OLR Bill Analysis

sSB 981

AN ACT CONCERNING REVENUE ITEMS TO IMPLEMENT THE BIENNIAL BUDGET.

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§ 27 — AMERICAN RESCUE PLAN ACT (ARPA) TRANSFER

Eliminates the FY 23 transfer of $314.9 million in ARPA funds to the General Fund

BACKGROUND

SUMMARY

This bill makes changes related to personal income and corporation business taxes, tax credits, sales and use tax, unclaimed beverage container deposits, tax compliance, the tax incidence report, and the use of American Rescue Plan Act (ARPA) funds. Its major changes include the following:

1. decreasing the bottom two marginal income tax rates from (a) 3% to 2% and (b) 5% to 4.75%;

2. extending the 10% corporation business tax surcharge for three additional years to the 2023, 2024, and 2025 income years;

3. extending eligibility for the pension and annuity and individual retirement account (IRA) income tax exemptions to taxpayers with federal adjusted gross incomes (AGIs) of at least $100,000 but less than $150,000 (joint filers) and at least $75,000 but less than $100,000 (other filing statuses), and gradually reducing the exemption for these taxpayers until it fully phases out at $100,000 or $150,000, as applicable;

4. increasing the human capital investment tax credit from 5% to 10% (for most eligible investments) and 25% (for eligible child care-related expenditures) and making donations or capital contributions to nonprofits for certain child care expenses a credit-eligible investment; and

5. allowing cannabis licensees to deduct from the state personal income or corporation business tax any business expenses that would otherwise be eligible for a federal tax deduction but are disallowed because marijuana is a controlled substance.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: Various, see below

§§ 1-3 — CORPORATE BUSINESS TAX SURCHARGE EXTENSION

Extends the 10% corporation business tax surcharge for three additional years to the 2023, 2024, and 2025 income years

The bill extends the 10% corporation business tax surcharge for three additional years to the 2023, 2024, and 2025 income years. As under existing law, the surcharge applies to companies that have more than $250 in corporation tax liability and either (1) have at least $100 million in annual gross income in those years or (2) are taxable members of a combined group that files a combined unitary return, regardless of their annual gross income amount. Companies must calculate their surcharges based on their tax liability, excluding any credits.

Under the bill, taxpayers are not subject to interest on underpayments of estimated tax for the 2023 income year for any additional tax due because of the bill's surcharge extension for the period before these provisions take effect.

EFFECTIVE DATE: Upon passage, and the surcharge extension is applicable to income years beginning on or after January 1, 2023.

§ 4 — HUMAN CAPITAL INVESTMENT TAX CREDIT

Increases the human capital investment tax credit from 5% to 10% (for most eligible investments) and 25% (for eligible child care-related expenditures); makes donations or capital contributions to nonprofits for establishing child care centers for use by children residing in the community a credit-eligible investment

Starting with the 2024 income year, the bill increases the human capital investment tax credit from 5% of the amount paid or incurred for eligible investments to (1) 10% for most eligible investments and (2) 25% for childcare-related investments. It also makes additional child care-related investments eligible for the credit.

By law, the credit may be claimed against the corporation business tax, and unused credits may be carried forward for five years.

EFFECTIVE DATE: January 1, 2024

10% Credit

The investments eligible for a 10% credit under the bill, which are currently eligible for a 5% credit, are the following:

1. in-state job training for in-state employees;
2. work education programs, including programs in public high school and work education-diversified occupations programs in the state;
3. worker training and education for in-state employees provided by in-state higher education institutions;
4. donations or capital contributions to higher education institutions for improvements or technology advancements, including physical plant improvements; and
5. contributions made to the Individual Development Account Reserve Fund.

25% Credit

Under current law, the following child care-related expenses are eligible for a 5% credit: (1) expenses paid for site preparation and planning, constructing, renovating, or acquiring facilities to establish a child care center for use primarily by in-state employees' children and (2) subsidies to in-state employees for in-state child care. The bill expands eligibility to include donations or capital contributions to 501(c)(3) nonprofit organizations for site preparation and planning, constructing, renovating, or acquiring facilities to establish a child care center for use by children living in the community, including in-state employees' children.

The bill makes each of the above expenses eligible for a 25% credit.

§ 5 — EARNED INCOME TAX CREDIT (EITC) INCREASE

Increases the state EITC from 30.5% to 45% of the federal credit

Beginning with the 2023 tax year, the bill increases the state EITC from 30.5% to 45% of the federal credit. The EITC is a refundable tax credit available to people who work and earn incomes less than certain amounts.

EFFECTIVE DATE: Upon passage

§ 6 — PERSONAL INCOME TAX RATES

Starting with the 2024 tax year, decreases the bottom two marginal income tax rates from (1) 3% to 2% and (2) 5% to 4.75%; eliminates the benefit of the bill's decreased marginal rates for taxpayers with taxable incomes exceeding $200,000 (single filers and married filing separately), $320,000 (heads of household), or $400,000 (joint filers)

Rates

Starting with the 2024 tax year, the bill reduces the bottom two marginal income tax rates for all filers from (1) 3% to 2% and (2) 5% to 4.75%. Generally, this lowers taxes on the first (1) $50,000 in taxable income for single filers and married people filing separately; (2) $100,000 for joint filers; and (3) $80,000 for heads of household. The table below shows the marginal tax rates under current law and under the bill.

Table: Tax Brackets and Rates Under the Bill and Current Law

Connecticut Taxable Income ($)				*Tax Rates (%)*	
Single		*Head of Household*			
Over	*Not Over*	*Over*	*Not Over*	*Current*	*Bill*
0	10,000	0	16,000	3.00	2.00
10,000	50,000	16,000	80,000	5.00	4.75
50,000	100,000	80,000	160,000	5.50	5.50
100,000	200,000	160,000	320,000	6.00	6.00
200,000	250,000	320,000	400,000	6.50	6.50
250,000	500,00	400,000	800,000	6.90	6.90
500,000	--	800,000	--	6.99	6.99
Connecticut Taxable Income ($)				*Tax Rates (%)*	
Married Filing Jointly		*Married Filing Separately*			
Over	*Not Over*	*Over*	*Not Over*	*Current*	*Bill*
0	20,000	0	10,000	3.00	2.00
20,000	100,000	10,000	50,000	5.00	4.75

100,000	200,000	50,000	100,000	5.50	5.50
200,000	400,000	100,000	200,000	6.00	6.00
400,000	500,000	200,000	250,000	6.50	6.50
500,000	1,000,000	250,000	500,00	6.90	6.90
1,000,000	--	500,000	--	6.99	6.99

Phase-Out

As under current law for the 3% rate, the 2% rate phases out for filers with incomes exceeding $56,500 (single filers), $100,500 (joint filers), $78,500 (heads of household), and $50,250 (married filing separately). Generally, this means that for each type of filer, the amount of income subject to the lowest tax rate (2% under the bill) is gradually reduced, thus subjecting more of these taxpayers' incomes to tax at the next rate (4.75% under the bill).

Recapture

By law, taxpayers whose income exceeds specified thresholds are subject to "benefit recapture," a requirement that eliminates the benefit certain higher income taxpayers receive from having part of their income taxed at lower rates. It applies to taxpayers with taxable income greater than $200,000 (single or married filing separately), $400,000 (married filing jointly), or $320,000 (head of household) and gradually increases these taxpayers' liability until their entire taxable income is effectively taxed at the top 6.99% rate.

The bill retains these provisions but adds a new benefit recapture provision to eliminate the benefit of the bill's tax rate reduction for taxpayers with taxable incomes exceeding the above thresholds. It does so by requiring these taxpayers to pay an additional $125, $250, or $200, respectively.

EFFECTIVE DATE: January 1, 2024

§ 7 — RETIREMENT INCOME EXEMPTIONS

Extends eligibility for the pension and annuity and IRA income tax exemptions to taxpayers with federal AGIs of (1) at least $100,000 but less than $150,000 for joint filers and (2) at least $75,000 but less than $100,000 for other filing statuses; gradually reduces the exemption for these taxpayers until it fully phases out at $100,000 or $150,000 as applicable

Current law exempts income-eligible taxpayers' pension and annuity income from personal income tax by allowing taxpayers to deduct 100% of their qualifying pension and annuity income from their Connecticut taxable income if their federal AGI is less than (1) $75,000 for single filers, married people filing separately, and heads of household or (2) $100,000 for married people filing jointly. It also exempts income from IRA distributions (other than Roth IRAs) for taxpayers meeting these income criteria (see below).

Beginning with the 2023 tax year, the bill extends eligibility for these exemptions to taxpayers with federal AGIs of (1) at least $75,000 but less than $100,000 for single filers, married people filing separately, and heads of household and (2) at least $100,000 but less than $150,000 for joint filers. However, it gradually reduces the deductions for these taxpayers until they fully phase out at $100,000 or $150,000 as applicable. The table below shows the phase-out schedule.

Table: General Pension and Annuity Deduction and IRA Deduction Phase-Out Schedule

Federal AGI ($)		***Deduction (%)***
Single, Married Filing Separately, or Head of Household	***Married Filing Jointly***	
< 75,000	< 100,000	100.0
75,000 to 77,499	100,000 to 104,999	85.0
77,500 to 79,999	105,000 to 109,999	70.0
80,000 to 82,499	110,000 to 114,999	55.0
82,500 to 84,999	115,000 to 119,999	40.0
85,000 to 87,499	120,000 to 124,999	25.0
87,500 to 89,999	125,000 to 129,999	10.0
90,000 to 94,999	130,000 to 139,999	5.0
95,000 to 99,999	140,000 to 149,999	2.5
≥ 100,000	≥ 150,000	0.0

IRA Exemption

By law, the IRA exemption phases in over four years, allowing taxpayers to deduct 25% of IRA income for the 2023 tax year, 50% for 2024, 75% for 2025, and 100% for 2026 and beyond.

Under the bill, in the case of the IRA deduction for the 2023 to 2025 tax years, the deduction percentage listed in the table above applies to the portion of income the law allows as a deduction, not to all IRA income. For example, a single filer with $80,000 in federal AGI and $50,000 in IRA income would be able to deduct $13,750 of that income in the 2024 tax year (i.e., 50% of IRA income, multiplied by 55%).

EFFECTIVE DATE: Upon passage, and applicable to tax years beginning on or after January 1, 2023.

§§ 7 & 8 — CANNABIS BUSINESS EXPENSES DEDUCTION

Allows cannabis licensees to deduct from the state personal income or corporation business tax any business expenses that would otherwise be eligible for a federal tax deduction but are disallowed because marijuana is a controlled substance

The bill allows personal income and corporation business taxpayers holding medical marijuana or adult-use cannabis licenses to deduct, for state tax purposes, the amount of expenditures that would be eligible for a federal tax deduction but are disallowed because marijuana is a controlled substance under the federal Controlled Substance Act.

Federal tax law specifically prohibits taxpayers from claiming a deduction or a credit for expenses paid or incurred in operating a business consisting of trafficking controlled substances that are prohibited by federal or state law (126 U.S.C. § 280E). IRS guidance indicates that marijuana business owners may deduct their costs of goods sold (their inventory) but may not deduct "ordinary and necessary" business expenses, such as wages, salaries, and travel expenses.

EFFECTIVE DATE: Upon passage, and appliable to income and tax years beginning on or after January 1, 2023.

§§ 9 & 10 — FILM AND DIGITAL MEDIA TAX CREDIT

Increases the redemption rate for film and digital media tax credits claimed against the sales tax from 78% to 92% of the credits' face value; requires production companies and DECD to report certain information on the companies' job creation

Existing law allows eligible production companies and certain taxpayers to whom they transfer credits (i.e., transferees) to apply film and digital media production tax credits against the sales and use tax at

a reduced amount of their face value. The bill increases this amount from 78% to 92% of the credits' value beginning with the 2024 income year.

As under existing law, transferees may claim film and digital media production tax credits against the sales and use tax only if there is at least 50% common ownership between the transferee and the eligible production company that sold, assigned, or otherwise transferred the credits. These credits may also be claimed against the corporation business and insurance premiums taxes at full face value and the community antenna television systems tax at a reduced value (see BACKGROUND).

Separately, the bill also requires that certain information on eligible production companies' job creation be included in tax credit voucher applications and in the Department of Economic and Community Development's (DECD) annual report to the legislature. Under existing law, within 90 days after the end of an annual period or the last production expenses are incurred, the production company must apply to DECD for a credit voucher and include with its application any information and independent certification the department requires. The bill additionally requires that the company include a report with the number of full- and part-time jobs the company created, a description of each job, and an explanation of what the company considers to be job creation for the report's purposes. DECD must then include this job creation information in the overview of the film tax industry credit program in its annual report.

EFFECTIVE DATE: January 1, 2024

§ 11 — R&D TAX CREDIT REFUNDS FOR BIOTECHNOLOGY BUSINESSES

Increases the cash refund a qualifying small biotechnology company may receive for R&D and R&E tax credits from 65% to 80% of the credit amount

The bill increases the cash refund a qualifying small biotechnology company may receive for research and development (R&D) and research and experimental (R&E) tax credits from 65% to 80% of the credit amount.

By law, this refund is available to qualified small businesses that earn R&D and R&E tax credits for R&D expenditures (see BACKGROUND) but cannot use them because they have no corporation business tax liability. A qualified small business is a company whose gross income for the prior year is $70 million or less, including income derived from transactions with related entities. The refund is capped at $1.5 million per company for each income year, and any qualified small business may elect to carry its unused credits forward instead of applying for a cash refund. As under current law, qualifying small businesses that are not biotechnology companies may receive a refund of 65% of the credit amount.

Under the bill, a "biotechnology company" is one that applies certain technologies (e.g., biochemistry or genetics) to produce or modify products, improve plants or animals, identify targets for small molecule pharmaceutical development, transform biological systems into useful processes and products, or develop microorganisms for specific uses.

EFFECTIVE DATE: July 1, 2023

§ 12 — UNCLAIMED BEVERAGE CONTAINER DEPOSITS

Requires that deposit initiators keep all unclaimed deposits from July 1, 2023, to the end of the calendar year to reimburse them for the 10-cent deposit on redeemed beverage containers taking effect on January 1, 2024; modifies the amount of unclaimed deposits they must remit to the General Fund starting in FY 25

For FYs 24 and 25, the bill reduces the amount of unclaimed deposits remitted to the General Fund under the state's beverage container redemption law (i.e., "bottle bill"). For FY 24, it requires that deposit initiators (e.g., distributors) keep all unclaimed deposits from July 1, 2023, to the end of the calendar year to reimburse them for the 10-cent deposit on redeemed beverage containers scheduled to take effect on January 1, 2024. For FY 25, it reduces the amount of unclaimed deposits that deposit initiators must quarterly remit to the General Fund from 55% to 50%.

Beginning in FY 26, current law requires deposit initiators to remit 45% of unclaimed deposits to the General Fund. The bill instead ties the required remittance to the average statewide redemption rate for the

preceding fiscal year. Generally, it requires that deposit initiators remit less than 45% of unclaimed deposits if the redemption rate is greater than 65%.

EFFECTIVE DATE: Upon passage

Unclaimed Deposits Remitted to General Fund

FYs 24 and 25. The state's bottle bill generally requires that a deposit be charged on each beverage container at the time of purchase. Deposit initiators must place an amount equal to the deposits they collect on sales into a separate, interest-bearing account to refund deposits on redeemed beverage containers. On January 1, 2024, the deposit amount increases from five cents to 10 cents.

Under current law, deposit initiators must pay the revenue services commissioner 95% of the outstanding account balance attributable to the previous calendar quarter for deposit in the General Fund, and in FY 24 this amount decreases to 65%. The bill requires that deposit initiators keep all outstanding balances attributable to the calendar quarters starting July 1, 2023, and October 1, 2023, to refund the 10-cent deposits that apply on January 1, 2024.

Starting in FY 25, the bill requires that deposit initiators pay the revenue services commissioner 50% of the outstanding account balance for each quarter, rather than the 55% required under current law.

FY 26 and Beyond. Starting in FY 26, the bill ties the percentage of unclaimed deposits that deposit initiators must remit each quarter to the average statewide redemption rate for the preceding fiscal year, as shown in the table below. It requires the Department of Energy and Environmental Protection commissioner, beginning by August 1, 2024, to annually calculate and publish this rate by dividing the number of beverage containers redeemed by the number sold.

Table: Required Remittance of Unclaimed Deposits for FY 26 and Beyond

FY	*Statewide Redemption Rate for Preceding Fiscal Year*	*Required Remittance*
26	At least 65%	25%

FY	Statewide Redemption Rate for Preceding Fiscal Year	Required Remittance
	Less than 65%	45%
27	At least 70%	5%
	Greater than 65% but less than 70%	25%
	65% or less	45%
28 and beyond	At least 80%	5%
	Greater than 70% but less than 80%	10%
	Greater than 65% to 70%	25%
	65% or less	45%

§ 13 — SALES AND USE TAX EXEMPTION FOR PERSONNEL TRAINING

Exempts all job-related or personnel training services from sales and use tax, rather than just those provided by higher education institutions

The bill exempts all job-related or personnel training services from sales and use tax, rather than just those provided by higher education institutions as under current law. Under current Department of Revenue Services (DRS) regulations and guidance, job-related personnel training services provided to a company's employees are generally considered taxable business management consulting services when the training provider is hired and paid for by the employer (Conn. Agencies Regs., § 12-407(2)(i)(J)-1(f); DRS PS 2000(4)). DRS guidance further specifies that training companies provide to employees that is unrelated or indirectly related to their jobs is exempt.

EFFECTIVE DATE: July 1, 2023, and applicable to sales occurring on or after that date.

§§ 14 & 15 — CONSTRUCTION APPRENTICESHIP TAX CREDIT

Increases, from $4,000 to $7,500, the maximum tax credit against the corporation business tax allowed for each construction trade apprentice under the apprenticeship training tax credit program and requires apprenticeship sponsors to report certain information about their apprentices to DOL

The bill increases, from $4,000 to $7,500, the maximum tax credit allowed for each construction trade apprentice under the apprenticeship training tax credit program. By law, unchanged by the bill, the credit is $2 for each hour the apprentice worked toward completing the program and applies against the corporation business

tax. It is awarded upon program completion and capped at the lesser of the maximum amount or 50% of the actual wages paid to the apprentice over the first four income years of the apprenticeship.

The bill requires each person sponsoring a Department of Labor (DOL)-registered apprenticeship program as of July 1, 2024, to annually submit to DOL the following information about the program:

1. the minimum completion rate of the sponsor's apprentices;
2. the number of registered apprentices (a) currently participating in the program and (b) who have separated from the program since the date of their previous registration, or year to date for new sponsors;
3. the number of licensed journeypersons the sponsor currently employs;
4. the number of registered apprentices participating in the program who have advanced a year since the previous registration, or year to date for new sponsors;
5. the number of apprentices who have completed the sponsor's apprenticeship program since the previous registration, or year to date for new sponsors; and
6. the number of apprentices who completed the sponsor's program who (a) have been issued a Department of Consumer Protection occupational license and (b) are currently employed by the sponsor.

Sponsors must submit this information as the commissioner prescribes and disaggregate it by gender identity, race, and ethnicity. Sponsors must submit the information along with the annual registration fee required by existing law. Under the bill, the information provided is considered a public record and subject to disclosure under the Freedom of Information Act.

EFFECTIVE DATE: January 1, 2024; the tax credit provision is

applicable to income years starting on or after that date.

§§ 16-20 — MEALS AND BEVERAGES TAX DIVERSION

Diverts the revenue from the 1% meals and beverage tax to three new accounts for OPM and DECD to provide, respectively, municipal grants and arts, culture, and tourism grants

For calendar months beginning on and after July 1, 2023, the bill requires the DRS commissioner to divert the revenue received from the additional 1% sales and use tax on meals and beverages, rather than deposit it into the General Fund as under current law. He must specifically divert the revenue as follows: (1) 50% into a new municipal host grants account; (2) 25% into a new arts, culture and tourism account; and (3) 25% into a new municipal needs capacity account.

The bill establishes each of these accounts as separate, nonlapsing General Fund accounts that contain any money required by law to be deposited into them.

Under the bill, the Office of Policy and Management (OPM) secretary must use the municipal host grants account to distribute funds to municipalities in which businesses that have remitted the meals and beverages tax are located. DECD must use the arts, culture and tourism account to provide arts, culture, and tourism grants in keeping with the department's duties under existing law to, among other things, enhance and promote the arts, culture, and tourism in Connecticut (CGS § 10-392 et seq.). Additionally, OPM must use the municipal needs capacity account to distribute funds to municipalities according to their "municipal needs capacity gap metric." Under the bill, the OPM secretary must calculate these metrics according to the methodologies used in the New England Public Policy Center's 2015 research report (i.e., "Measuring Municipal Fiscal Disparities in Connecticut") (see BACKGROUND).

(The bill does not specify a timetable or additional parameters OPM or DECD must use when distributing these grant funds.)

EFFECTIVE DATE: July 1, 2023; sales and use tax diversion is applicable to sales occurring on or after that date.

§ 21 — REVENUE SHARING PROGRAM

Establishes a new revenue-sharing program that (1) diverts a portion of state revenue from specified taxes into a new municipal tax revenue account, (2) requires DRS to calculate the amount of this revenue that is attributed to each municipality, and (3) disburses the funds to municipalities based on the amount sourced to them and their fiscal capacity

Starting in FY 25, the bill sets up a new revenue-sharing program that diverts a portion of state revenue from the sales and use, personal income, and corporation business tax into a new municipal tax revenue account and requires OPM to disburse the funds to municipalities based on the amount sourced to them and their fiscal capacity. Starting in FY 24, it requires DRS to calculate the amount of this revenue that is attributed to each municipality, subject to certain parameters.

EFFECTIVE DATE: Upon passage

Sourcing Revenue to Municipalities

Starting with FY 24, the bill requires the DRS commissioner to track and record the source of state sales and use, personal income, and corporation business tax revenue to accurately and fairly attribute the revenue from each of these taxes to municipalities. The commissioner must determine the sourcing method for attributing sales and use and corporation business tax revenue, but, in doing so, he must source the revenue to each municipality in which the taxpayer has an office or facility in Connecticut. The bill requires that personal income tax revenue be sourced to the municipality in which the employer's office or facility is located for any employees who primarily work at these locations. (It does not specify how the commissioner must attribute personal income tax revenue from other sources, like investment income, to specific municipalities.)

The bill requires taxpayers paying these taxes to provide disaggregated information and any other data the commissioner requests to carry out these requirements. Annually, starting by June 30, 2024, the commissioner must post on DRS's website a list of all municipalities and the amount of revenue from each of these taxes attributed to each one for the applicable fiscal year. (However, tax receipts are not finalized for each fiscal year until the books are closed

for that year.)

Transfer of Revenue in Excess of Growth Rate Projections

Annually, starting by July 1, 2023, the bill requires the OPM secretary to calculate growth rate projections for these three taxes on a municipal basis, based on the revenue estimates adopted by the Finance, Revenue and Bonding Committee as part of the state budget act. (It is unclear whether the OPM secretary can calculate these rates at the start of FY 24, before the DRS commissioner has begun tracking and recording this revenue by municipality.)

Starting with FY 25, the state comptroller must transfer any amount of this revenue that exceeds OPM's projected growth rate for each tax from the General Fund to a new municipal tax revenue account. (Presumably, this excludes personal income tax growth from personal income tax estimated and final payments subject to the volatility cap, which the law requires to be transferred to the Budget Reserve Fund.) The bill establishes this account as a separate, nonlapsing General Fund account that must contain any money required by law to be deposited in it.

When the account's balance reaches $40 million, the OPM secretary must start distributing annual grants to municipalities. For each municipality for which the DRS commissioner has attributed tax revenue, the OPM secretary must (1) calculate the portion of the excess revenue attributable to the municipality that was deposited in the account from each tax and (2) give the municipality a grant equal to 60% of this amount. However, the bill prohibits the account's balance from falling below $20 million.

If any funds remain available for disbursement after the OPM secretary has paid out these excess revenue grants, he must distribute additional grants proportionately to municipalities for which the secretary has calculated a positive gap metric as described below.

Municipal Needs Capacity Gap Metrics

Annually, starting by January 1, 2024, the bill requires the OPM

secretary to calculate and post on OPM's website a municipal needs capacity gap metric for each municipality. These metrics must be calculated according to the methodologies used in the New England Public Policy Center's 2015 research report as described above (see BACKGROUND).

§ 22 — TRANSFER OF FY 23 AND 24 GENERAL FUND REVENUE FOR PILOT GRANTS

Transfers up to $300 million in General Fund resources in each of FYs 23 and 24 to a new account for PILOT grants

For FYs 23 and 24, the bill requires that up to $300 million of General Fund resources that exceed the revenue estimates adopted by the Finance, Revenue and Bonding Committee as part of the state budget act be transferred to a new "supplemental grants in lieu of taxes" account. The bill establishes this account as a separate, nonlapsing General Fund account that must contain any money required by law to be deposited in it. The OPM secretary must use the account's funds for the payment in lieu of taxes (PILOT) grant program.

EFFECTIVE DATE: Upon passage

§ 23 — NET OPERATING LOSS DEDUCTION CARRYFORWARD

Extends, from 20 years to 30 years, the period when corporations may carry forward a corporation business tax deduction for net operating losses incurred in the 2015 income year or later

The bill extends, from 20 years to 30 years, the period when corporations may carry forward a net operating loss (NOL) deduction for corporation business tax purposes. (NOL is the amount by which a corporation's total allowable deductions exceed its gross income.) The bill's extended carry forward period applies to NOLs incurred beginning with the 2015 income year.

Existing law, unchanged by the bill, generally limits a corporation's NOL deduction to the lesser of (1) 50% of its pre-NOL net income and (2) the difference between the amount of NOL in the current income year and the amount carried forward from prior years.

EFFECTIVE DATE: October 1, 2023

§ 24 — FIXED CAPITAL INVESTMENT TAX CREDIT

For income years beginning on or after January 1, 2024, allows certain corporations that own at least 80% of an LLC to claim the fixed capital investment tax credit for amounts the LLC invested in qualifying fixed capital

The bill allows corporations to earn fixed capital investment tax credits for investments made by certain limited liability companies (LLCs) they own. Specifically, corporations may do so for an LLC of which they own, directly or indirectly, at least 80% and that, for federal tax purposes, is treated as a partnership or disregarded as an entity separate from its owner (i.e., a disregarded entity).

As under current law for investments in fixed capital held by the corporation, the tax credit (1) equals 5% of the amount the LLC pays or incurs for the fixed capital and (2) applies to fixed capital the LLC will hold and use in Connecticut in the ordinary course of its trade or business for at least five years. The credit may be claimed against the corporation business tax in the income year in which the fixed capital was purchased, or it may be carried forward for the next five income years.

By law, fixed capital is (1) tangible personal property with a class life of more than four years; (2) purchased from someone other than a related person; and (3) not leased or acquired to be leased for the first 12 months after its purchase. It does not include inventory, land, building, structures, or mobile transportation property.

EFFECTIVE DATE: January 1, 2024

§ 25 — TAX GAP ANALYSIS AND STRATEGY AND DRS STRATEGIC PLAN

Requires DRS to (1) estimate the state's tax gap, develop a strategy to reduce the gap, and evaluate related staffing needs; (2) report information on this estimate and strategy to the legislature; and (3) publish a strategic plan for the agency

The bill requires DRS to estimate the state's "tax gap," conduct related analyses, develop a strategy to address it, and report certain information to the legislature. Under the bill, tax gap is the difference between taxes owed under full compliance with all state tax laws and the state taxes voluntarily paid, which may be caused by a failure to file

taxes, underreporting tax liability, or not paying all taxes owed.

It also requires the DRS commissioner, by July 1, 2024, to publish a strategic plan for the agency that includes its mission, measurable goals defining how the mission will be accomplished, specific strategies to achieve the goals, and a timetable to measure progress toward the goals. The plan must be posted on the DRS website and updated annually.

EFFECTIVE DATE: July 1, 2023

Tax Gap Reporting

The bill requires the DRS commissioner to annually take the following actions related to the state tax gap:

1. estimate the gap and develop an overall strategy to promote compliance and discourage avoidance;
2. (a) evaluate DRS's specific staffing needs to implement the overall strategy and reduce the state tax gap and (b) determine any progress made toward filling the staffing needs;
3. conduct a cost-benefit analysis of each major tax compliance initiative the department undertook in the preceding fiscal year, including tax amnesty programs; and
4. analyze by income level audit rates that the department undertook the previous fiscal year.

The tax gap estimate must include an analysis of income and population distribution, expressed for (1) every 10 percentage points, (2) the top 5% of all income taxpayers, (3) the top 1% of all income taxpayers, and (4) the top 0.5% of all income tax payers.

Starting by December 15, 2023, the bill requires DRS to annually submit a report to the Finance, Revenue and Bonding Committee that includes the tax gap estimate and analyses (and any supporting information), the compliance strategy, a summary of the staffing needs determination, and the findings of the tax compliance initiative and audit analyses. The report must also be posted on DRS's website.

§ 26 — TAX INCIDENCE REPORT

Expands the scope of DRS's biennial tax incidence report by requiring that the report include (1) the PE tax and other taxes generating at least $100 million and (2) additional information on tax burden distribution, effective tax rates, and tax credit distribution.

The bill expands the scope of the tax incidence report that DRS must biennially submit to the legislature and post on its website. Specifically, it expands the taxes covered in the report and requires additional information on tax burden distribution, effective tax rates, and tax credit distribution.

The bill also requires the DRS commissioner, if he contracts out for the report's preparation, to include in the report the resources he deems necessary for the department to prepare the report in-house.

Under existing law, DRS must submit this report to the Finance, Revenue and Bonding committee by December 15 in odd-numbered years.

EFFECTIVE DATE: July 1, 2023

Included Taxes

Current law requires that the report provide, for the 10 most recent years for which complete data are available, the overall incidence of the income tax, sales and excise taxes, corporation business tax, and property tax. The bill additionally requires that it cover the pass-through entity (PE) tax and any other tax that generated at least $100 million in the fiscal year before the report's submission.

Incidence Projections and Tax Burden Distribution

By law, the report must include incidence projections for each included tax and present information on the tax burden distribution.

Under current law, the tax burden distribution for individual taxpayers must be reported by income classes, including income distribution by income deciles (i.e., every 10 percentage points) and for the top 1% and 5% of all income taxpayers. The bill additionally requires that the report include the distribution for the top 0.5% of all income taxpayers. The report must also include, for each income class, (1) the

population distribution; (2) the percentage of taxpayers who are homeowners, single, married, or seniors or who have children; and (3) the average home market value and the average monthly rent.

The bill also requires that the report include effective tax rates by population distribution expressed as (1) state taxes compared to local taxes and (2) taxes imposed on businesses compared to those imposed on individuals.

Additional Information

The bill requires that the report include information on the distribution of the following tax credits:

1. the property tax credit against the income tax, EITC, PE tax credit, and any other credit against the personal income tax that resulted in $25 million or more in lost revenue in the most recent fiscal year prior to the report's submission and

2. credits against any tax included in the report (other than personal income or property tax) that resulted in $25 million or more in lost revenue in the most recent fiscal year prior to the report's submission.

For property tax, it also requires that the report include information on the distribution between residential and commercial property and, for residential property, the distribution between renters and owners.

§ 27 — AMERICAN RESCUE PLAN ACT (ARPA) TRANSFER

Eliminates the FY 23 transfer of $314.9 million in ARPA funds to the General Fund

The bill eliminates the required transfer of $314.9 million in ARPA funds to the General Fund in FY 23.

EFFECTIVE DATE: Upon passage

BACKGROUND

Film and Digital Media Tax Credit (§§ 9 & 10)

The film and digital media tax credit is one of three credits under Connecticut's film industry tax credit program. The credit is available

to eligible production companies that incur at least $100,000 in eligible in-state expenses for qualified productions. The credit amount is based on total eligible expenses incurred and increases with more total expenses, as follows: (1) 10% for expenses of $100,000 to $500,000; (2) 15% for expenses exceeding $500,000, up to $1 million; and (3) 30% for expenses exceeding $1 million.

An eligible production company is one that produces a qualified production in Connecticut and (1) conducts at least 50% of principal photography days within the state or (2) spends at least 50% or $1 million of postproduction costs in the state. Qualified productions include documentaries, long-form specials, series, videos and music videos, and commercials.

Credits may be (1) claimed in the year the expenses were incurred or the next five income years or (2) sold, assigned, or transferred up to three times. The credits may be claimed against the corporation business and insurance premiums taxes at full face value and the community antenna television systems tax at a reduced value (generally 92%-95% of their face value).

Tax Credits for R&D Expenses (§ 11)

The law authorizes two corporation business tax credits for businesses incurring qualifying R&D expenses: the non-incremental R&D expenditures credit and the incremental R&E expenditures credit.

The R&D credit generally applies to R&D spending that a business incurs in the state to develop or improve a product and qualifying research payments it makes to nonprofit organizations (i.e., non-incremental R&D spending) (CGS § 12-217n). The tentative credit amount generally ranges from 1% for spending up to $50 million to 6% for spending over $200 million, except for eligible small businesses and certain companies headquartered in an enterprise zone.

The R&E credit applies to R&D spending that a business incurs in Connecticut that exceeds the amount it spent during the preceding income year (i.e., incremental R&D spending) (CGS § 12-217j). Eligible

businesses receive a credit equal to 20% of their incremental R&D spending.

"Measuring Municipal Fiscal Disparities in Connecticut" (§§ 16-21)

The New England Public Policy Center's study measured the fiscal disparities across Connecticut's municipalities by calculating each municipality's "cost-capacity gap" or the difference between the cost of providing non-school public services in a given municipality and the economic resources available to pay for those services. It measured costs and capacity not according to actual spending or revenues but according to factors that are outside local officials' direct control (e.g., unemployment rate and population density). Under the study, a positive gap indicates a municipality that lacks sufficient revenue-raising capacity to provide a given common level of municipal services, with larger gaps indicating a worse fiscal condition. A negative gap indicates that a municipality has a higher revenue-raising capacity to provide this common level of municipal services.

Related Bills

sSB 895 (File 33), reported favorably by the Environment and Finance, Revenue and Bonding committees, contains a similar provision requiring that deposit initiators keep all unclaimed beverage container deposits from July 1, 2023, to the end of the year (§ 12 of this bill).

sSB 1125 (File 300), reported favorably by the Labor and Public Employees Committee, contains the same apprenticeship data reporting requirements (§ 15 of this bill).

sSB 1236 (File 706), reported favorably by the Finance, Revenue and Bonding Committee, contains identical provisions on unclaimed beverage container deposits (§ 12 of this bill).

sHB 6921 (File 690), reported favorably by the Finance, Revenue and Bonding Committee, contains identical provisions on the construction apprenticeship tax credit (§§ 14 & 15 of this bill).

sHB 6922 (File 683), reported favorably by the Finance, Revenue and

Bonding committee, contains an identical provision on the business net operating loss carryforward period (§ 21 of this bill).

HB 6925 (File 714), reported favorably by the Finance, Revenue and Bonding Committee, contains an identical provision expanding the exemption for job-related personnel training (§ 13 of this bill).

HB 6927 (File 716), reported favorably by the Finance, Revenue and Bonding Committee, has identical provisions on the fixed capital investment tax credit (§ 22 of this bill).

HB 6929, reported favorably by the Finance, Revenue and Bonding Committee, contains identical provisions on the film and digital media tax credit and DECD reporting (§§ 9 & 10 of this bill).

HB 6932 (File 718), reported favorably by the Finance, Revenue and Bonding Committee, contains an identical provision increasing the refund for biotechnology companies (§ 11 of this bill).

Related Case — Fixed Capital Investment Credit (§ 24)

In *Marmon Wire & Gable, Inc.* v. *Commissioner of Revenue Services*, the plaintiff appealed a DRS decision to deny fixed capital investment tax credits for investments made by the corporation's wholly owned LLCs, arguing that it was entitled to all tax attributes of the subsidiaries because they are disregarded entities under federal tax law. In denying the plaintiff's motion for summary judgment, the Superior Court ruled that the fixed capital investment tax credit statute (CGS § 12-217w) allows a corporation to take a tax credit only for investments in fixed capital held and used by the corporation itself. Further, a corporation is not eligible for a credit solely based on a subsidiary LLC's investments even if the LLC is a disregarded entity under federal law (2022 WL 2302654 (June 27, 2022)).

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute
Yea 31 Nay 20 (04/19/2023)