



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

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MEMORANDUM

To: The Honorable Marvin L. Abney
Chairman, House Finance Committee

The Honorable Daniel Da Ponte
Chairman, Senate Finance Committee

From: Thomas A. Mullaney *Thomas A. Mullaney*
Executive Director/State Budget Officer

Date: March 13, 2017

Subject: Amendments to Article 2 of the FY 2018 Appropriations Act
(17-H-5175)

The Governor requests that Article 2 entitled "Relating to Economic Development and Tax Credits" be replaced with the attached version. Requested substantive changes are highlighted in grey in the attached version of the article. Substantive deletions are explained generally below.¹

Explanation of Sections

Section 1. New language is requested that redefines the term manufacturer. More specifically, the definition of manufacturer has been altered by excluding language that originally included businesses within the distribution and logistics industries and by reinserting the phrase "raw materials" into the first part of the definition.

Section 2. The following revisions are requested: Deletion of the definitions for "manufacturer" and "manufacturing" from the proposed legislation and insertion of language that defines eligibility for the program with reference to eligibility for the underlying tax credit as it relates to investments in manufacturing equipment (or property used in the manufacturing context). In short, with this amendment, only a company that qualifies for tax credits in the "manufacturing" sections of the underlying Investment Tax Credit Act will be eligible to apply for a refund under the program.

¹ Deletions and other changes constituting corrections or other clean-up have not been shaded.

Insertion of language to the effect that S corporations and other tax pass through business entities are eligible for a refund of the tax credits regardless of whether such credits are expressly allowed under § 44-30-2.6 of the chapter on Personal Income Tax.

Deletion of language in proposed section § 42-64.33-5(k) regarding C corporations that file consolidated returns and insertion of language that instead refers to the filing of combined returns. This change tracks state law regarding companies that file group returns.

Removal of certain language in § 42-64.33-6 to clarify that the fund is established to pay for refunds, not credits.

Section 3.

The following is proposed: New language is requested that redefines the term "manufacturer". This definition is identical to that proposed in Section 1 above: the definition of manufacturer has been altered by excluding language that originally included businesses within the distribution and logistics industries and by reinserting the phrase "raw materials" into the first part of the definition.

New language is proposed that restricts the eligibility of businesses within targeted industries to only those businesses that are pledging to also create "new full-time jobs," as defined.

Insertion of language to the effect that S corporations and other tax pass through business entities are eligible for a refund of the tax credits regardless of whether such credits are expressly allowed under § 44-30-2.6 of the chapter on Personal Income Tax.

A definition of "new full-time jobs" has been inserted. Language is proposed that caps the amount of money in the aggregate that may be redeemed by such targeted industry businesses to 20% of the amount appropriated for the program in the given year.

Deletion of language in proposed section § 42-64.34-5(k) regarding C corporations that file consolidated returns and insertion of language that instead refers to the filing of combined returns. This change tracks state law regarding companies that file group returns

Removal of certain language in § 42-64.34-6 to clarify that the fund is established to pay for refunds, not credits.

Section 5.

The deletion of the entirety of section 5 of the originally proposed article. That section 5 had purported to amend § 44-30-2.6 to allow S corporations and other tax pass through entities to take both the Investment Tax Credit and the Jobs Training Tax Credit against the personal income tax. That feature is no longer

contemplated as part of the proposed refundable programs. Instead, such entities, if approved, will be eligible for 100% refunds of credits earned.

New Sections 5, and 6

These sections purport to (1) amend Chapter 48.3 of Title 44, the “Rhode Island New Qualified Jobs Incentive Act 2015,” to establish the minimum number of new full-time jobs required for manufacturers to be eligible for a tax credit and allow for groups of manufacturers to submit a single application, and (2) amend Chapter 64.6 of Title 42, the “Jobs Training Tax Credit Act,” to transfer the administration of the Jobs Training Tax Credit program from the Human Resources Investment Council to the RI Commerce Corporation. The request is as follows:

New Section 5.

This section amends 44-48.3.-3 and 44-48.3-4 of the “Rhode Island New Qualified Jobs Incentive Act 2015” to establish the minimum number of new full-time jobs required for manufacturers to be eligible for a tax credit under the program. Pursuant to the proposed amendment, a manufacturer with two hundred (200) or fewer employees within the state on the date of application to the commerce corporation would be required to create at least five (5) new full-time jobs in the state. A manufacturer that employs more than two hundred (200) full-time employees on the date of application to the commerce corporation would be required to create either new full-time jobs in this state in an amount not less than five percent (5%) of the business's existing number of full-time employees or at least fifty (50) new full-time jobs in this state. In addition, the amendments provide that two (2) or more manufacturers, each of which employ not more than fifty (50) full-time employees on the date of application to the commerce corporation, may submit a single application to the commerce corporation and the commerce corporation may in its discretion consider in aggregate the number of full-time jobs created in the state for the purposes of determining whether the minimum number of new full-time jobs required have been created, so long as: (1) the application states a common purpose or collective expenditure between or among the manufacturer applicants; (2) at least five (5) new full-time jobs are created in this state; and (3) each of the manufacturer applicants creates at least one (1) job in this state.

New Section 6.

This section amends § 42-64.6-3 and § 42-64.6-8 of the “Jobs Training Tax Credit Act” to transfer the administration of the Jobs Training Tax Credit program from the human resources investment council to the commerce corporation.

New Section 7.

The section adds § 42-64.6-9 to the Chapter which authorizes the RI Commerce Corporation to promulgate rules and regulations necessary for the implementation of the provisions of the Chapter.

New Section 8.

This section makes the effective date of Sections 1, 4, and 5: July 1, 2017. Sections 2 and 3 of the article shall take effect July 1, 2017, but will be applicable to tax years beginning on or after January 1, 2018. Sections 6 and 7 shall take effect on January 1, 2018.

If you have any questions regarding these amendments, please feel free to call me or my staff at 222-6300.

TAM:-Amend-12

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Stephen Whitney, Senate Fiscal Advisor
Michael DiBiase, Director of Administration
Jonathan Womer, Director, Office of Management and Budget
Gregory Stack, Supervising Budget Analyst

ARTICLE 2

RELATING TO ECONOMIC DEVELOPMENT AND TAX CREDITS

SECTION 1. Sections 42-64.28-2, 42-64.28-3, 42-64.28-4, and 42-64.28-5 of the General Laws in Chapter 42-64.28 entitled "Innovation Initiative" are hereby amended to read as follows:

42-64.28-2 Definitions. As used in this chapter:

(1) "Commerce corporation" means the Rhode Island commerce corporation established pursuant to § 42-64-1 et seq.

(2) "Small business" means a business that is resident in Rhode Island, has its business facility located within the state, and employs five hundred (500) or fewer persons.

(3) "Manufacturer" shall mean any entity that:

(a) Uses any premises within the state primarily for the purpose of transforming raw materials into a finished product for trade through any or all of the following operations: adapting, altering, finishing, making, processing, refining, metalworking, and ornamenting, but shall not include fabricating processes incidental to warehousing or distribution of raw materials, such as alteration of stock for the convenience of a customer; or

(b) Is described in codes 31-33 of the North American Industry Classification System, as revised from time to time.

(4) "Small business manufacturer" shall mean a business that meets the definitions of terms small business and manufacturer as defined herein.

~~(3)~~ (5) "Match" shall mean a funding match, or in kind services provided by a third party.

~~(4)~~ (6) "Targeted industry" means any advanced, promising or otherwise prioritized industry identified in the economic development vision and policy promulgated pursuant to § 42-64.17-1 or, until such time as any such economic development vision and policy is promulgated, as identified by the commerce corporation.

42-64.28-3 Programs Established.

(a) The Rhode Island commerce corporation shall establish a voucher program and an innovation network program as provided under this chapter. The programs are subject to available appropriations and such other funding as may be dedicated to the programs.

(b) There is established an account in the name of the "innovation initiative fund" (the "fund") under the control of the commerce corporation to fund the programs.

(1) The fund shall consist of:

(i) Money appropriated in the state budget to the fund;

(ii) Money made available to the fund through federal grants, programs or private contributions;

(iii) Application or other fees paid to the fund to process applications for awards under this chapter;

and

(iv) Any other money made available to the fund.

(c) *Voucher program.* The commerce corporation is authorized; to develop and implement an innovation voucher program to provide financing to small businesses to purchase research and development support or other forms of technical assistance and services from Rhode Island institutions of higher education and other providers and to fund research and development by and for small business manufacturers.

(d) *Innovation network program.* The commerce corporation is authorized to provide innovation grants to organizations, including non-profit organizations, for-profit organizations, universities, and co-working space operators that offer technical assistance, space on flexible terms, and access to capital to businesses in advanced or targeted industries. The commerce corporation shall only issue grants under this subsection when those grants are matched by private sector or non-profit partners. The commerce corporation shall establish guidelines for appropriate matching criteria under this section, including necessary matching ratios.

42-64.28-4 Eligible uses.

(a) Vouchers available under this chapter shall be used for the benefit of small businesses to access technical assistance and other services including, but not limited to, research, technological development,

product development, commercialization, market development, technology exploration, and improved business practices that implement strategies to grow business and create operational efficiencies.

(b) Vouchers available under this chapter shall be used to provide funding to finance internal research and development by and for small business manufacturers, including, but not limited to, research, technological development, product development, commercialization, market development, technology exploration, and improved business practices that implement strategies to grow business and create operational efficiencies. Subject to appropriation, the commerce corporation shall reserve up to one million dollars (\$1,000,000.00) to be made available in fiscal year 2018 for vouchers awarded to small business manufacturers under this subsection.

~~(b)~~ (c) Matching fund awards shall be used for the benefit of small businesses in industries designated from time-to-time by the corporation, including without limitation, life science and healthcare; food and agriculture; clean technology and energy efficiency; and cyber security to pay for and access technological assistance, to procure space on flexible terms, and to access capital from organizations, including non-profit organizations, for-profit organizations, universities, and co-working space businesses.

42-64.28-5 Qualification.

(a) To qualify for a voucher or for a matching fund award under this chapter, a business must make application to the commerce corporation, and upon selection, shall enter into an agreement with the commerce corporation. The commerce corporation shall have no obligation to issue any voucher, make any award or grant any benefits under this chapter.

(b) In a given tax year, a business shall not receive a voucher or matching fund award provided for under this chapter in conjunction with the tax credit provided for in section 44-32-3 of the general laws.

SECTION 2. Title 42 of the General Laws entitled “State Affairs and Government” is hereby amended by adding thereto the following chapter:

CHAPTER 64.33

REFUNDABLE INVESTMENT TAX CREDIT

42-64.33-1. Short title. -- This chapter shall be known and may be cited as the “Refundable

Investment Tax Credit Act.”

42-64.33-2. Legislative findings.

Although chapter 31 of title 44 of the Rhode Island general laws (the “Investment Tax Credit statute”) establishes tax credits for eligible taxpayers for certain investments for the construction of facilities and the acquisition of tangible personal property, the Investment Tax Credit statute does not provide for refunds of such credits. Through the establishment of a refundable investment tax credit program for manufacturers, Rhode Island can foster further investment by manufacturing businesses and thereby encourage businesses to contribute in a meaningful way to the economic development of this state. In so doing, this program will further advance the competitiveness of Rhode Island and its companies in the national and global economies and result in the creation and/or retention of jobs and tax revenues for the state.

42-64.33-3. Definitions. -- As used in this chapter:

(1) “Business” means a C corporation, S corporation, partnership, limited partnership, limited liability partnership, limited liability company, or sole proprietorship;

(2) “Commerce corporation” means the Rhode Island commerce corporation established pursuant to general laws § 42-64-1 et. seq.;

(3) “Eligible taxpayer” means a taxpayer eligible for an investment tax credit pursuant to:

(i) § 44-31-1(b)(1) and (2); or

(ii) § 44-31-1(b)(3) and the property for which the credit is sought is being used in any of the businesses described in major groups 20 through 39 in the Standard Industrial Classification Manual prepared by the technical committee on industrial classification, office of statistical standards, executive office of the president, United States Bureau of Budget, as revised from time to time;

(4) “Redeem or redemption” for purposes of this chapter means the taking of a tax credit against a tax liability or obtaining a refund for a tax credit or a portion thereof.

(5) “Targeted industry” shall have the same meaning as provided in general laws 42-64.20-3 (Rebuild Rhode Island Tax Credit Program) and the regulations promulgated thereunder.

(6) “Tax liability” for purposes of this chapter means (i) the amount of tax owed to the state of Rhode Island calculated on the Rhode Island adjusted taxable income minus any Rhode Island tax credit allowed on Schedule B-CR other than credits allowed under this chapter; or (ii) the minimum tax for filers of Form RI 1120S; or (iii) the Rhode Island annual fee for filers of Form RI 1065.

42-64.33-4. Establishment of program. -- A refundable investment tax credit program is hereby established as a program under the jurisdiction of and administered by the commerce corporation.

42-64.33-5. Refundable tax credits. – (a) To be eligible to take and/or redeem tax credits under this chapter, a business must be an eligible taxpayer as defined in this chapter and must submit a completed application to the commerce corporation for approval prior to making the investment that will give rise to the requested tax credit. Such application shall be developed by the commerce corporation.

(b) The commerce corporation may take into account the following factors in determining whether to approve an application for a refundable investment tax credit pursuant to this chapter: the nature and amount of the business’s investment; the necessity of the investment and/or credit; whether the business is engaged in a targeted industry; the number of jobs created by the business’s investment; whether the investment took place in a Hope community as defined in general laws 42-64.20-3 and the regulations promulgated thereunder; and such other factors as the commerce corporation deems relevant.

(c) The refundable investment tax credit shall be available to an eligible taxpayer business organized as a C Corporation only to the extent that the business’s investment credit exceeds that business’s tax liability for the tax year in which the credit is available. For any other eligible taxpayer business, the refundable investment tax credit shall be available as a refund up to the amount of the credit established by chapter 31 of title 44 and regardless of whether such credit is expressly allowed under § 44-30-2.6.

(d) The amount of the refundable tax credit available to any eligible taxpayer business in any given tax year shall not exceed the sum of two hundred thousand dollars (\$200,000) subject to available appropriations.

(e) Prior to approving an application for refundable credits, the commerce corporation shall require the business to enter into an incentive agreement setting forth the business’s eligibility to use and/or redeem

the tax credits and the terms and conditions governing the approval and receipt of the refundable tax credits.

(f) To take or redeem a refundable tax credit authorized by the corporation, an eligible taxpayer business shall apply annually to the commerce corporation for a certification that the business has met all the requirements of this chapter, chapter 31 of title 44, and the incentive agreement. The commerce corporation shall either issue a certification to the business or provide a written response detailing any deficiencies precluding certification. The commerce corporation may deny an application for certification, or declare the incentive agreement null and void, if the business does not meet all requirements of this chapter, chapter 31 of title 44, and/or any additional terms and conditions of the incentive agreement. Redemption certifications shall not be assignable or transferable.

(g) Upon issuance of a certification by the commerce corporation under subsection (f) above, and at the written request of the business, the division of taxation shall, on behalf of the State of Rhode Island issue redemption tax credit certificate(s) as specified in the certification issued by the commerce corporation pursuant to section (f) above. Redemption tax credit certificates shall not be assignable or transferable.

(h) An eligible taxpayer business organized as a C Corporation shall be entitled to take investment tax credits, up to the limit authorized in this chapter, against taxes imposed pursuant to chapter 11 of title 44.

(i) Subject to annual appropriation in the state budget and upon written request of the eligible taxpayer business, the state shall refund the amount of tax credit provided under this chapter in whole or in part up to one hundred percent (100%) of the value of the redemption tax credit certificates issued under subsection (g), and for an eligible taxpayer business organized as a C Corporation, said refund shall be reduced by the amount of the tax credit taken and any remaining liability, if any; provided however, that an eligible taxpayer business may only claim a refund of a credit amount, in whole or part, for the year for which the tax credit was issued. Credits carried over pursuant to subsection (j) shall not be refundable.

(j) For an eligible taxpayer business organized as a C corporation, if the tax credit allowed under this chapter exceeds the taxpayer's total tax liability for the year in which the credit is allowed, the amount by which the tax credit allowed under this chapter exceeds the taxpayer's tax liability after taking into

account any credit taken under this chapter may either be refunded pursuant to subsection (i) or carried forward for credit against the tax liability for the succeeding years, or until the tax credit is used in full, whichever occurs first.

(k) In the case of an eligible taxpayer business organized as a C corporation that files a combined return, this credit shall be allowed against the liability of the combined group only if said eligible taxpayer business organized as a C corporation that earned this credit was a member of the combined group at the time this credit was earned.

(l) Any expenses used for calculating the tax credit under this chapter cannot be used in calculating a tax credit under any other tax credit program in Rhode Island law.

(m) In the event any taxpayer seeking a refund under this chapter has outstanding Rhode Island tax obligations, the Division of Taxation shall be permitted to apply said refund to the outstanding tax obligations.

42-64.33-6. Refundable investment tax credit fund. – There is hereby established at the commerce corporation a restricted account known as the refundable investment tax credit fund (the “fund”) into which all amounts appropriated in the state budget for the redemption of tax credits under this chapter shall be deposited. The fund shall be used to pay for the redemption of investment tax credits pursuant to the provisions of this chapter. The fund shall be exempt from attachment, levy or any other process at law or in equity. The director of the department of revenue shall make a requisition to the commerce corporation for funding during any fiscal year as may be necessary to pay for the redemption of the tax credits pursuant to this chapter. The commerce corporation shall pay from the fund such amounts as requested by the director of the department of revenue necessary to redeem tax credits pursuant to this chapter.

42-64.33-7. Program integrity. – (a) Program integrity being of paramount importance, the commerce corporation shall establish procedures to ensure ongoing compliance with the terms and conditions of the program established herein, including procedures to safeguard approval of redemption of the credits and to ensure that authorized redemptions further the objectives of the program.

(b) The commerce corporation and division of taxation may promulgate such rules and regulations

pursuant to chapter 35 of title 42 of the general laws as deemed necessary to carry out the intent, purpose and implementation of the program established under this chapter.

42-64.33-8. Reporting requirements. – (a) By September 1, 2018 and each year thereafter, the commerce corporation shall report the name and address of each business entering into an incentive agreement during the previous state fiscal year to the division of taxation. The commerce corporation shall also make this information publicly available on its website. In addition, the commerce corporation shall provide the division of taxation a copy of each incentive agreement as it is executed.

(b) By December 1, 2018, and each year thereafter, the office of management and budget shall provide the governor with the sum, if any, to be appropriated to fund the refundable investment tax credit program.

SECTION 3. Title 42 of the General Laws entitled “State Affairs and Government” is hereby amended by adding thereto the following chapter:

CHAPTER 64.34

REFUNDABLE JOBS TRAINING TAX CREDITS

42-64.34-1. Short title. -- This chapter shall be known and may be cited as the “Refundable Jobs Training Tax Credit Act.”

42-64.34-2. Legislative findings. – Although Chapter 64.6 of Title 42 of the Rhode Island General Laws (the “Jobs Training Tax Credit statute”) establishes tax credits for qualifying employers for qualifying expenses incurred in the training and/or retraining of qualifying employees, the Jobs Training Tax Credit statute does not provide for refunds of such credits. Through the establishment of a refundable jobs training tax credit program for manufacturers and certain businesses in targeted industries, Rhode Island can foster further training and/or retraining of qualifying employees to meet the evolving needs of the workforce and thereby encourage employers within those industries to contribute in a meaningful way to the economic development of this state. In so doing, this program will further advance the competitiveness of Rhode Island and its companies in the national and global economies and result in the creation and/or retention of jobs in the state.

42-64.34-3. Definitions. -- As used in this chapter:

(1) “Qualifying employee,” “qualifying employer,” and “qualifying expenses” shall have the meanings set forth in § 42-64.6-3.

(2) “Manufacturer” shall mean any entity that:

(a) Uses any premises within the state primarily for the purpose of transforming raw materials into a finished product for trade through any or all of the following operations: adapting, altering, finishing, making, processing, refining, metalworking, and ornamenting, but shall not include fabricating processes incidental to warehousing or distribution of raw materials, such as alteration of stock for the convenience of a customer; or

(b) Is described in codes 31-33 of the North American Industry Classification System, as revised from time to time.

(3) “New full-time job” means a position that did not previously exist in this state and that has been filled with a full-time employee. Such job position cannot be the result of an acquisition of an existing company located in Rhode Island by purchase, merger, or otherwise.

~~(3)~~(4) “Redeem or redemption” for purposes of this chapter means the taking of a tax credit against a tax liability or obtaining a refund for a tax credit or a portion thereof.

~~(4)~~(5) “Targeted industry” shall have the same meaning as provided in general laws 42-64.20-3 (Rebuild Rhode Island Tax Credit Program) and the regulations promulgated thereunder.

~~(5)~~(6) “Tax liability” for purposes of this chapter means (i) the amount of tax owed to the state of Rhode Island calculated on the Rhode Island adjusted taxable income minus any Rhode Island tax credit allowed on Schedule B-CR other than credits allowed under this chapter; or (ii) the minimum tax for filers of Form RI 1120S; or (iii) the Rhode Island annual fee for filers of Form RI 1065.

42-64.34-4. Establishment of program. -- A refundable jobs training tax credit program is hereby established as a program under the jurisdiction of and administered by the commerce corporation.

42-64.34-5. Refundable tax credits. – (a) To be eligible to take and/or redeem tax credits under this chapter, a qualifying employer must (i) be a manufacturer or (ii) be a business within a targeted industry

that pledges to add, through creation or relocation, new full-time jobs. Eligible qualifying employers must submit a completed application to the commerce corporation for approval prior to incurring the expenses for the training that will give rise to the requested tax credit. Such application shall be developed by the commerce corporation. The aggregate amount of refunds redeemed by non-manufacturer qualifying employers that qualify under (ii) above shall not exceed twenty percent (20%) of the total amount appropriated in a given year for the program created by this chapter.

(b) The commerce corporation may take into account the following factors in determining whether to approve a qualifying employer for a refundable jobs training tax credit pursuant to this section: the number of the qualifying employer's qualifying employees and the amount of the qualifying employer's qualifying expenses; the necessity of the training expenses and/or credit; the number of jobs created and/or retained as a result of the qualified expenses incurred by the qualifying employer; the number and nature of the new full-time jobs pledged to be created or relocated by the business in order to meet the eligibility requirements of subsection (a) above; whether the jobs training and/or retraining was applicable to a qualifying employer located in a Hope community, as defined in general laws 42-64.20-3 and the regulations promulgated thereunder; and such other factors as the commerce corporation deems relevant.

(c) The refundable jobs training tax credit shall be available to a qualifying employer organized as a C Corporation only to the extent that the qualifying employer's jobs training tax credit exceeds that qualifying employer's tax liability for the tax year in which the credit is available. For any other qualifying employer, the refundable jobs training tax credit shall be available as a refund up to the amount of the credit established by chapter 64.6 of title 42 and regardless of whether such credit is expressly allowed under § 44-30-2.6.

(d) The amount of the refundable tax credit available to any qualifying employer in any given tax year shall not exceed the sum of two hundred thousand dollars (\$200,000).

(e) Prior to approving an application for refundable tax credits, the commerce corporation shall require the qualifying employer to enter into an incentive agreement setting forth the qualifying employer's eligibility to use and/or redeem tax credits and the terms and conditions governing the approval and receipt

of the tax credits.

(f) To take or redeem a refundable tax credit authorized by the commerce corporation, a qualifying employer shall apply annually to the commerce corporation for a certification that the qualifying employer has met all the requirements of this chapter, chapter 64.6 of title 42, and the incentive agreement. The commerce corporation shall either issue tax certification to the qualifying employer or provide a written response detailing any deficiencies precluding certification. The commerce corporation may deny an application for certification, or declare the incentive agreement null and void, if the qualifying employer does not meet all the requirements of this chapter, chapter 64.6 of title 42, and/or any additional terms and conditions of the incentive agreement. Redemption certifications shall not be assignable or transferable.

(g) Upon issuance of a certification by the commerce corporation under subsection (f) above and at the written request of the qualifying employer, the division of taxation shall, on behalf of the State of Rhode Island, issue redemption tax credit certificate(s) as specified in the certification issued by the commerce corporation pursuant to subsection (f). Redemption tax credit certificates shall not be assignable or transferable

(h) A qualifying employer organized as a C corporation shall be entitled to take jobs training tax credits, up to the limit authorized in this chapter, against taxes imposed pursuant to chapters 11, 13 (except for § 44-13-13), 14, and 17 of title 44.

(i) Subject to annual appropriation in the state budget and upon written request of a qualifying employer, the state shall refund the amount of tax credit provided under this chapter in whole or in part up to one hundred percent (100%) of the value of the redemption tax credit certificates issued under subsection (g), and for a qualifying employer organized as a C corporation, said refund shall be reduced by the amount of the tax credit taken and any remaining liability, if any; provided, however, that a qualifying employer may only claim a refund of a tax credit amount, in whole or in part, for the year for which the tax credit was issued. Credits carried over pursuant to subsection (j) shall not be refundable.

(j) For a qualifying employer organized as a C Corporation, if the tax credit allowed under this chapter exceeds the qualifying employer's total tax liability for the year in which the credit is allowed, the

amount by which the tax credit exceeds the qualifying employer's tax liability after taking into account any credit taken under this chapter may either be refunded pursuant to subsection (i) or carried forward for credit against the tax liability for the succeeding years, or until the tax credit is used in full, whichever occurs first.

(k) In the case of an eligible taxpayer business organized as a C corporation that files a combined return, this credit shall be allowed against the liability of the combined group only if said eligible taxpayer business organized as a C corporation that earned this credit was a member of the combined group at the time this credit was earned.

(l) Any expenses used for calculating the tax credit under this chapter cannot be used in calculating a tax credit under any other tax credit program in Rhode Island law.

(m) In the event any taxpayer seeking a refund under this chapter has outstanding Rhode Island tax obligations, the Division of Taxation shall be permitted to apply said refund to the outstanding tax obligations.

(n) The definition of Manufacturer in this chapter is limited to the eligibility for the program in this chapter only and shall not modify or define the legal standing of a manufacturer for any other purpose in Title 44 of the Rhode Island general laws.

42-64.34-6. Refundable jobs training tax credit fund. – There is hereby established at the commerce corporation a restricted account known as the refundable jobs training tax credit fund (the “fund”) into which all amounts appropriated in the state budget for the redemption of tax credits under this chapter shall be deposited. The fund shall be used to pay for the redemption of jobs training tax credits pursuant to the provisions of this chapter. The fund shall be exempt from attachment, levy or any other process at law or in equity. The director of the department of revenue shall make a requisition to the commerce corporation for funding during any fiscal year as may be necessary to pay for the redemption of tax credits pursuant to this chapter. The commerce corporation shall pay from the fund such amounts requested by the director of the department of revenue necessary to redeem tax credits pursuant to this chapter.

42-64.34-7. Program integrity. – (a) Program integrity being of paramount importance, the commerce corporation shall establish procedures to ensure ongoing compliance with the terms and conditions of the program established herein, including procedures to safeguard approval of redemption of the credits and to ensure that authorized redemptions further the objectives of the program.

(b) The commerce corporation and division of taxation may promulgate such rules and regulations pursuant to chapter 35 of title 42 of the general laws as deemed necessary to carry out the intent, purpose and implementation of the program established under this chapter.

42-64.34-8. Reporting requirements. – (a) By September 1, 2018 and each year thereafter, the commerce corporation shall report the name and address of each qualifying employer entering into an incentive agreement during the previous state fiscal year to the division of taxation. The commerce corporation shall also make this information publicly available on its website. In addition, the commerce corporation shall provide the division of taxation a copy of each incentive agreement as it is executed.

(b) By December 1, 2018, and each year thereafter, the office of management and budget shall provide the governor with the sum, if any, to be appropriated to fund the refundable jobs training tax credit program.

SECTION 4. Title 42 of the General Laws, entitled “State Affairs and Government,” is hereby amended by adding thereto the following chapter:

CHAPTER 64.35

TECHNICAL ASSISTANCE FOR MUNICIPAL ZONING AND PERMITTING FUND

42-64.35-1 Statement of intent. Outdated and overly burdensome zoning, planning, and permitting codes and processes can inhibit the establishment of sustained economic development at the local level. It is the intention of the general assembly to assist municipalities in addressing and streamlining their respective zoning, planning, and permitting codes and processes by creating a funding program to provide access to technical assistance for the evaluation and betterment of such codes and processes.

42-64.35-2 Fund established. The technical assistance for municipal zoning and permitting fund is hereby created within the Rhode Island commerce corporation (the “fund”). The commerce corporation

is authorized, within available appropriations, to award loans, grants, and other forms of financing to provide access by municipalities to technical assistance to evaluate and streamline their respective zoning, planning, and permitting codes and processes to foster economic development and business attraction within their respective municipalities. Applications and awards of grants, loans, and other forms of financing shall be on a rolling basis. There is established an account in the name of the "technical assistance for municipal zoning and permitting fund" under the control of the commerce corporation, and the commerce corporation shall pay into such account any eligible funds available to the commerce corporation from any source, including funds appropriated by the state and any grants made available by the United States or any agency of the United States.

42-64.35-3 Rules and regulations. The commerce corporation is hereby authorized to promulgate such rules and regulations as are necessary to fulfill the purposes of this chapter, including the criteria by which grant, loan, or other form of financing applications will be judged and awarded.

42-64.35-4 Reporting requirements. The commerce corporation shall publish a report on the fund at the end of each fiscal year, which shall contain information on the commitment, disbursement, and use of funds allocated under the fund. The report shall also, to the extent practicable, track the economic impact of projects that have been completed using the fund. The report is due no later than sixty (60) days after the end of the fiscal year, and shall be provided to the speaker of the house of representatives and the president of the senate.

42-64.35-5 Program integrity. Program integrity being of paramount importance, the commerce corporation shall establish procedures to ensure ongoing compliance with the terms and conditions of the program established herein, including procedures to safeguard the expenditure of public funds and to ensure that the funds further the objectives of the program.

42-64.35-6 Sunset. No incentives shall be authorized pursuant to this chapter after December 31, 2019.

SECTION 5. Sections 44-48.3-3 and 44-48.3-4 of the General Laws in Chapter 44-48.3 entitled "Rhode Island New Qualified Jobs Incentive Act 2015" is hereby amended to read as follows:

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

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

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

(3) "Commerce corporation" means the Rhode Island commerce corporation established pursuant to chapter 64 of title 42.

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

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

(6) "Eligible position" or "full-time job" means a full-time position in a business which has been filled with a full-time employee who earns no less than the median hourly wage as reported by the United States Bureau of Labor Statistics for the state of Rhode Island, provided, that for economically fragile

industries such as manufacturing, the commerce corporation may reduce the wage threshold. An economically fragile industry shall not include retail.

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

(8) "Hope community" means municipalities with a percentage of families below the poverty level that is greater than the percentage of families below the poverty level for the state as a whole as determined by the United States Census Bureau's most recent American Community Survey.

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

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

(11) "Manufacturer" shall mean any entity that:

(a) Uses any premises within the state primarily for the purpose of transforming raw materials into a finished product for trade through any or all of the following operations: adapting, altering, finishing, making, processing, refining, metalworking, and ornamenting, but shall not include fabricating processes incidental to warehousing or distribution of raw materials, such as alteration of stock for the convenience of a customer; or

(b) Is described in codes 31-33 of the North American Industry Classification System, as revised from time to time.

~~(11)~~(12) "New full-time job" means an eligible position created by the business that did not previously exist in this state and which is created after approval of an application to the commerce corporation under the program. Such job position cannot be the result of an acquisition of an existing company located in Rhode Island by purchase, merger, or otherwise. For the purposes of determining the

number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business so long as such eligible position(s) otherwise meets the requirements of this section.

~~(12)~~(13) "Partnership" means an entity classified as a partnership for federal income tax purposes.

~~(13)~~(14) "Program" means the incentive program established pursuant to this chapter.

~~(14)~~(15) "Targeted industry" means any industry identified in the economic development vision and policy promulgated under § 42-64.17-1 or, until such time as any economic development vision and policy is promulgated, as identified by the commerce corporation.

~~(15)~~(16) "Taxpayer" means a business granted a tax credit under this chapter or such person entitled to the tax credit because the business is a pass through entity such as a partnership, S corporation, sole proprietorship or limited liability company taxed as a partnership.

~~(16)~~(17) "Transit oriented development area" means an area in proximity to mass-transit infrastructure including, but not limited to, an airport, rail or intermodal facility that will be further defined by regulation of the commerce corporation in consultation with the Rhode Island department of transportation.

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

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

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

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

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

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

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

(5) Notwithstanding subsections (c)(1) through (4):

(i) For a manufacturer that employs not more than two hundred (200) full-time employees on the date of application to the commerce corporation, the creation of at least five (5) new full-time jobs in this state;

(ii) For a manufacturer that that employs more than two hundred (200) full-time employees on the date of application to the commerce corporation, either the creation of new full-time jobs in this state in an amount not less than five percent (5%) of the business's existing number of full-time employees or the creation of at least fifty (50) new full-time jobs in this state.

(iii) Two (2) or more manufacturers, each of which employ not more than fifty (50) full-time employees on the date of application to the commerce corporation, may submit a single application to the commerce corporation and the commerce corporation may in its discretion consider in aggregate the number of full-time jobs created in the state for the purposes of determining whether the minimum number of new full-time jobs required under subsection (c)(5)(i) of this Section to be eligible for a tax credit under this program, so long as:

(1) The application states a common purpose or collective expenditure between or among the manufacturer applicants:

(2) At least five (5) new full-time jobs are created in this state; and

(3) Each of the manufacturer applicants creates at least one (1) job in this state.

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

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

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

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

(e) The commerce corporation shall establish, by regulation, the documentation an applicant shall be required to provide under this subsection. Such documentation may include documentation showing that the applicant could reasonably locate the new positions outside of this state, or that the applicant is considering locating the positions outside of this state, or that it would not be financially feasible for the applicant to create the positions without the tax credits provided in this chapter.

(f) In the event that this attestation by the business's chief executive officer, or equivalent officer, required under subsection (d) of this section is found to be willfully false, the commerce corporation may revoke any award of tax credits in their entirety, which revocation shall be in addition to any other criminal or civil penalties that the business and/or the officer may be subject to under applicable law. Additionally, the commerce corporation may revoke any award of tax credits in its entirety if the eligible business is convicted of bribery, fraud, theft, embezzlement, misappropriation, and/or extortion involving the state, any state agency or political subdivision of the state.

(g) The definition of manufacturer in this chapter is limited to the eligibility for the program in this chapter only and shall not modify or define the legal standing of a manufacturer for any other purpose in Title 44 of the Rhode Island general laws.

SECTION 6. Sections 42-64.6-3 and 42-64.6-8 of the General Laws in Chapter 42-64.6 entitled "Jobs Training Tax Credit Act" are hereby amended to read as follows:

42-64.6-3 Definitions. As used in this chapter unless the context clearly requires otherwise:

(1) "Election" means the election to be filed by a qualifying employer with the ~~human resource investment council~~ commerce corporation.

(2) "Qualifying employee" means an individual (other than an employee who would be treated as a "highly compensated employee" under 26 U.S.C § 414(q) or any physician or veterinarian) employed by the employer who works a minimum of thirty (30) hours per week within the state and earns or shall earn immediately following the completion of the training and/retraining program no less than one hundred fifty percent (150%) of the hourly minimum wage prescribed by Rhode Island law.

(3) "Qualifying employer" means any employer who files an election with the ~~human resource investment council~~ commerce corporation in a manner provided by the ~~human resource investment council~~ commerce corporation to be covered by the provisions set forth in this chapter, but shall not include any physicians or any employer whose principal business is providing legal, accounting, engineering, architectural, or other similar professional services. The election shall set forth any information that the ~~human resource investment council~~ commerce corporation shall require describing the program and/or retraining employees, the duration of the program, an estimate and description of the amounts to be spent to implement the program, the nature of the program to be provided to employees, an estimate of the number of the employees who shall be covered by the program and the relationship, if any, of the employer to the party or parties offering the program and the agreement of the employer to provide additional information following the date of an election that shall be requested by the ~~human resource investment council~~ commerce corporation.

(4) "Qualifying expenses" means those reasonable expenses (less any federal, state, or local grants or other payments received by the employer to provide training or retraining) incurred by an employer following the date of the employer's election to be covered by the provisions of this chapter, that are directly attributable to providing training and/or retraining to qualifying employees that shall improve the skills required of those employees. These expenses shall include all reasonable amounts paid by the employer to public or private degree granting educational institutions or directly to instructors to provide training and/or retraining and any other reasonable direct cash expenses incurred by the employer to provide training and/or retraining. The training and/or retraining, however, shall be provided solely at one or more locations in this state unless the employer shall establish that the training and/or retraining was not available at any location in this state or that it could be obtained at another location at a lower price.

42-64.6-8 Annual Reporting Requirements. ~~The human resource investment council~~ commerce corporation shall annually prepare a report utilizing the information received in this act and other appropriate sources describing and evaluating the impact, if any, of this act on the state's economic resources and the number and type of qualifying employees being trained or retrained as a result of this chapter.

SECTION 7. Chapter 42-64.6 of the General Laws entitled "Jobs Training Tax Credit Act" is hereby amended by adding thereto the following section:

42-64.6-9 Rules and regulations. The commerce corporation may promulgate such rules and regulations pursuant to chapter 35 of title 42 of the general laws as deemed necessary for the implementation of this chapter.

SECTION 8. Sections 1, 4, 5 of this article shall take effect July 1, 2017. Sections 2 and 3 of this article shall take effect as of July 1, 2017, and are applicable to tax years beginning on or after January 1, 2018. Sections 6 and 7 of this article shall take effect on January 1, 2018.