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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- MANUFACTURING AND  
ECONOMIC DEVELOPMENT--TAX INCENTIVES

Introduced By: Representative Alex D. Marszalkowski

Date Introduced: February 26, 2020

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND  
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 64.34

4 THE REFUNDABLE INVESTMENT TAX CREDIT ACT

5 **42-64.34-1. Short title.**

6 This chapter shall be known and may be cited as the "Refundable Investment Tax Credit  
7 Act."

8 **42-64.34-2. Legislative findings.**

9 Although chapter 31 of title 44 of the Rhode Island general laws (the "investment tax credit  
10 act") establishes tax credits for eligible taxpayers for certain investments for the construction of  
11 facilities, the acquisition of tangible personal property, and the training of employees, the  
12 investment tax credit act does not allow for the taking of these tax credits by certain business  
13 entities, and further does not provide for refunds to the extent that the tax credits exceed the eligible  
14 taxpayers' tax liability. Through the establishment of a refundable investment tax credit program  
15 for manufacturers, Rhode Island can foster further investment by manufacturing businesses, and  
16 thereby encourage businesses to contribute in a meaningful way to the economic development of  
17 this state. In so doing, this program will further advance the competitiveness of Rhode Island and  
18 its companies in the national and global economies and result in the creation and retention of jobs

1 and tax revenues for the state.

2 **42-64.34-3. Definitions.**

3 As used in this chapter:

4 (1) "Business" means a manufacturer that is a C corporation, S corporation, partnership,  
5 limited partnership, limited liability partnership, limited liability company, or sole proprietorship;

6 (2) "Commerce corporation" means the Rhode Island commerce corporation established  
7 pursuant to chapter 64 of title 42;

8 (3) "Eligible taxpayer" means a taxpayer eligible for an investment tax credit pursuant to §  
9 44-31-1;

10 (4) "Manufacturer" and "Manufacturing" shall have the same meanings as provided in §§  
11 44-31-1(b)(1) and (b)(2) and shall further include any entity described in major groups 20 through  
12 39 in the Standard Industrial Classification Manual prepared by the technical committee on  
13 industrial classification, office of statistical standards, executive office of the president, United  
14 States Bureau of Budget, as revised from time to time;

15 (5) "Refund or redemption" means the taking of a tax credit against a tax liability or  
16 obtaining a refund for a tax credit or a portion thereof;

17 (6) "Targeted industries" shall have the same meaning as provided in § 42-64.20-3 (the  
18 "rebuild Rhode Island tax credit act") and the regulations promulgated thereunder;

19 (7) "Tax liability" means:

20 (i) The amount of tax owed to the state of Rhode Island calculated as the Rhode Island  
21 adjusted taxable income minus any Rhode Island tax credit on schedule B-CR other than credits  
22 allowed under this chapter; or

23 (ii) The minimum tax for filers of Form RI 11120S; or

24 (iii) The Rhode Island annual fee for filing.

25 **42-64.34-4. Establishment of program.**

26 A refundable investment tax credit program is hereby established as a program under the  
27 jurisdiction of and administered by the commerce corporation.

28 **42-64.34-5. Refundable tax credits.**

29 (a) To be eligible to take and redeem tax credits under this chapter, a business must submit  
30 a completed application to the commerce corporation for approval prior to making the investment  
31 that will give rise to the requested tax credit. Such application shall be developed by the commerce  
32 corporation.

33 (b) The commerce corporation may take into account the following factors in determining  
34 whether to approve an application for a refundable investment tax credit pursuant to this chapter:

1 the nature and amount of the business's investment; the necessity of the investment and/or credit;  
2 whether the business is engaged in a targeted industry; the number of jobs created by the business's  
3 investment; whether the investment took place in a Hope community as defined in § 42-64.20-3  
4 and the regulations promulgated thereunder; and such other factors as the commerce corporation  
5 deems relevant.

6 (c) The refundable tax credit shall be available only to the extent that the business's  
7 investment credit exceeds that business's tax liability for the tax year in which the credit is available.

8 (d) The amount of the refundable tax credit available to any business in any given tax year  
9 shall not exceed the sum of one hundred thousand dollars (\$100,000).

10 (e) Prior to approving an application for refundable credits, the commerce corporation shall  
11 require the business to enter into an incentive agreement setting forth the business's eligibility to  
12 use or redeem the tax credits and the terms and conditions governing the approval and receipt of  
13 the refundable tax credits.

14 (f) To take or redeem a refundable tax credit authorized by the corporation, an eligible  
15 business shall apply annually to the commerce corporation for a certification that the business has  
16 met all the requirements of this chapter and the incentive agreement. The commerce corporation  
17 shall either issue a certification to the business or provide a written response detailing any  
18 deficiencies precluding certification. The commerce corporation may deny an applicant for  
19 certification, or declare the incentive agreement null and void if the business does not meet all  
20 requirements of this chapter and any additional terms and conditions of the incentive agreement.

21 (g) Upon issuance of a certification by the commerce corporation under subsection (f) of  
22 this section, and at the request of the business, the division of taxation shall, on behalf of the state  
23 of Rhode Island issue redemption tax certificate(s) as specified in the certification issued by the  
24 commerce corporation pursuant to subsection (f) of this section.

25 (h) A taxpayer shall be entitled to take investment tax credits, up to the limit authorized in  
26 this chapter, against taxes imposed pursuant to chapters 11 and 30 of title 44.

27 (i) Subject to annual appropriation in the state budget and upon written request of a  
28 taxpayer, the state shall refund the amount of the tax credit provided under this chapter in whole or  
29 in part up to one hundred percent (100%) of the value of the redemption certificates issued under  
30 subsection (g) of this section reduced by the amount of the tax credit taken, if any; provided,  
31 however, that taxpayer may only claim a refund of a credit amount, in whole or part, for the year  
32 for which the tax credit was issued. Credits carried over pursuant to subsection (j) of this section  
33 shall not be refundable.

34 (j) If the tax credit allowed under this chapter exceeds the taxpayer's total tax liability for

1 the year in which the credit is allowed, the amount that exceeds the taxpayer's tax liability after  
2 taking account any credit taken under this chapter may either be refunded pursuant to subsection  
3 (i) of this section or carried forward for credit against the tax liability for the succeeding years, or  
4 until the tax credit is used in full, whichever occurs first.

5 (k) In the case of a corporation that files a consolidated return, this credit shall only be  
6 allowed against the tax of a corporation included in a consolidated return that qualifies for the credit  
7 and not against the tax of other corporations that may join in the filing of a consolidated tax return.

8 (l) Credits allowed to a partnership, a limited liability company taxed as a partnership, or  
9 multiple owners of property shall be passed through to the persons designated as partners, members  
10 or owners respectively pro rata or pursuant to an executed agreement among such persons  
11 designated as partners, members or owners documenting an alternate distribution method without  
12 regard to their sharing of other tax or economic attributes of such entity.

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

15 (n) In the event any taxpayer seeking a refund under this chapter has outstanding Rhode  
16 Island tax obligations, the division of taxation shall be permitted to apply said refund to the  
17 outstanding tax obligations.

18 **42-64.34-6. Refundable investment tax credit fund.**

19 There is hereby established at the commerce corporation a restricted account known as the  
20 refundable investment tax credit fund (the "fund") into which all amounts appropriated in the state  
21 budget for the redemption of tax credits under this chapter shall be deposited. The fund shall be  
22 used to pay for the redemption of investment tax credits pursuant to the provisions of this chapter  
23 and for which a taxpayer is eligible under § 44-31-1. The fund shall be exempt from attachment,  
24 levy or any other process at law or in equity. The director of the department of revenue shall make  
25 a requisition to the commerce corporation for funding during any fiscal year as may be necessary  
26 to pay for the redemption pursuant to this chapter. The commerce corporation shall pay from the  
27 fund such amounts as requested by the director of the department of revenue necessary to redeem  
28 tax credits pursuant to this chapter.

29 **42-64.34-7. Program integrity.**

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

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

1 [regulations pursuant to chapter 35 of title 42 \(the "administrative procedures act"\) as deemed](#)  
2 [necessary to carry out the intent, purpose and implementation of the program established under this](#)  
3 [chapter.](#)

4 **42-64.34-8. Reporting requirements.**

5 [\(a\) By September 1, 2020 and each year thereafter, the commerce corporation shall report](#)  
6 [the name and address of each business entering into an incentive agreement during the previous](#)  
7 [state fiscal year to the division of taxation. The commerce corporation shall also make this](#)  
8 [information publicly available on its website. In addition, the commerce corporation shall provide](#)  
9 [the division of taxation a copy of each incentive agreement as they are executed.](#)

10 [\(b\) By December 1, 2020, and each year thereafter, the office of management and budget](#)  
11 [shall provide the governor with the sum, if any, to be appropriated to fund the refundable investment](#)  
12 [tax credit program.](#)

13 SECTION 2. Section 42-64.20-5 of the General Laws in Chapter 42-64.20 entitled  
14 "Rebuild Rhode Island Tax Credit" is hereby amended to read as follows:

15 **42-64.20-5. Tax credits.**

16 (a) An applicant meeting the requirements of this chapter may be allowed a credit as set  
17 forth hereinafter against taxes imposed upon such person under applicable provisions of title 44 of  
18 the general laws for a qualified development project.

19 (b) To be eligible as a qualified development project entitled to tax credits, an applicant's  
20 chief executive officer or equivalent officer shall demonstrate to the commerce corporation, at the  
21 time of application, that:

22 (1) The applicant has committed a capital investment or owner equity of not less than  
23 twenty percent (20%) of the total project cost;

24 (2) There is a project financing gap in which after taking into account all available private  
25 and public funding sources, the project is not likely to be accomplished by private enterprise  
26 without the tax credits described in this chapter; and

27 (3) The project fulfills the state's policy and planning objectives and priorities in that:

28 (i) The applicant will, at the discretion of the commerce corporation, obtain a tax  
29 stabilization agreement from the municipality in which the real estate project is located on such  
30 terms as the commerce corporation deems acceptable;

31 (ii) It (A) Is a commercial development consisting of at least 25,000 square feet occupied  
32 by at least one business employing at least 25 full-time employees after construction or such  
33 additional full-time employees as the commerce corporation may determine; (B) Is a multi-family  
34 residential development in a new, adaptive reuse, certified historic structure, or recognized

1 historical structure consisting of at least 20,000 square feet and having at least 20 residential units  
2 in a hope community; or (C) Is a mixed-use development in a new, adaptive reuse, certified historic  
3 structure, or recognized historical structure consisting of at least 25,000 square feet occupied by at  
4 least one business, subject to further definition through rules and regulations promulgated by the  
5 commerce corporation; and

6 (iii) Involves a total project cost of not less than \$5,000,000, except for a qualified  
7 development project located in a hope community or redevelopment area designated under § 45-  
8 32-4 in which event the commerce corporation shall have the discretion to modify the minimum  
9 project cost requirement.

10 (c) The commerce corporation shall develop separate, streamlined application processes  
11 for the issuance of rebuild RI tax credits for each of the following:

- 12 (1) Qualified development projects that involve certified historic structures;
- 13 (2) Qualified development projects that involve recognized historical structures;
- 14 (3) Qualified development projects that involve at least one manufacturer; and
- 15 (4) Qualified development projects that include affordable housing or workforce housing.

16 (d) Applications made for a historic structure or recognized historic structure tax credit  
17 under chapter 33.6 of title 44 shall be considered for tax credits under this chapter. The division of  
18 taxation, at the expense of the commerce corporation, shall provide communications from the  
19 commerce corporation to those who have applied for and are in the queue awaiting the offer of tax  
20 credits pursuant to chapter 33.6 of title 44 regarding their potential eligibility for the rebuild RI tax  
21 credit program.

22 (e) Applicants (1) Who have received the notice referenced in subsection (d) above and  
23 who may be eligible for a tax credit pursuant to chapter 33.6 of title 44, (2) Whose application  
24 involves a certified historic structure or recognized historical structure, or (3) Whose project is  
25 occupied by at least one manufacturer shall be exempt from the requirements of subsections  
26 (b)(3)(ii) and (b)(3)(iii). The following procedure shall apply to such applicants:

27 (i) The division of taxation shall remain responsible for determining the eligibility of an  
28 applicant for tax credits awarded under chapter 33.6 of title 44;

29 (ii) The commerce corporation shall retain sole authority for determining the eligibility of  
30 an applicant for tax credits awarded under this chapter; and

31 (iii) The commerce corporation shall not award in excess of fifteen percent (15%) of the  
32 annual amount authorized in any fiscal year to applicants seeking tax credits pursuant to this  
33 subsection (e).

34 [\(f\) Applicants whose project is occupied by at least one manufacturer shall be exempt from](#)

1 [the requirements of subsections \(b\)\(3\)\(ii\) and \(b\)\(3\)\(iii\) of this section, and the commerce](#)  
2 [corporation may establish minimum project cost amounts required for eligibility under this section.](#)

3 ~~(f)~~(g) Maximum project credit.

4 (1) For qualified development projects, the maximum tax credit allowed under this chapter  
5 shall be the lesser of (i) Thirty percent (30%) of the total project cost; or (ii) The amount needed to  
6 close a project financing gap (after taking into account all other private and public funding sources  
7 available to the project), as determined by the commerce corporation.

8 (2) The credit allowed pursuant to this chapter, inclusive of any sales and use tax  
9 exemptions allowed pursuant to this chapter, shall not exceed fifteen million dollars (\$15,000,000)  
10 for any qualified development project under this chapter; except as provided in subsection (f)(3) of  
11 this section; provided however, any qualified development project that exceeds the project cap upon  
12 passage of this act shall be deemed not to exceed the cap, shall not be reduced, nor shall it be further  
13 increased. No building or qualified development project to be completed in phases or in multiple  
14 projects shall exceed the maximum project credit of fifteen million dollars (\$15,000,000) for all  
15 phases or projects involved in the rehabilitation of the building. Provided, however, that for  
16 purposes of this subsection and no more than once in a given fiscal year, the commerce corporation  
17 may consider the development of land and buildings by a developer on the "I-195 land" as defined  
18 in § 42-64.24-3(6) as a separate, qualified development project from a qualified development  
19 project by a tenant or owner of a commercial condominium or similar legal interest including  
20 leasehold improvement, fit out, and capital investment. Such qualified development project by a  
21 tenant or owner of a commercial condominium or similar legal interest on the I-195 land may be  
22 exempted from subsection (f)(1)(i) of this section.

23 (3) The credit allowed pursuant to this chapter, inclusive of any sales and use tax  
24 exemptions allowed pursuant to this chapter, shall not exceed twenty-five million dollars  
25 (\$25,000,000) for the project for which the I-195 redevelopment district was authorized to enter  
26 into a purchase and sale agreement for parcels 42 and P4 on December 19, 2018, provided that  
27 project is approved for credits pursuant to this chapter by the commerce corporation.

28 ~~(g)~~(h) Credits available under this chapter shall not exceed twenty percent (20%) of the  
29 project cost, provided, however, that the applicant shall be eligible for additional tax credits of not  
30 more than ten percent (10%) of the project cost, if the qualified development project meets any of  
31 the following criteria or other additional criteria determined by the commerce corporation from  
32 time to time in response to evolving economic or market conditions:

- 33 (1) The project includes adaptive reuse or development of a recognized historical structure;  
34 (2) The project is undertaken by or for a targeted industry;

- 1 (3) The project is located in a transit-oriented development area;
- 2 (4) The project includes residential development of which at least twenty percent (20%) of  
3 the residential units are designated as affordable housing or workforce housing;
- 4 (5) The project includes the adaptive reuse of property subject to the requirements of the  
5 industrial property remediation and reuse act, § 23-19.14-1 et seq.; or
- 6 (6) The project includes commercial facilities constructed in accordance with the minimum  
7 environmental and sustainability standards, as certified by the commerce corporation pursuant to  
8 Leadership in Energy and Environmental Design or other equivalent standards.
- 9 ~~(h)~~(i) Maximum aggregate credits. The aggregate sum authorized pursuant to this chapter,  
10 inclusive of any sales and use tax exemptions allowed pursuant to this chapter, shall not exceed  
11 two hundred ten million dollars (\$210,000,000), excluding any tax credits allowed pursuant to  
12 subsection (f)(3) of this section.
- 13 ~~(h)~~(j) Tax credits shall not be allowed under this chapter prior to the taxable year in which  
14 the project is placed in service.
- 15 ~~(h)~~(k) The amount of a tax credit allowed under this chapter shall be allowable to the  
16 taxpayer in up to five, annual increments; no more than thirty percent (30%) and no less than fifteen  
17 percent (15%) of the total credits allowed to a taxpayer under this chapter may be allowable for any  
18 taxable year, except for projects with a project financing gap of less than five hundred thousand  
19 dollars (\$500,000).
- 20 ~~(h)~~(l) If the portion of the tax credit allowed under this chapter exceeds the taxpayer's total  
21 tax liability for the year in which the relevant portion of the credit is allowed, the amount that  
22 exceeds the taxpayer's tax liability may be carried forward for credit against the taxes imposed for  
23 the succeeding four (4) years, or until the full credit is used, whichever occurs first. Credits allowed  
24 to a partnership, a limited-liability company taxed as a partnership, or multiple owners of property  
25 shall be passed through to the persons designated as partners, members, or owners respectively pro  
26 rata or pursuant to an executed agreement among persons designated as partners, members, or  
27 owners documenting an alternate distribution method without regard to their sharing of other tax  
28 or economic attributes of such entity.
- 29 ~~(h)~~(m) The commerce corporation, in consultation with the division of taxation, shall  
30 establish, by regulation, the process for the assignment, transfer, or conveyance of tax credits.
- 31 ~~(m)~~(n) For purposes of this chapter, any assignment or sales proceeds received by the  
32 taxpayer for its assignment or sale of the tax credits allowed pursuant to this section shall be exempt  
33 from taxation under title 44. If a tax credit is subsequently revoked or adjusted, the seller's tax  
34 calculation for the year of revocation or adjustment shall be increased by the total amount of the



1 sales proceeds, without proration, as a modification under chapter 30 of title 44. In the event that  
2 the seller is not a natural person, the seller's tax calculation under chapter 11, 13, 14, or 17 of title  
3 44, as applicable, for the year of revocation, or adjustment, shall be increased by including the total  
4 amount of the sales proceeds without proration.

5 ~~(p)~~(o) The tax credit allowed under this chapter may be used as a credit against corporate  
6 income taxes imposed under chapter 11, 13, 14, or 17, of title 44, or may be used as a credit against  
7 personal income taxes imposed under chapter 30 of title 44 for owners of pass-through entities such  
8 as a partnership, a limited-liability company taxed as a partnership, or multiple owners of property.

9 ~~(p)~~(p) In the case of a corporation, this credit is only allowed against the tax of a corporation  
10 included in a consolidated return that qualifies for the credit and not against the tax of other  
11 corporations that may join in the filing of a consolidated tax return.

12 ~~(q)~~(q) Upon request of a taxpayer and subject to annual appropriation, the state shall  
13 redeem this credit, in whole or in part, for ninety percent (90%) of the value of the tax credit. The  
14 division of taxation, in consultation with the commerce corporation, shall establish by regulation a  
15 redemption process for tax credits.

16 ~~(r)~~(r) Projects eligible to receive a tax credit under this chapter may, at the discretion of  
17 the commerce corporation, be exempt from sales and use taxes imposed on the purchase of the  
18 following classes of personal property only to the extent utilized directly and exclusively in the  
19 project: (1) Furniture, fixtures, and equipment, except automobiles, trucks, or other motor vehicles;  
20 or (2) Other materials, including construction materials and supplies, that are depreciable and have  
21 a useful life of one year or more and are essential to the project.

22 ~~(s)~~(s) The commerce corporation shall promulgate rules and regulations for the  
23 administration and certification of additional tax credit under subsection (e), including criteria for  
24 the eligibility, evaluation, prioritization, and approval of projects that qualify for such additional  
25 tax credit.

26 ~~(t)~~(t) The commerce corporation shall not have any obligation to make any award or grant  
27 any benefits under this chapter.

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

31 **44-48.3-3. Definitions.**

32 As used in this chapter, unless the context clearly indicates otherwise, the following words  
33 and phrases shall have the following meanings:

34 (1) "Affiliate" or "affiliated entity" means an entity that directly or indirectly controls, is

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

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

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

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

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

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

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

33 (8) "Hope community" means municipalities with a percentage of families below the  
34 poverty level that is greater than the percentage of families below the poverty level for the state as

1 a whole as determined by the United States Census Bureau's most recent American Community  
2 Survey.

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

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

9 (11) "Manufacturer" means any entity that:

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

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

17 ~~(11)~~(12) "New full-time job" means an eligible position created by the business that did  
18 not previously exist in this state and which is created after approval of an application to the  
19 commerce corporation under the program. Such job position cannot be the result of an acquisition  
20 of an existing company located in Rhode Island by purchase, merger, or otherwise. For the purposes  
21 of determining the number of new full-time jobs, the eligible positions of an affiliate shall be  
22 considered eligible positions of the business so long as such eligible position(s) otherwise meets  
23 the requirements of this section.

24 ~~(12)~~(13) "Partnership" means an entity classified as a partnership for federal income tax  
25 purposes.

26 ~~(13)~~(14) "Program" means the incentive program established pursuant to this chapter.

27 ~~(14)~~(15) "Targeted industry" means any industry identified in the economic development  
28 vision and policy promulgated under § 42-64.17-1 or, until such time as any economic development  
29 vision and policy is promulgated, as identified by the commerce corporation.

30 ~~(15)~~(16) "Taxpayer" means a business granted a tax credit under this chapter or such person  
31 entitled to the tax credit because the business is a pass through entity such as a partnership, S  
32 corporation, sole proprietorship or limited liability company taxed as a partnership.

33 ~~(16)~~(17) "Transit oriented development area" means an area in proximity to mass-transit  
34 infrastructure including, but not limited to, an airport, rail or intermodal facility that will be further

1 defined by regulation of the commerce corporation in consultation with the Rhode Island  
2 department of transportation.

3 **44-48.3-4. Rhode Island qualified jobs incentive program.**

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

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

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

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

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

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

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

27 (5) Notwithstanding subsections (c)(1) through (c)(4) of this section, for a manufacturer,  
28 the creation of new full-time jobs in this state in an amount not less than ten percent (10%) of the  
29 manufacturer's existing number of full-time employees, or the creation of at least one hundred (100)  
30 new full-time jobs in this state.

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

34 (1) That any projected creation of new full-time jobs would not occur, or would not occur

1 in the state of Rhode Island, but for the provision of tax credits under the program;

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

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

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

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

21 (g) The definition of manufacturer in this chapter is limited to the eligibility for the program  
22 in this chapter only and shall not modify or define the legal standing of a manufacturer for any  
23 other purpose set forth in title 44.

24 SECTION 4. This act shall take effect upon passage.

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LC004669  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- MANUFACTURING AND  
ECONOMIC DEVELOPMENT--TAX INCENTIVES

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1           This act would establish the "refundable investment tax credit act" to provide for a  
2 refundable investment tax credit for certain investments in the construction of facilities, acquisition  
3 of tangible property, and the training of employees in the state. The refundable tax credit program  
4 to be established by this act would be administered by the commerce corporation.

5           This act would take effect upon passage.

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