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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO TAXATION -- RHODE ISLAND NEW QUALIFIED JOBS INCENTIVE ACT
OF 2015

Introduced By: Representatives Shekarchi, Ackerman, Ruggiero, Marshall, and Trillo

Date Introduced: May 21, 2015

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 44 of the General Laws entitled "TAXATION" is hereby amended by
2 adding thereto the following chapter:

3 CHAPTER 48.3

4 RHODE ISLAND NEW QUALIFIED JOBS INCENTIVE ACT OF 2015

5 **44-48.3-1. Short title.** – This chapter shall be known and may be cited as the "Rhode
6 Island Qualified Jobs Incentive Act of 2015."

7 **44-48.3-2. Findings and declaration.** – (a) It is hereby found and declared that due to
8 long-term and short-term negative economic trends in Rhode Island, businesses in the state have
9 found it difficult to make investments that would stimulate economic activity and create new
10 jobs. This situation has contributed to a rate of unemployment in Rhode Island that is higher than
11 our neighbors and among the highest in the nation. Consequently, a need exists to promote the
12 creation of new jobs, attract new business and industry, and stimulate growth in businesses that
13 are prepared to make meaningful investment and foster job creation in Rhode Island.

14 (b) Through the establishment of a jobs incentive program, Rhode Island can take steps to
15 stimulate business expansion and attraction, create well-paying jobs for its residents, and generate
16 revenues for necessary state and local governmental services.

17 **44-48.3-3. Definitions.** – As used in this chapter, unless the context clearly indicates
18 otherwise, the following words and phrases shall have the following meanings:

1 (1) "Affiliate" or "affiliated entity" means an entity that directly or indirectly controls, is
2 under common control with, or is controlled by the business. Control exists in all cases in which
3 the entity is a member of an affiliated group of corporations as defined pursuant to section 1504
4 of the Internal Revenue Code of 1986 (26 U.S.C. §1504) or the entity is an organization in a
5 group of organizations under common control as defined pursuant to subsection (b) or (c) of
6 section 414 of the Internal Revenue Code of 1986 (26 U.S.C. §414). A taxpayer may establish by
7 clear and convincing evidence, as determined by the commerce corporation, that control exists in
8 situations involving lesser percentages of ownership than required by those statutes. An affiliate
9 of a business may contribute to meeting full-time employee requirements of a business that
10 applies for a credit under this chapter.

11 (2) "Business" means an applicant that is a corporation, state bank, federal savings bank,
12 trust company, national banking association, bank holding company, loan and investment
13 company, mutual savings bank, credit union, building and loan association, insurance company,
14 investment company, broker-dealer company or surety company, limited liability company,
15 partnership or sole proprietorship.

16 (3) "Commerce corporation" means the Rhode Island commerce corporation established
17 pursuant to chapter 64 of title 44.

18 (4) "Commitment period" means the period of time that at a minimum is twenty percent
19 (20%) greater than the eligibility period.

20 (5) "Eligibility period" means the period in which a business may claim a tax credit under
21 the program, beginning at the end of the tax period in which the commerce corporation issues a
22 certification for the business that it has met the employment requirements of the program and
23 extending thereafter for a term of not more than ten (10) years.

24 (6) "Eligible position" or "full-time job" means a full-time position in a business which
25 has been filled with a full-time employee who earns no less than the median hourly wage as
26 reported by the United States Bureau of Labor Statistics for the state of Rhode Island, provided,
27 that for economically fragile industries such as manufacturing, the commerce corporation may
28 reduce the wage threshold. An economically fragile industry shall not include retail.

29 (7) "Full-time employee" means a person who is employed by a business for
30 consideration for at least thirty-five (35) hours a week, or who is employed by a professional
31 employer organization pursuant to an employee leasing agreement between the business and the
32 professional employer organization for at least thirty-five (35) hours a week, and whose wages
33 are subject to withholding.

34 (8) "Hope community" means municipalities with a percentage of families below the

1 poverty level that is greater than the percentage of families below the poverty level for the state as
2 a whole as determined by the United States Census Bureau's most recent American Community
3 Survey.

4 (9) "Incentive agreement" means the contract between the business and the commerce
5 corporation, which sets forth the terms and conditions under which the business shall be eligible
6 to receive the incentives authorized pursuant to the program.

7 (10) "Incentive effective date" means the date the commerce corporation issues a
8 certification for issuance of tax credit based on documentation submitted by a business pursuant
9 to § 44-48.3-7.

10 (11) "New full-time job" means an eligible position created by the business that did not
11 previously exist in this state and which is created after approval of an application to the
12 commerce corporation under the program. Such job position cannot be the result of an acquisition
13 of an existing company located in Rhode Island by purchase, merger, or otherwise. For the
14 purposes of determining the number of new full-time jobs, the eligible positions of an affiliate
15 shall be considered eligible positions of the business so long as such eligible position(s) otherwise
16 meets the requirements of this section.

17 (12) "Partnership" means an entity classified as a partnership for federal income tax
18 purposes.

19 (13) "Program" means the incentive program established pursuant to this chapter.

20 (14) "Targeted industry" means any industry identified in the economic development
21 vision and policy promulgated under § 42-64.17-1.

22 (15) "Taxpayer" means a business granted a tax credit under this chapter or such person
23 entitled to the tax credit because the business is a pass through entity such as a partnership, S
24 corporation, sole proprietorship or limited liability company taxed as a partnership.

25 (16) "Transit oriented development area" means an area in proximity to mass-transit
26 infrastructure including, but not limited to, an airport, rail or intermodal facility that will be
27 further defined by regulation of the commerce corporation in consultation with the Rhode Island
28 department of transportation.

29 **44-48.3-4. Rhode Island qualified jobs incentive program.** – (a) The Rhode Island
30 qualified jobs incentive program is hereby established as a program under the jurisdiction of and
31 shall be administered by the commerce corporation. The program may provide tax credits to
32 eligible businesses for an eligibility period not to exceed ten (10) years.

33 (b) An eligible business under the program shall be entitled to a credit against taxes
34 imposed pursuant to chapters 11, 13, 14, 17 or 30 of title 44 as further provided under this

1 chapter.

2 (c) The minimum number of new full-time jobs required to be eligible for a tax credit
3 under this program shall be as follows:

4 (1) For a business in a targeted industry that employs not more than one hundred (100)
5 full-time employees on the date of application to the commerce corporation, the creation of at
6 least ten (10) new full-time jobs in this state;

7 (2) For a business in a targeted industry that employs more than one hundred (100) full-
8 time employees on the date of application to the commerce corporation, either the creation of new
9 full-time jobs in this state in an amount not less than ten percent (10%) of the business's existing
10 number of full-time employees or the creation of at least one hundred (100) new full-time jobs in
11 this state;

12 (3) For a business in a non-targeted industry that employs not more than two hundred
13 (200) full-time employees on the date of application to the commerce corporation, the creation of
14 at least twenty (20) new full-time jobs in this state; or

15 (4) For a business in a non-targeted industry that employs more than two hundred (200)
16 full-time employees on the date of application to the commerce corporation, either the creation of
17 new full-time jobs in this state in an amount not less than ten percent (10%) of the business's
18 existing number of full-time employees or the creation of at least one hundred (100) new full-
19 time jobs in this state.

20 (d) When a business applies for an incentive under this chapter, in order to assist the
21 commerce corporation in determining whether the business is eligible for the incentives under
22 this chapter, the business's chief executive officer, or equivalent officer, shall attest under oath:

23 (1) That any projected creation of new full-time jobs would not occur, or would not occur
24 in the state of Rhode Island, but for the provision of tax credits under the program;

25 (2) The business will create new full-time jobs in an amount equal to or greater than the
26 applicable number set forth in subsection (c) of this section;

27 (3) That the business's chief executive officer, or equivalent officer, has reviewed the
28 information submitted to the commerce corporation and that the representations contained therein
29 are accurate and complete.

30 (e) In the event that this attestation by the business's chief executive officer, or equivalent
31 officer, required under subsection (d) of this section is found to be willfully false, the commerce
32 corporation may revoke any award of tax credits in their entirety, which revocation shall be in
33 addition to any other criminal or civil penalties that the business and/or the officer may be subject
34 to under applicable law. Additionally, the commerce corporation may revoke any award of tax

1 credits in its entirety if the eligible business is convicted of bribery, fraud, theft, embezzlement,
2 misappropriation, and/or extortion involving the state, any state agency or political subdivision of
3 the state.

4 **44-48.3-5. Incentive agreement required prior to issuance of tax credits. – (a) The**
5 commerce corporation shall require an eligible business to enter into an incentive agreement prior
6 to the issuance of tax credits. The incentive agreement shall include, but shall not be limited to,
7 the following:

8 (1) A detailed description of the proposed job creation including industry sectors and the
9 number of new full-time jobs that are sought to be approved for tax credits;

10 (2) The eligibility period of the tax credits, including the first year for which the tax
11 credits may be claimed;

12 (3) A requirement that the applicant maintain the project at a location in Rhode Island for
13 the commitment period, with at least the minimum number of full-time employees as required by
14 this program;

15 (4) A method for the business to annually certify that it has met the employment
16 requirements of the program for each year of the commitment period;

17 (5) A provision permitting an audit of the payroll records of the business from time to
18 time, as the commerce corporation deems necessary;

19 (6) A provision establishing the conditions under which the agreement may be
20 terminated;

21 (7) A provision that if, in any tax period, the business reduces the total number of full-
22 time employees in its statewide workforce in the last tax period prior to the credit amount
23 approval under this program by more than twenty percent (20%) of jobs for which a credit was
24 granted under this chapter as described in the business's incentive agreement(s), then the business
25 shall forfeit all credit amounts described in the business's incentive agreement(s) for that tax
26 period and each subsequent tax period, until the first tax period for which documentation
27 demonstrating the restoration of the business's statewide workforce to the threshold levels
28 required by the incentive agreement(s) has been reviewed and approved by the commerce
29 corporation, for which tax period and each subsequent tax period the full amount of the credit
30 shall be allowed; and

31 (8) A provision that during the commitment period, if the business ceases operations in
32 the state or transfers more than fifty percent (50%) of the jobs for which a credit was granted
33 under this chapter to another state, the tax credit shall cease pursuant to this section and the
34 business shall be liable to the state for, at a minimum, twenty percent (20%) of all tax benefits

1 granted to the business under this chapter calculated from the date of the incentive agreement.

2 **44-48.3-6. Total amount of tax credit for eligible business.** – (a) The base amount of
3 the tax credit for an eligible business for each new full-time job shall be up to:

4 (1) Two thousand five hundred dollars (\$2,500) annually for applications received by the
5 commerce corporation from 2015 through 2018; and

6 (2) One thousand five hundred dollars (\$1,500) annually for applications received by the
7 commerce corporation from 2019 through 2020.

8 (b) The total tax credit amount shall be calculated and credited to the business annually
9 for each year of the eligibility period after the commerce corporation, in consultation with the
10 division of taxation, has verified that the jobs covered by the tax credit have generated sufficient
11 personal income taxes to comply with subsection (e) of this section.

12 (c) In addition to the base amount of the tax credit, the amount of the tax credit to be
13 awarded for each new full-time job may be increased, pursuant to the provisions of subsection (d)
14 of this section, if the business meets any of the following criteria or such other additional criteria
15 determined by the commerce corporation from time to time in response to evolving economic or
16 market conditions:

17 (1) For a business located within a hope community;

18 (2) For a targeted industry;

19 (3) For a business located within a transit oriented development area; and

20 (4) For an out-of-state business that relocates a business unit or units or creates a
21 significant number of new full-time jobs during the commitment period.

22 (d) The gross amount of the tax credit for an eligible business shall be subject to the
23 following limitations:

24 (1) For any application made to the commerce corporation from 2015 through 2018, the
25 tax credit for an eligible business for each new full-time job shall not exceed seven thousand five
26 hundred dollars (\$7,500) annually; or

27 (2) For any application made to the commerce corporation from 2019 through 2020, the
28 tax credit for an eligible business for each new full-time job shall not exceed five thousand dollars
29 (\$5,000) annually.

30 (e) Notwithstanding the provisions of subsections (a) through (d) of this section, for each
31 application approved by the commerce corporation, the amount of tax credits available to be
32 obtained by the business annually shall not exceed:

33 (1) The reasonable W-2 withholding received by the state for each new full-time job
34 created by a business for applications received by the commerce corporation in 2015 through

1 2018; and

2 (2) Ninety percent (90%) of the reasonable W-2 withholding received by the state for
3 each new full-time job created by the business for applications received by the commerce
4 corporation in 2019 through 2020.

5 (f) The commerce corporation shall establish regulations regarding the conditions under
6 which a business may submit more than one application for tax credits over time. The commerce
7 corporation may place limits on repeat applications.

8 **44-48.3-7. Documentation.** – (a) A business shall submit an application for tax credits on
9 or before December 31, 2020.

10 The commerce corporation shall not approve an application for tax credits if the
11 application was submitted after December 31, 2020.

12 (b) A business shall submit documentation indicating that it has met the employment
13 requirements specified in the incentive agreement for certification of its tax credit amount within
14 three (3) years following the date of approval of its application by the commerce corporation. The
15 commerce corporation, after a finding of good cause, may grant two (2) six (6) month extensions
16 of this deadline. In no event shall the incentive effective date occur later than four (4) years
17 following the date of approval of an application by the commerce corporation.

18 (c) Full-time employment for an accounting or privilege period shall be determined as the
19 average of the monthly full-time employment for the period.

20 (d) In conducting its annual review of a business, the commerce corporation may require
21 a business to submit any information determined by the commerce corporation to be necessary
22 and relevant to its review.

23 (e) The credit amount for any tax period for which the documentation of a business's
24 credit amount remains uncertified as of a date one year after the closing date of that period shall
25 be forfeited, although credit amounts for the remainder of the years of the eligibility period shall
26 remain available to the business.

27 **44-48.3-8. Carry forward, transfer or redemption of tax credits, redemption fund.** –

28 (a) If the amount of the tax credit allowed under this chapter exceeds the taxpayer's total tax
29 liability for the year in which the credit is allowed, the amount of such credit that exceeds the
30 taxpayer's tax liability may be carried forward and applied against the taxes imposed for the
31 succeeding four (4) years, or until the full credit is used, whichever occurs first. Credits allowed
32 to a partnership, a limited liability company taxed as a partnership, or multiple owners of property
33 shall be passed through to the persons designated as partners, members or owners respectively
34 pro rata or pursuant to an executed agreement among such persons designated as partners,

1 members or owners documenting an alternate distribution method without regard to their sharing
2 of other tax or economic attributes of such entity.

3 (b) The commerce corporation shall establish, by regulation, the process for the
4 assignment, transfer or conveyance of tax credits.

5 (c) For purposes of this chapter, any assignment or sales proceeds received by the
6 taxpayer for its assignment or sale of the tax credits allowed pursuant to this section shall be
7 exempt from taxation under title 44. If a tax credit is subsequently revoked or adjusted, the
8 seller's tax calculation for the year of revocation or adjustment shall be increased by the total
9 amount of the sales proceeds, without proration, as a modification under chapter 30 of title 44 of
10 the general laws. In the event that the seller is not a natural person, the seller's tax calculation
11 under chapters 11, 13, 14, or 17 of title 44, as applicable, for the year of revocation, or
12 adjustment, shall be increased by including the total amount of the sales proceeds without
13 proration.

14 (d) The tax credit allowed under this chapter may be used as a credit against corporate
15 income taxes imposed under chapters 11, 13, 14, or 17 of title 44, or as determined by the
16 commerce corporation may be used as a credit against personal income taxes imposed under
17 chapter 30 of title 44. No more than the amount of tax credits equal to the total credit amount
18 divided by the duration of the eligibility period in years may be taken in any tax period.

19 (e) Prior to assignment or transfer of a tax credit granted under this chapter, the division
20 of taxation shall, at the request of the business, redeem such credit in whole or in part for ninety
21 percent (90%) of the value of the tax credit with monies in the jobs tax credit redemption fund
22 created under subsection (f) of this section. The division of taxation shall establish by regulation a
23 redemption process for tax credits.

24 (f) The division of taxation is hereby authorized and empowered to segregate taxes
25 collected as a result of the creation of new full-time jobs under this chapter and transfer such
26 amounts to the general treasurer for deposit in a restricted account known as the jobs tax credit
27 redemption fund. The jobs tax credit redemption fund shall be used solely to pay for the
28 redemption of tax credits granted under this chapter. The director of the department of revenue
29 shall annually determine if a surplus exists in the job tax credit redemption fund over amounts
30 necessary to redeem tax credits in a fiscal year and may authorize the general treasurer to transfer
31 any surplus to the general fund.

32 (g) The unexpended balance of such sum of money received and appropriated for the jobs
33 tax credit redemption fund remaining in the treasury at the close of each fiscal year, shall be
34 continued to and is hereby annually appropriated for the same account for the ensuing year.

1 (h) The commerce corporation shall have no obligation to make any award or grant any
2 benefits under this chapter.

3 **44-48.3-9. Documentation.** – (a) The commerce corporation may adopt implementation
4 guidelines, directives, criteria, rules and regulations pursuant to chapter 35 of title 42
5 ("administrative procedures act") as are necessary to implement this chapter, including, but not
6 limited to: the enumeration of specific targeted industries; specific delineation of the incentive
7 areas; the promulgation of procedures and forms necessary to apply for a tax credit, including the
8 enumeration of the certification procedures and allocation of tax credits; and provisions for tax
9 credit applicants to be charged an initial application fee, and ongoing service fees, to cover the
10 administrative costs related to the tax credit.

11 (b) For businesses adding jobs on the basis of a future federal procurement, the
12 commerce corporation shall establish specific procedures.

13 (c) The division of taxation shall adopt rules as are necessary to implement this chapter.

14 **44-48.3-10. Limitations.** – The incentives provided under this chapter shall not be
15 granted in combination with any other job specific benefit provided by the state, the commerce
16 corporation, or any other state agency, board, commission, quasi-public corporation or similar
17 entity without the express authorization of the commerce corporation.

18 **44-48.3-11. Program integrity.** – Program integrity being of paramount importance, the
19 commerce corporation shall establish procedures to ensure ongoing compliance with the terms
20 and conditions of the program established herein, including procedures to safeguard the
21 expenditure of public funds and to ensure that the funds further the objectives of the program. At
22 a minimum these procedures will include an audit, at least every three (3) years, of the process
23 the commerce corporation followed in the administration of the program.

24 **44-48.3-12. Discontinuance of further rate reductions and future beneficiaries under**
25 **the jobs development act.** – (a) The rate reduction(s) provided pursuant to chapter 64.5 of title
26 42 of the general laws shall be discontinued effective July 1, 2015, except as provided in
27 subsection (b) of this section.

28 (b) Any company that has qualified for a rate reduction pursuant to chapter 64.5 of title
29 42 prior to July 1, 2015, shall be entitled to maintain the rate reduction in effect as of June 30,
30 2015, and no additional rate reduction shall be permitted. All obligations of the company required
31 under chapter 64.5 of title 42 to retain a rate reduction shall remain in full force and effect.

32 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO TAXATION -- RHODE ISLAND NEW QUALIFIED JOBS INCENTIVE ACT
OF 2015

1 This act would create a tax credit program for new full-time jobs created in the state for a
2 period ending in 2020, and would be limited to a tax credit based upon the reasonable W-2
3 withholding by the state for each new full-time job created.

4 This act would take effect upon passage.

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