1, 2007*):

285 The purposes of the corporation shall be to stimulate and encourage  
286 the research and development of new technologies, [and] businesses  
287 and products, to encourage the creation and transfer of new  
288 technologies, to assist existing businesses in adopting current and  
289 innovative technological processes, to stimulate and provide services  
290 to industry that will advance the adoption and utilization of  
291 technology, to achieve improvements in the quality of products and  
292 services, to stimulate and encourage the development and operation of  
293 new and existing science parks and incubator facilities, and to promote  
294 science, engineering, mathematics and other disciplines that are  
295 essential to the development and application of technology within  
296 Connecticut by the infusion of financial aid for research, invention and  
297 innovation in situations in which such financial aid would not  
298 otherwise be reasonably available from commercial or other sources,  
299 and for these purposes the corporation shall have the following  
300 powers:

301 (1) To have perpetual succession as a body corporate and to adopt  
302 bylaws, policies and procedures for the regulation of its affairs and  
303 conduct of its businesses as provided in section 32-36;

304 (2) To enter into venture agreements with persons, upon such terms  
305 and on such conditions as are consistent with the purposes of this  
306 chapter, for the advancement of financial aid to such persons for the  
307 research, development and application of specific technologies,

308 products, procedures, services and techniques, to be developed and  
309 produced in this state, and to condition such agreements upon  
310 contractual assurances that the benefits of increasing or maintaining  
311 employment and tax revenues shall remain in this state and shall  
312 accrue to it;

313 (3) To solicit, receive and accept aid, grants or contributions from  
314 any source of money, property or labor or other things of value, to be  
315 held, used and applied to carry out the purposes of this chapter,  
316 subject to the conditions upon which such grants and contributions  
317 may be made, including but not limited to, gifts or grants from any  
318 department or agency of the United States or the state;

319 (4) To invest in, acquire, lease, purchase, own, manage, hold and  
320 dispose of real property and lease, convey or deal in or enter into  
321 agreements with respect to such property on any terms necessary or  
322 incidental to the carrying out of these purposes; provided, however,  
323 that all such acquisitions of real property for the corporation's own use  
324 with amounts appropriated by the state to the corporation or with the  
325 proceeds of bonds supported by the full faith and credit of the state  
326 shall be subject to the approval of the Secretary of the Office of Policy  
327 and Management and the provisions of section 4b-23;

328 (5) To borrow money or to guarantee a return to the investors in or  
329 lenders to any capital initiative, to the extent permitted under this  
330 chapter;

331 (6) To hold patents, copyrights, trademarks, marketing rights,  
332 licenses, or any other evidences of protection or exclusivity as to any  
333 products as defined herein, issued under the laws of the United States  
334 or any state or any nation;

335 (7) To employ such assistants, agents and other employees as may  
336 be necessary or desirable, which employees shall be exempt from the  
337 classified service and shall not be employees, as defined in subsection  
338 (b) of section 5-270; establish all necessary or appropriate personnel  
339 practices and policies, including those relating to hiring, promotion,

340 compensation, retirement and collective bargaining, which need not be  
341 in accordance with chapter 68, and the corporation shall not be an  
342 employer as defined in subsection (a) of section 5-270; and engage  
343 consultants, attorneys and appraisers as may be necessary or desirable  
344 to carry out its purposes in accordance with this chapter;

345 (8) To make and enter into all contracts and agreements necessary or  
346 incidental to the performance of its duties and the execution of its  
347 powers under this chapter;

348 (9) To sue and be sued, plead and be impleaded, adopt a seal and  
349 alter the same at pleasure;

350 (10) With the approval of the State Treasurer, to invest any funds  
351 not needed for immediate use or disbursement, including any funds  
352 held in reserve, in obligations issued or guaranteed by the United  
353 States of America or the state of Connecticut and in other obligations  
354 which are legal investments for retirement funds in this state;

355 (11) To procure insurance against any loss in connection with its  
356 property and other assets in such amounts and from such insurers as it  
357 deems desirable;

358 (12) To the extent permitted under its contract with other persons, to  
359 consent to any termination, modification, forgiveness or other change  
360 of any term of any contractual right, payment, royalty, contract or  
361 agreement of any kind to which the corporation is a party;

362 (13) To do anything necessary and convenient to render the bonds  
363 to be issued under section 32-41 more marketable;

364 (14) To acquire, lease, purchase, own, manage, hold and dispose of  
365 personal property, and lease, convey or deal in or enter into  
366 agreements with respect to such property on any terms necessary or  
367 incidental to the carrying out of these purposes;

368 (15) In connection with any application for assistance under this  
369 chapter, or commitments therefor, to make and collect such fees as the

370 corporation shall determine to be reasonable;

371 (16) To enter into venture agreements with persons, upon such  
372 terms and conditions as are consistent with the purposes of this  
373 chapter to provide financial aid to such persons for the marketing of  
374 new and innovative services based on the use of a specific technology,  
375 product, device, technique, service or process;

376 (17) To enter into limited partnerships or other contractual  
377 arrangements with private and public sector entities as the corporation  
378 deems necessary to provide financial aid which shall be used to make  
379 investments of seed venture capital in companies based in or  
380 relocating to the state in a manner which shall foster additional capital  
381 investment, the establishment of new businesses, the creation of new  
382 jobs and additional commercially-oriented research and development  
383 activity. The repayment of such financial aid shall be structured in  
384 such manner as the corporation deems will best encourage private  
385 sector participation in such limited partnerships or other  
386 arrangements. The board of directors, executive director, officers and  
387 staff of the corporation may serve as members of any advisory or other  
388 board which may be established to carry out the purposes of this  
389 subdivision;

390 (18) To account for and audit funds of the corporation and funds of  
391 any recipients of financial aid from the corporation;

392 (19) To advise the Governor, the General Assembly, the  
393 Commissioner of Economic and Community Development and the  
394 Commissioner of Higher Education on matters relating to science,  
395 engineering and technology which may have an impact on state  
396 policies, programs, employers and residents, and on job creation and  
397 retention;

398 (20) To promote technology-based development in the state;

399 (21) To encourage and promote the establishment of and, within  
400 available resources, to provide financial aid to advanced technology

401 centers;

402 (22) To maintain an inventory of data and information concerning  
403 state and federal programs which are related to the purposes of this  
404 chapter and to serve as a clearinghouse and referral service for such  
405 data and information;

406 (23) To conduct and encourage research and studies relating to  
407 technological development;

408 (24) To provide technical or other assistance and, within available  
409 resources, to provide financial aid to the Connecticut Academy of  
410 Science and Engineering, Incorporated, in order to further the  
411 purposes of this chapter;

412 (25) To recommend a science and technology agenda for the state  
413 that will promote the formation of public and private partnerships for  
414 the purpose of stimulating research, new business formation and  
415 growth and job creation;

416 (26) To encourage and provide technical assistance and, within  
417 available resources, to provide financial aid to existing manufacturers  
418 and other businesses in the process of adopting innovative technology  
419 and new state-of-the-art processes and techniques;

420 (27) To recommend state goals for technological development and  
421 to establish policies and strategies for developing and assisting  
422 technology-based companies and for attracting such companies to the  
423 state;

424 (28) To promote and encourage and, within available resources, to  
425 provide financial aid for the establishment, maintenance and operation  
426 of incubator facilities;

427 (29) To promote and encourage the coordination of public and  
428 private resources and activities within the state in order to assist  
429 technology-based entrepreneurs and business enterprises;

430 (30) To provide services to industry that will stimulate and advance  
431 the adoption and utilization of technology and achieve improvements  
432 in the quality of products and services;

433 (31) To promote science, engineering, mathematics and other  
434 disciplines that are essential to the development and application of  
435 technology;

436 (32) To coordinate its efforts with existing business outreach centers,  
437 as described in section 32-9qq;

438 (33) To do all acts and things necessary and convenient to carry out  
439 the purposes of this chapter;

440 (34) To accept from the department: (A) Financial assistance, (B)  
441 revenues or the right to receive revenues with respect to any program  
442 under the supervision of the department, and (C) loan assets or equity  
443 interests in connection with any program under the supervision of the  
444 department; to make advances to and reimburse the department for  
445 any expenses incurred or to be incurred by it in the delivery of such  
446 assistance, revenues, rights, assets, or interests; to enter into  
447 agreements for the delivery of services by the corporation, in  
448 consultation with the department, the Connecticut Housing Finance  
449 Authority and the Connecticut Development Authority, to third  
450 parties which agreements may include provisions for payment by the  
451 department to the corporation for the delivery of such services; and to  
452 enter into agreements with the department or with the Connecticut  
453 Development Authority or Connecticut Housing Finance Authority for  
454 the sharing of assistants, agents and other consultants, professionals  
455 and employees, and facilities and other real and personal property  
456 used in the conduct of the corporation's affairs;

457 (35) To transfer to the department: (A) Financial assistance, (B)  
458 revenues or the right to receive revenues with respect to any program  
459 under the supervision of the corporation, and (C) loan assets or equity  
460 interests in connection with any program under the supervision of the  
461 corporation, provided the transfer of such financial assistance,

462 revenues, rights, assets or interests is determined by the corporation to  
463 be practicable, within the constraints and not inconsistent with the  
464 fiduciary obligations of the corporation imposed upon or established  
465 upon the corporation by any provision of the general statutes, the  
466 corporation's bond resolutions or any other agreement or contract of  
467 the corporation and to have no adverse effect on the tax-exempt status  
468 of any bonds of the state;

469 (36) With respect to any capital initiative, to create, with one or more  
470 persons, one or more affiliates and to provide, directly or indirectly, for  
471 the contribution of capital to any such affiliate, each such affiliate being  
472 expressly authorized to exercise on such affiliate's own behalf all  
473 powers which the corporation may exercise under this section, in  
474 addition to such other powers provided to it by law;

475 (37) To provide financial aid to enable biotechnology and other  
476 technology companies to lease, acquire, construct, maintain, repair,  
477 replace or otherwise obtain and maintain production, testing, research,  
478 development, manufacturing, laboratory and related and other  
479 facilities, improvements and equipment;

480 (38) To provide financial aid to persons developing smart buildings,  
481 as defined in section 32-23d, incubator facilities or other information  
482 technology intensive office and laboratory space;

483 (39) To provide financial aid to persons developing or constructing  
484 the basic buildings, facilities or installations needed for the functioning  
485 of the media and motion picture industry in this state.

486 Sec. 4. (NEW) (*Effective July 1, 2007*) (a) The Office of Workforce  
487 Competitiveness, in consultation with the Labor Commissioner, the  
488 Commissioners of Education and Economic and Community  
489 Development, and the Connecticut Commission on Culture and  
490 Tourism, shall establish a film, media and entertainment workforce  
491 pilot program. The pilot program shall be established in collaboration  
492 with an arts magnet school. Such program shall develop a model for  
493 training a workforce for the media, film and entertainment industry.

494 (b) Not later than February 15, 2008, and annually thereafter, the  
 495 Office of Workforce Competitiveness shall report to the joint standing  
 496 committees of the General Assembly having cognizance of matters  
 497 relating to higher education and employment advancement and  
 498 finance, revenue and bonding, regarding the collaborative measures  
 499 taken pursuant to this section, and the status of the pilot program.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2007, and applicable to income years commencing on or after January 1, 2007</i>	12-217jj
Sec. 2	<i>January 1, 2008, and applicable to income years commencing on or after January 1, 2008</i>	New section
Sec. 3	<i>July 1, 2007</i>	32-39
Sec. 4	<i>July 1, 2007</i>	New section

**FIN**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 08 \$</b>	<b>FY 09 \$</b>
Department of Revenue Services	GF - Revenue Loss	See Below	See Below
Commission on Arts, Tourism, Culture, History and Film	GF - Cost	120,000 to 180,000	120,000 to 180,000
Workforce Competitiveness, Off.	GF - Cost	330,000 to 450,000	330,000 to 450,000

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

Public Act 06-186 established a transferable film and digital media production expenses credit against the corporation business tax. The fiscal note stated that the credit was expected to result in a General Fund revenue loss of \$10 million in FY 08 and \$20 million in FY 09. The bill makes several changes to the credit but the fiscal impact of these changes cannot be determined at this time because there is insufficient data to evaluate these changes.

In addition, the bill establishes a new transferable corporation business tax for investments in state-certified motion picture infrastructure projects. The credit may result in a General Fund revenue loss beginning in FY 09. The annual revenue loss cannot be determined since it will depend on the number and scope of projects constructed.

It is estimated that the Connecticut Commission on Culture and Tourism (CCCT) will require 2 to 3 additional positions in production and administration depending upon the additional activity to undertake the new duties in this bill. Anticipated annual costs starting in FY 08 for salaries are between \$120,000 and \$180,000, plus fringe

benefits<sup>1</sup>.

It is anticipated that Connecticut Innovation, Inc.(CII) does not have additional funds to support expansion of its duties to include development of new businesses as well as research and development of new products and technologies and providing financial assistance for people developing buildings, facilities, or infrastructure for the film and digital media industry in the state. If assistance were required to be provided, it would reduce funding available for current investment programs.

The bill will result in a cost to the Office of Workforce Competitiveness (OWC) associated with establishing a film, media and entertainment workforce pilot program in collaboration with an arts magnet school. Between \$80,000 and \$100,000 is estimated to fund a full time project manager. Operational support to establish the pilot could cost between \$250,000 and \$350,000.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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<sup>1</sup> The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated first year fringe benefit rate for a new employee as a percentage of average salary is 25.8%, effective July 1, 2006. The first year fringe benefit costs for new positions do not include pension costs. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS 2006-07 fringe benefit rate is 34.4%, which when combined with the non pension fringe benefit rate totals 60.2%.

**OLR Bill Analysis****sHB 7400*****AN ACT CONCERNING MOTION PICTURE TAX CREDITS.*****SUMMARY:**

This bill makes several changes in the state's transferable film and digital media production expense credit against the corporation tax. It:

1. until January 1, 2012, makes half of any production expenses incurred outside the state eligible for a credit if used in Connecticut and includes videos as qualified productions eligible for credits;
2. eliminates eligibility for expenses for star compensation over \$10 million for a single production and intellectual property purchases, and excludes additional types of productions;
3. changes the standard for an ineligible obscene production from a state to a federal one;
4. allows a production company to apply for and receive credits while making a qualified production instead of only after it is finished;
5. allows those who purchase film production credits from a production company to sell them to others in their turn; and
6. imposes a penalty for deliberately submitting false information in order to receive a production credit.

In addition, the bill:

1. establishes new transferable corporation tax credits for

investments in state-certified motion picture infrastructure projects;

2. gives Connecticut Innovations, Inc. (CII) the power to provide financial help for those developing and building media and motion picture industry infrastructure projects; and
3. establishes a pilot film, media, and entertainment industry workforce training program.

EFFECTIVE DATE: July 1, 2007 for the changes relating to the production tax credit, CII, and establishing the workforce training program; January 1, 2008 for the film infrastructure credit. The production credit changes apply to income years starting on or after January 1, 2007 and the infrastructure credit applies to income years starting on or after January 1, 2008.

### **FILM PRODUCTION TAX CREDIT**

Connecticut provides a transferable credit against the corporation tax equal to 30% of eligible film and digital media production expenses in the state that exceed \$50,000. The bill makes several changes in this production credit.

#### ***Qualified Productions***

By law, only qualified productions are eligible for credits. The bill extends eligibility to videos and makes the following types of productions ineligible:

1. current events productions;
2. sporting events;
3. awards shows and other gala events;
4. productions whose sole purpose is fundraising;
5. productions used for corporate training or in-house corporate advertising and similar productions; and

6. long-form productions that primarily market a product or service. (It is not clear how this type of production differs from an “infomercial,” a type of production explicitly included as a qualified production under a provision the bill leaves unchanged.)

### ***Eligible and Ineligible Expenses***

Under current law, a company may claim a credit for eligible production expenses exceeding \$50,000, but only if the expenses are incurred in Connecticut. From January 1, 2007 to January 1, 2012, the bill allows 50% of expenses incurred outside the state to count towards the credit if they are used in the state. On and after January 1, 2012, no expenses incurred out-of-state and 100% of expenses incurred in Connecticut and used here will count towards the credit.

The bill excludes all expenses for purchasing intellectual property rights. Under current law, intellectual property expenses are eligible if (1) the intellectual property was produced primarily in Connecticut, (2) 75% of the qualified production based on it is produced in Connecticut, and (3) the cost of optioning or buying it is less than 35% of the production’s Connecticut costs and expenses.

The bill also excludes compensation over \$10 million paid to any individual working on the production or to any entity that represents such an individual. There is currently no limit on individual star compensation eligible for a credit.

Lastly, the bill removes limits on credit-eligible talent fees for extras, principal day players, and atmosphere as defined by the Screen Actors’ Guild (SAG). The current limit for such fees is double the scale amounts under SAG’s current collective bargaining agreement.

### ***Obscene Productions***

Under both current law and the bill, productions containing obscene material or performances are ineligible for a tax credit. The bill changes the standard for determining obscenity from a state to a federal one.

Under current law, a production is ineligible if (1) taken as a whole, it appeals predominantly to prurient interest; (2) it shows or describes a sexual act in a patently offensive way; and (3) taken as a whole, it lacks serious literary, artistic, educational, political, or scientific value (CGS § 53a-193).

Under the bill, a production is ineligible if it contains obscene material or performances on which, by federal law, producers must keep certain records. Federal law requires producers to keep records on performers in productions made after November 1, 1990 that (1) include visual depictions of actual, as opposed to simulated, sexually explicit conduct and (2) are either themselves shipped or transported in interstate commerce or made with material so shipped or transported (18 USC 2257).

### ***Tax Credit Vouchers***

Under current law, a company must apply to the Connecticut Commission on Culture and Tourism (CCCT) for a production tax credit eligibility certificate within 90 days after incurring its first production expenses. Then, no later than 90 days after incurring its last expenses, it must apply for the actual credit certificate on which CCCT must enter a credit amount. The bill keeps these two deadlines but also allows companies to apply for, and receive, tax credit vouchers while the production is in progress instead of waiting until it is finished. It allows a company to apply for credits starting three months after submitting its eligibility application. It changes the tax credit certificates to tax credit vouchers and requires CCCT to deduct the credits issued during production from the company's final credit amount.

Finally, the bill allows taxpayers to claim credits in the income year when the expenses were incurred and credit vouchers were issued, instead of requiring them to wait until the CCCT issues a final certification for the production.

### ***Credit Transfers***

By law, production companies may sell or otherwise transfer their credits. This bill allows the transferee to sell the credits again after a first transfer and eliminates the requirement that a taxpayer claim the credit only in years in which the production company that first received the credit could have claimed it. The bill requires the subsequent transferors and transferees to jointly notify CCCT of subsequent transfers, supplying the same information and using the same procedures as already required for the initial transfers.

### ***Financial Penalty***

The bill imposes a financial penalty equal to the credit amount on any qualified production company that deliberately submits false or fraudulent information to the CCCT for purposes of the credit. The new penalty is in addition to other penalties already provided by law.

## **FILM INFRASTRUCTURE INVESTMENT TAX CREDIT**

### ***State-Certified Projects***

The bill establishes a transferable corporation tax credit for investments in capital projects that provide basic buildings, facilities, or infrastructure that the film and digital media industry needs to function in Connecticut. Projects must be state-certified. The entity that undertakes the project must (1) comply with regulations the bill requires CCCT to adopt in consultation with the revenue services (DRS) commissioner; (2) be authorized to do business in Connecticut; (3) not have (a) defaulted on any Connecticut state loan or loan guarantee or (b) had any obligation to repay public funds discharged because of bankruptcy; and (4) be approved for an infrastructure credit by CCCT.

### ***Tax Credits***

Credit amounts depend on the infrastructure project's costs as shown below:

<i>Project Cost</i>		<i>Credit (% of Investment)</i>
<i>At least</i>	<i>But Less Than</i>	
\$15,000	\$150,000	10%
150,000	1,000,000	15%

\$1,000,000 and over	20%
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The bill allows companies that receive tax credits to sell or transfer them and allows those who buy them to sell them to others. But taxpayers holding credits can only claim them for the income year in which the CCCT issues a voucher for the credit. Credits are not refundable. Excess credits can be carried forward for three income years.

As with production credit transfers, infrastructure credit buyers and sellers must jointly notify CCCT of a transfer. The notice must include the credit certificate number, transfer date, credit amount transferred, credit balance before and after the transfer, parties' tax identification numbers, and any other information CCCT requires. If parties fail to provide full information, the credits are disallowed until they comply. The CCCT must give the DRS commissioner a copy of the transfer notice if the commissioner asks for it.

### ***Credit Application Procedure***

The process for applying for infrastructure credits mirrors the production credit application and issuance process. The entity that undertakes the project must apply to CCCT within 90 days of incurring its first expenses for the project. The applicant must give CCCT the information it requires to determine if the project is eligible for a credit, including, at least, a detailed project description, preliminary budget, and estimated completion date.

CCCT can require an independent audit of project costs and expenses before certification. If it determines a project is eligible, it must indicate the project costs and issue a tax credit certification letter for investors showing the available credits. CCCT must give the DRS commissioner a copy of the letter if the commissioner asks for it.

The bill bars the CCCT from issuing a tax credit voucher based on the certification letter until the project is at least 60% complete. Before it issues the voucher, the CCCT must receive a progress report from the entity building the project and an estimated completion date. The

commission can also require an independent audit of the project costs and spending before issuing a voucher.

## **CII ASSISTANCE**

The bill expands CII's purposes to include development of new businesses as well as research and development of new products and technology. It also allows CII to provide financial help for people developing basic buildings, facilities, or infrastructure that the film and digital media industry needs to function in Connecticut.

## **FILM INDUSTRY WORKFORCE TRAINING PROGRAM**

The bill requires the Office of Workforce Competitiveness (OWC), in consultation with the labor, education, and economic and community development commissioners and the CCCT, to establish a pilot program to develop a model for training a film, media, and entertainment industry workforce. The program must collaborate with an arts magnet school. OWC must submit an annual status report on the program and the collaborative measures to the Finance, Revenue and Bonding and Higher Education and Employment Advancement committees starting by February 15, 2008.

## **BACKGROUND**

### ***Related Bill***

sHB 6500, reported favorably by the Commerce; Finance, Revenue and Bonding; and Appropriations committees, also requires OWC to develop a film industry workforce development program, in consultation with the labor, education, and economic and community development commissioners and the CCCT. That bill requires the training program to have (1) an unpaid internship program for high school and college students, (2) a production assistant training program for state residents, and (3) a workforce training program that includes classroom and on-set training and mentorships.

## **COMMITTEE ACTION**

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 50 Nay 3 (04/17/2007)