



General Assembly

January Session, 2007

**Bill No. 1118**

LCO No. 4106

\*04106 \_\_\_\_\_ \*

Referred to Committee on Finance, Revenue and Bonding

Introduced by:

SEN. DELUCA, 32<sup>nd</sup> Dist.

REP. CAFERO, 142<sup>nd</sup> Dist.

***AN ACT CONCERNING ECONOMIC DEVELOPMENT.***

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

1 Section 1. Section 12-217i of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage, 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 Economic and  
6 Community Development;

7 [(2) "Relocation to Connecticut" or "relocation" means the taxpayer  
8 creating the new job shall not have been conducting business in  
9 Connecticut prior to the taxpayer's application to the commissioner for  
10 an eligibility certificate under this section;]

11 [(3)] (2) "Income year" means, with respect to entities subject to the  
12 insurance premiums tax under chapter 207, the corporation business  
13 tax under this chapter or the [utilities company] utility companies tax

14 under chapter 212, the income year as determined under each of said  
15 chapters, as the case may be;

16 [(4)] (3) "Taxpayer" means a person subject to tax under chapter 207,  
17 this chapter or chapter 212 [who was not conducting business in  
18 Connecticut prior to relocation to Connecticut] that creates at least  
19 twenty-five new jobs;

20 [(5)] (4) "New job" means a full-time job which (A) did not exist in  
21 this state prior to a taxpayer's application to the commissioner for an  
22 eligibility certificate under this section for a job creation credit, and (B)  
23 is filled by a new employee;

24 [(6)] (5) "New employee" means a person hired by the taxpayer to  
25 fill a new full-time job in Connecticut. A new employee does not  
26 include a person who was employed in Connecticut by a related  
27 person with respect to the taxpayer during the prior twelve months;

28 [(7)] (6) "Full-time job" means a job in which an employee is  
29 required to work at least thirty-five or more hours per week. A full-  
30 time job does not include a temporary or seasonal job;

31 [(8)] (7) "Related person" means (A) a corporation, limited liability  
32 company, partnership, association or trust controlled by the taxpayer,  
33 (B) an individual, corporation, limited liability company, partnership,  
34 association or trust that is in control of the taxpayer, (C) a corporation,  
35 limited liability company, partnership, association or trust controlled  
36 by an individual, corporation, limited liability company, partnership,  
37 association or trust that is in control of the taxpayer, or (D) a member  
38 of the same controlled group as the taxpayer; and

39 [(9)] (8) "Control", with respect to a corporation, means ownership,  
40 directly or indirectly, of stock possessing fifty per cent or more of the  
41 total combined voting power of all classes of the stock of such  
42 corporation entitled to vote. "Control", with respect to a trust, means  
43 ownership, directly or indirectly, of fifty per cent or more of the

44 beneficial interest in the principal or income of such trust. The  
45 ownership of stock in a corporation, of a capital or profits interest in a  
46 partnership, limited liability company or association or of a beneficial  
47 interest in a trust shall be determined in accordance with the rules for  
48 constructive ownership of stock provided in Section 267(c) of the  
49 Internal Revenue Code of 1986, or any subsequent corresponding  
50 internal revenue code of the United States, as from time to time  
51 amended, other than paragraph (3) of said Section 267(c).

52 (b) (1) There is established a jobs creation tax credit program  
53 whereby a taxpayer who creates at least ~~[fifty]~~ twenty-five new jobs  
54 [pursuant to a relocation to Connecticut] may be allowed a credit  
55 against the insurance premiums tax imposed under chapter 207, the  
56 tax imposed under this chapter or the utility companies tax imposed  
57 under chapter 212, in an amount up to ~~[twenty-five]~~ fifty per cent of  
58 the income tax deducted and withheld from the wages of new  
59 employees and paid over to the state pursuant to chapter 229 during  
60 the taxpayer's income year.

61 (2) For each new employee, credits may be granted for five  
62 successive years.

63 (3) The credit shall be claimed in the income year in which it is  
64 earned. Any credits not used in a tax year shall expire.

65 (c) Any taxpayer planning to [relocate to Connecticut] create at least  
66 twenty-five new jobs and claim a credit under the provisions of this  
67 section shall apply to the commissioner in accordance with the  
68 provisions of this section. The application shall be on a form provided  
69 by the commissioner, and shall contain sufficient information  
70 concerning the nature of the [relocation] new jobs, including a detailed  
71 description of the type of business, the number of new jobs to be  
72 created, feasibility studies or business plans for the [relocation] new  
73 jobs, projected state and local revenue that might derive as a result of  
74 the [relocation] new jobs, and other information necessary to  
75 demonstrate [the financial viability of the relocation and] that there

76 will be net benefits to the economy of the municipality and the state.  
77 The commissioner shall impose a fee for such application as the  
78 commissioner deems appropriate.

79 (d) The commissioner shall determine whether (1) the taxpayer  
80 making the application is eligible for the tax credit, and (2) the  
81 [proposed relocation] creation of the new jobs (A) is economically  
82 viable only with use of the tax credit, and (B) would provide a net  
83 benefit to economic development and employment opportunities in  
84 the state. The commissioner may require the applicant to submit such  
85 additional information as may be necessary to evaluate the application.

86 (e) (1) The commissioner, upon consideration of the application and  
87 any additional information the commissioner requires concerning [a  
88 proposed relocation] the new jobs, may approve the credit application,  
89 in whole or in part, if the commissioner concludes that the [relocation  
90 is economically viable] new jobs will be created only with the use of  
91 the tax credit and that the revenue generated due to economic  
92 development and employment opportunities created in the state  
93 exceeds the credit and any other credits to be taken. If the  
94 commissioner disapproves an application, the commissioner shall  
95 specifically identify the defects in the application and specifically  
96 explain the reasons for the disapproval. The commissioner shall render  
97 a decision on an application not later than ninety days after the date of  
98 its receipt by the commissioner.

99 (2) The total amount of credits granted to all taxpayers shall not  
100 exceed ten million dollars in any one fiscal year.

101 (3) A credit under this section may be granted to a taxpayer for not  
102 more than five successive income years.

103 (4) The commissioner may combine approval of a credit application  
104 with the exercise of any of the commissioner's other powers, including,  
105 but not limited to, the provision of other forms of financial assistance.

106 (f) Upon approving a taxpayer's credit application, the  
107 commissioner shall issue a credit allocation notice certifying that the  
108 credits will be available to be claimed by the taxpayer if the taxpayer  
109 otherwise meets the requirements of this section. No later than thirty  
110 days after the close of the taxpayer's income year, the taxpayer shall  
111 provide information to the commissioner regarding the number of new  
112 jobs created for the year and the income tax deducted and withheld  
113 from the wages of such new employees and paid over to the state for  
114 such year. The commissioner shall issue a certificate of eligibility that  
115 includes the taxpayer's name, the number of new jobs created, and the  
116 amount of the credit certified for the year. The certificate shall be  
117 issued by the commissioner sixty days after the close of the taxpayer's  
118 income year or thirty days after the information is provided,  
119 whichever comes first.

120 (g) The commissioner shall, upon request, provide a copy of the  
121 certificate of eligibility issued under subsection (f) of this section to the  
122 Commissioner of Revenue Services.

123 (h) (1) If (A) the number of new employees on account of which a  
124 taxpayer claimed the credit allowed by this section decreases to less  
125 than the number for which the commissioner issued an eligibility  
126 certificate during any of the four years succeeding the first full income  
127 year following the issuance of an eligibility certificate, and (B) those  
128 employees are not replaced by other employees who have not been  
129 shifted from an existing location of the taxpayer or a related person in  
130 this state, the taxpayer shall be required to recapture a percentage of  
131 the credit allowed under this section on its tax return, as determined  
132 under the provisions of subdivision (2) of this subsection. The  
133 commissioner shall provide notice of the required recapture amount to  
134 both the taxpayer and the Commissioner of Revenue Services.

135 (2) If the taxpayer is required under the provisions of subdivision  
136 (1) of this subsection to recapture a portion of the credit during (A) the  
137 first of such four years, then ninety per cent of the credit allowed shall

138 be recaptured on the tax return required to be filed for such year, (B)  
139 the second of such four years, then sixty-five per cent of the credit  
140 allowed for the entire period of eligibility shall be recaptured on the  
141 tax return required to be filed for such year, (C) the third of such four  
142 years, then fifty per cent of the credit allowed for the entire period of  
143 eligibility shall be recaptured on the tax return required to be filed for  
144 such year, (D) the fourth of such four years, then thirty per cent of the  
145 credit allowed for the entire period of eligibility shall be recaptured on  
146 the tax return required to be filed for such year.

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

150 (a) As used in this section:

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

152 (2) "Commission" means the Connecticut Commission on Culture  
153 and Tourism.

154 (3) (A) "Qualified production" means [the process of producing any  
155 type of] entertainment content, [which shall include] including motion  
156 pictures; documentaries; [long-form, specials,] mini-series, series,  
157 videos, music videos; [and interstitials television programming;]  
158 interactive television; interactive games; videogames; commercials;  
159 [infomercials; any format] other formats of digital media created  
160 [primarily] for distribution or exhibition to the general public. [; and  
161 any trailer, pilot, video teaser or demo created primarily to stimulate  
162 the sale, marketing, promotion or exploitation of future investment in  
163 either a product or a qualified production via any means and media in  
164 any digital media format, film or videotape, provided such program  
165 meets all the underlying criteria of a qualified production.]

166 (B) "Qualified production" shall not include [(A)] any ongoing  
167 program created primarily as news, weather or financial market

168 reports, a production featuring current events, sporting events, an  
169 awards show or other gala event, a production whose sole purpose is  
170 fundraising, a long-form production that primarily markets a product  
171 or service, a production used for corporate training or in-house  
172 corporate advertising or other similar productions, or [(B)] any  
173 production [containing any material or performance that is obscene, as  
174 defined in section 53a-193] for which records are required to be  
175 maintained under 18 USC 2257 with respect to sexually explicit  
176 content.

177 (4) "Eligible production company" means a corporation, partnership,  
178 limited liability company, or other business entity engaged in the  
179 business of producing qualified productions on a one-time or ongoing  
180 basis, and qualified by the Secretary of the State to engage in business  
181 in the state. "Eligible production company" shall not include any  
182 business entity owned or controlled by any entity or person that is in  
183 default on a loan made by the state or a loan guaranteed by the state.

184 (5) (A) "Production expenses or costs" means all expenditures  
185 clearly and demonstrably incurred in the state in the [development,]  
186 preproduction, production or postproduction [costs] of a qualified  
187 production, including:

188 [(A) Expenditures for optioning or purchase of any intellectual  
189 property including, but not limited to, books, scripts, music or  
190 trademarks relating to the development or purchase of a script,  
191 screenplay or format, provided (i) the intellectual property was  
192 produced primarily in the state, (ii) seventy-five per cent of the  
193 qualified production based on such intellectual property is produced  
194 in the state, and (iii) the production expenses or costs for such  
195 optioning or purchase are less than thirty-five per cent of the  
196 production expenses or costs incurred in the state. Such expenses or  
197 costs shall include all expenditures generally associated with the  
198 optioning or purchase of intellectual property, including option  
199 money, agent fees and attorney fees relating to the transaction, but

200 shall not include any and all deferrals, deferments, royalties, profit  
201 participation or recourse or nonrecourse loans which the eligible  
202 production company may negotiate in order to obtain the rights to the  
203 intellectual property;]

204 [(B)] Expenditures incurred in the state in the form of either  
205 compensation or purchases including production work, production  
206 equipment, production software, postproduction work,  
207 postproduction equipment, postproduction software, set design, set  
208 construction, props, lighting, wardrobe, makeup, makeup accessories,  
209 special effects, visual effects, audio effects, film processing, music,  
210 sound mixing, editing, location fees, soundstages and [any and all]  
211 other costs [or services directly] incurred in the state in connection  
212 with a state-certified qualified production;

213 [(C) Expenditures for distribution, including preproduction,  
214 production or postproduction costs relating to the creation of trailers,  
215 marketing videos, commercials, point-of-purchase videos and any and  
216 all content created on film or digital media, including the duplication  
217 of films, videos, CDs, DVDs and any and all digital files now in  
218 existence and those yet to be created for mass consumer consumption;  
219 the purchase, by a company in the state, of any and all equipment  
220 relating to the duplication or mass market distribution of any content  
221 created or produced in the state by any digital media format which is  
222 now in use and those formats yet to be created for mass consumer  
223 consumption; and]

224 [(D)] (B) "Production expenses or costs" does not include the  
225 following: (i) [Talent fees for extras, principal day players and  
226 atmosphere, as defined by the Screen Actors Guild, to the extent the  
227 individual performer costs exceed the rates of the Screen Actors Guild  
228 for double scale wages under the current collective bargaining  
229 agreements] Compensation in excess of five million dollars paid to any  
230 individual or entity representing an individual for services provided in  
231 the production of a qualified production; (ii) media buys, promotional

232 events or gifts or public relations associated with the promotion, [or]  
233 marketing or advertising of any qualified production; (iii) deferred,  
234 leveraged or profit participation costs relating to any and all personnel  
235 associated with any and all aspects of the production, including, but  
236 not limited to, producer fees, director fees, talent fees and writer fees;  
237 (iv) costs relating to the transfer of the production tax credits; and (v)  
238 any amounts paid to persons or businesses as a result of their  
239 participation in profits from the exploitation of the qualified  
240 production.

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

247 (b) The Connecticut Commission on Culture and Tourism shall  
248 administer a system of tax credit vouchers within the resources,  
249 requirements and purposes of this section for eligible production  
250 companies producing a state-certified qualified production in the state.  
251 For income years commencing on or after January 1, [2006] 2007, any  
252 eligible production company incurring production expenses or costs in  
253 excess of two hundred fifty thousand dollars shall be eligible for a  
254 credit against the tax imposed under this chapter equal to thirty per  
255 cent of such production expenses or costs. Any credit allowed  
256 pursuant to this subsection may be sold, assigned or otherwise  
257 transferred, in whole or in part, to one or more taxpayers, provided  
258 such taxpayers may claim such credit only for an income year in which  
259 the eligible production company would have been eligible to claim  
260 such credit. Any such credit allowed under this subsection shall be  
261 claimed against the tax imposed under this chapter for the income year  
262 in which final certification for the state-certified qualified production is  
263 made by the commission pursuant to this section, and may be carried  
264 forward for the three immediately succeeding income years. Any

265 production tax credit allowed under this subsection shall be  
266 nonrefundable.

267 (c) (1) An eligible production company shall apply to the  
268 commission for an eligibility certificate not later than ninety days after  
269 the first production expenses or costs are incurred in the production of  
270 a qualified production, and shall provide with such application such  
271 information as the commission may require to determine such  
272 company's eligibility to claim a credit under this section.

273 (2) Not later than ninety days after the last production expenses or  
274 costs are incurred in the production of a qualified production, an  
275 eligible production company shall apply to the commission for a  
276 production tax credit certificate, and shall provide with such  
277 application such information as the commission may require  
278 pertaining to the amount of the company's production expenses or  
279 costs. If the commission determines that the company is eligible to be  
280 issued a production tax credit certificate, the commission shall enter on  
281 the certificate the amount of production expenses or costs that has  
282 been established to the satisfaction of the commission, and the amount  
283 of the company's credit under this section. The commission shall  
284 provide a copy of such certificate to the commissioner, upon request.

285 (d) If an eligible production company sells, assigns or otherwise  
286 transfers a credit under this section to another taxpayer, the transferor  
287 and transferee shall jointly submit written notification of such transfer  
288 to the commission not later than thirty days after such transfer. The  
289 notification shall include the credit certificate number, the date of  
290 transfer, the amount of such credit transferred, the tax credit balance  
291 before and after the transfer, the tax identification numbers for both  
292 the transferor and the transferee, and any other information required  
293 by the commission. Failure to comply with this subsection will result  
294 in a disallowance of the tax credit until there is full compliance on both  
295 the part of the transferor and the transferee. The commission shall  
296 provide a copy of the notification of assignment to the commissioner

297 upon request.

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

303 ~~[(e)]~~ (f) The commission, in consultation with the commissioner,  
304 shall adopt regulations, in accordance with the provisions of chapter  
305 54, as may be necessary for the administration of this section.

306 Sec. 3. Subsections (b) and (c) of section 32-725 of the general  
307 statutes are repealed and the following is substituted in lieu thereof  
308 (*Effective from passage*):

309 (b) The Office of the Business Advocate shall be in the [Office of  
310 Policy and Management] Department of Economic and Community  
311 Development for administrative purposes only.

312 (c) The Business Advocate may, within available funds, appoint  
313 such staff as may be deemed necessary. The duties of the staff may  
314 include the duties and powers of the Business Advocate if performed  
315 under the direction of the Business Advocate.

316 (d) The General Assembly may annually appropriate such sums as  
317 necessary for the payment of the salaries of the staff and for the  
318 payment of office expenses and other actual expenses incurred by the  
319 Business Advocate in the performance of [such] said advocate's duties.

320 Sec. 4. (NEW) (*Effective from passage*) (a) On or before July 1, 2008,  
321 and quadrennially thereafter, the Commissioner of Economic and  
322 Community Development shall prepare an economic development  
323 strategic plan for the state. The commissioner may establish an  
324 advisory committee to assist in the preparation of the plan.

325 (b) In developing the plan, the commissioner shall: (1) Assess the

326 economic development competitiveness of the state against the  
327 economic development competitiveness of other business locations,  
328 including an evaluation of economic development strengths and  
329 weaknesses of the state; (2) ensure that the plan is consistent with (A)  
330 the State Plan of Conservation and Development, adopted pursuant to  
331 chapter 297 of the general statutes, and (B) the transportation strategy  
332 adopted pursuant to section 13b-57g of the general statutes; (3) consult  
333 interested state and local officials, entities involved in economic  
334 development, stakeholders and business and economic development  
335 organizations; (4) provide for public involvement in the planning  
336 process; (5) consider local and regional economic development plans;  
337 and (6) consider the State Housing Plan adopted pursuant to section 8-  
338 37t of the general statutes.

339 (c) The strategic plan required under this section shall contain the  
340 following:

341 (1) An analysis of economic and community development problems  
342 and opportunities;

343 (2) Background and history of the economic development in the  
344 state, including the background and history of the economy,  
345 geography, population, labor force, resources and the environment;

346 (3) An analysis of the business sectors in the state that are of current  
347 or future importance to the growth of the state's economy and to its  
348 global competitive position;

349 (4) An analysis of public participation in the planning efforts for the  
350 strategy;

351 (5) Goals and objectives for (A) taking advantage of the  
352 opportunities in the state, and (B) solving the economic development  
353 problems of the state; and

354 (6) A plan of action, including strategies to implement the goals and  
355 objectives set forth in subdivision (5) of this subsection.

356 (d) The strategic plan shall be effective upon approval by the  
 357 Governor. Upon such approval, the commissioner shall submit the  
 358 strategic plan to the joint standing committees of the General  
 359 Assembly having cognizance of matters relating to budgets of state  
 360 agencies, commerce, and finance, revenue and bonding.

361 (e) In addition to the quadrennial report required by subsection (a)  
 362 of this section, the commissioner may, with the approval of the  
 363 Governor, from time to time, revise and update the strategic plan.

364 Sec. 5. (NEW) (*Effective July 1, 2007*) Subject to the availability of  
 365 funds, the Commissioner of Economic and Community Development  
 366 may make grants and loans in support of the economic diversification  
 367 of southeastern Connecticut. Nothing in this section shall be deemed to  
 368 supersede any approval or other requirements with respect to such  
 369 grants and loans otherwise required by law.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage, and applicable to income years commencing on or after January 1, 2007</i>	12-217ii
Sec. 2	<i>July 1, 2007, and applicable to income years commencing on or after January 1, 2007</i>	12-217jj
Sec. 3	<i>from passage</i>	32-725(b) and (c)
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>July 1, 2007</i>	New section

**Statement of Purpose:**

To implement the Governor's budget recommendations.

*[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.]*