



Senate

General Assembly

File No. 600

February Session, 2000

Substitute Senate Bill No. 450

Senate, April 13, 2000

The Committee on Finance, Revenue and Bonding reported through SEN. LOONEY of the 11th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

An Act Concerning Urban And Industrial Site Reinvestment.

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

1 Section 1. (NEW) (a) As used in this section:

2 (1) "Commissioner" means the Commissioner of Economic and
3 Community Development.

4 (2) "Eligible industrial site investment project" means an investment
5 made in real property, or in improvements to real property, located
6 within this state: (A) (i) That has been subject to a "spill", as defined in
7 section 22a-452c of the general statutes, (ii) is an "establishment", as
8 defined in subdivision (3) of section 22a-134 of the general statutes, as
9 amended, or (iii) is a "facility", as defined in 42 USC 9601(9); (B) that, if
10 remediated, renovated or demolished in accordance with applicable
11 law and regulations and used for business purposes, may add
12 significant new economic activity and employment in the municipality

13 in which the investment is to be made, and may generate additional
14 tax revenues to the state; (C) for which the use of the urban and
15 industrial site reinvestment program may be necessary to attract
16 private investment to the project; and (D) the business use of which is
17 economically viable and generates direct and indirect economic
18 benefits to the state that exceeds the amount of the investment during
19 the period for which the tax credits granted pursuant to this act are
20 granted.

21 (3) "Eligible urban reinvestment project" means an investment: (A)
22 That adds significant new economic activity and new jobs in a new
23 facility in the eligible municipality in which the investment is to be
24 made, and may generate significant additional tax revenues to the state
25 or the municipality; (B) for which the use of the urban and industrial
26 site reinvestment program may be necessary to attract private
27 investment to an eligible municipality; (C) that is economically viable;
28 (D) for which the direct and indirect economic benefits to the state
29 outweigh the costs of the investment; and (E) that is consistent with the
30 strategic economic development priorities of the state and the
31 municipality.

32 (4) "Related person" means: (A) A corporation, limited liability
33 company, partnership, association or trust controlled by the taxpayer;
34 (B) an individual, corporation, limited liability company, partnership,
35 association or trust that is in control of the taxpayer; (C) a corporation,
36 limited liability company, partnership, association or trust controlled
37 by an individual, corporation, limited liability company, partnership,
38 association or trust that is in control of the taxpayer; or (D) a member
39 of the same controlled group as the taxpayer. For purposes of this
40 section, "control", with respect to a corporation, means ownership,
41 directly or indirectly, of stock possessing fifty per cent or more of the
42 total combined voting power of all classes of the stock of such
43 corporation entitled to vote. "Control", with respect to a trust, means
44 ownership, directly or indirectly, of fifty per cent or more of the

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

53 (5) "Investment" means all amounts invested in a project by a
54 taxpayer.

55 (6) "Income year" means (A) with respect to corporations subject to
56 taxation under chapter 208 of the general statutes, the income year as
57 determined under said chapter 208, and (B) with respect to insurance
58 companies, hospital and medical services corporations subject to
59 taxation under chapter 207 of the general statutes, the income year as
60 determined under said chapter 207.

61 (7) "Taxpayer" means any person, as defined in section 12-1 of the
62 general statutes, whether or not subject to any taxes levied by this
63 state.

64 (8) "New job" means a job that did not exist in the business of a
65 subject business in this state prior to the subject business' application
66 to the commissioner for an eligibility certificate under this section for a
67 new facility and that is filled by a new employee, but does not mean a
68 job created when an employee is shifted from an existing location of
69 the subject business in this state to a new facility.

70 (9) "New employee" means a person hired by a subject business to
71 fill a position for a new job or a person shifted from an existing
72 location of the subject business outside this state to a new facility in
73 this state, provided (A) in no case shall the total number of new
74 employees allowed for purposes of this credit exceed the total increase

75 in the taxpayer's employment in this state, which increase shall be the
76 difference between (i) the number of employees employed by the
77 subject business in this state at the time of application for an eligibility
78 certificate to the commissioner plus the number of new employees
79 who would be eligible for inclusion under the credit allowed under
80 this section without regard to this calculation, and (ii) the highest
81 number of employees employed by the subject business in this state in
82 the year preceding the subject business' application for an eligibility
83 certificate to the commissioner, and (B) a person shall be deemed to be
84 a "new employee" only if such person's duties in connection with the
85 operation of the facility are on a regular, full-time, or equivalent
86 thereof, and permanent basis.

87 (10) "New facility" means a facility which (A) is acquired by, leased
88 to, or constructed by, a subject business on or after the date of the
89 subject business' application to the commissioner for an eligibility
90 certificate under this section, unless, upon application of the subject
91 business and upon good and sufficient cause shown, the commissioner
92 waives the requirement that such activity take place after the
93 application, and (B) was not in service or use during the one-year
94 period immediately prior to the date of the subject business'
95 application to the commissioner for an eligibility certificate under this
96 section, unless upon application of the subject business and upon good
97 and sufficient cause shown, the commissioner consents to waiving the
98 one-year period.

99 (11) "Eligible municipality" means (A) a municipality with an area
100 designated as an enterprise zone pursuant to section 32-70 of the
101 general statutes, (B) a distressed municipality, as defined in subsection
102 (b) of section 32-9p of the general statutes, or (C) a municipality that
103 has a population in excess of one hundred thousand.

104 (12) "Cluster" means three or more subject businesses in the state
105 that are involved in interrelated businesses and that are located in

106 close proximity to each other relative to the need for interaction of the
107 subject businesses.

108 (13) "Eligible project" means an eligible urban reinvestment project
109 or an eligible industrial site investment project or both.

110 (14) "Approved investment" means an investment approved by the
111 commissioner under subsection (f) of this section.

112 (15) "Recapture amount" means the amount by which the approved
113 investment exceeds the amount of state revenue generated by the
114 approved investment.

115 (16) "Pro rata share" means the percentage of the amount invested
116 by an individual investor in an approved investment bears to the total
117 amount of the approved investment actually invested in the project, or
118 in the case of a taxpayer to whom credits are transferred under this
119 section, the percentage of the amount of credits transferred bears to the
120 total amount of the approved investment actually invested in the
121 project.

122 (b) There is established an urban and industrial site reinvestment
123 program under which taxpayers who invest in eligible urban
124 reinvestment projects or eligible industrial site investment projects
125 may be allowed a credit against the tax imposed under chapter 207 or
126 208 of the general statutes or section 38a-743 of the general statutes, or
127 a combination of said taxes, in an amount equal to the percentage of
128 their investment determined in accordance with subsection (i) of this
129 section.

130 (c) No project shall be deemed an eligible project unless such project
131 shall, in the judgment of the commissioner, be of sufficient size to
132 generate a substantial return to the state economy.

133 (d) Any taxpayer wishing to make an investment under the
134 provisions of this section shall apply to the commissioner in

135 accordance with the provisions of this section. The application shall
136 contain sufficient information to establish that the investment is an
137 eligible industrial site investment project or an urban reinvestment
138 project, as appropriate, concerning the type of investment proposed to
139 be made, its location, the number of jobs to be created or retained,
140 physical infrastructure that might be created or preserved, feasibility
141 studies or business plans for the investment, projected revenue the
142 state might derive as a result of the investment and other information
143 necessary to demonstrate the financial viability of the investment and
144 to demonstrate that the investment will provide net benefits to the
145 economy of, and employment for citizens of, the municipality and the
146 state. The commissioner shall impose a fee for such application as the
147 commissioner deems appropriate.

148 (e) (1) The commissioner shall determine whether the proposed
149 investment is an eligible urban reinvestment project or an eligible
150 industrial site investment project, whether the investment is
151 economically viable only with use of the urban and industrial site
152 reinvestment program, the effects of the project on the municipality
153 where the investment will be made and whether the project would
154 provide a net benefit to economic development and employment
155 opportunities in the state. The commissioner may require the taxpayer
156 to submit such additional information as may be necessary to evaluate
157 the application.

158 (2) The commissioner shall prepare a revenue impact assessment
159 that estimates the state and local revenue that would be generated as a
160 result of the investment. The commissioner may prepare an economic
161 feasibility study relative to such investment. The commissioner may
162 retain any such persons as the commissioner deems appropriate to
163 conduct such revenue impact assessment or economic feasibility study.

164 (f) (1) The commissioner, upon consideration of the application, the
165 revenue impact assessment and any additional information that the

166 commissioner requires concerning a proposed investment, may
167 approve an investment only if the commissioner concludes that the
168 investment is an eligible urban reinvestment project or an eligible
169 industrial site investment project. The commissioner shall approve the
170 application if the taxpayer has demonstrated eligibility. If the
171 commissioner rejects an application, the commissioner shall
172 specifically identify the defects in the application and specifically
173 explain the reasons for the rejection. The commissioner shall render a
174 decision on an application not later than sixty days from its receipt.
175 Failure to render a decision within sixty days shall be deemed an
176 approval of the application. The amount of the investment so
177 approved shall not exceed the amount of state revenue, reduced by
178 any tax credits, that will be generated pursuant to the revenue impact
179 assessment prepared under this subsection.

180 (2) The approval of an investment by the commissioner may be
181 combined with the exercise of any of the commissioner's other powers,
182 including, but not limited to, the provision of other forms of financial
183 assistance.

184 (3) Upon approving an investment, the commissioner may require
185 the applicant to reimburse the commissioner for all or any part of the
186 cost of any revenue impact assessment used in reviewing the
187 application.

188 (g) Upon approving an investment, the commissioner shall issue a
189 certificate of eligibility certifying that the applicant has complied with
190 the provisions of this section.

191 (h) (1) There shall be allowed as a credit against the tax imposed
192 under chapter 207 or 208 of the general statutes or section 38a-743 of
193 the general statutes an amount equal to the following percentage of the
194 moneys of the taxpayer invested in an eligible urban investment or
195 eligible industrial site investment approved by the commissioner with
196 respect to the following income years of the taxpayer: (A) With respect

197 to the income year in which the investment in the eligible urban
198 reinvestment project or eligible industrial site investment project was
199 made and the two next succeeding income years, zero per cent; (B)
200 with respect to the third full income year succeeding the year in which
201 the investment in the eligible urban reinvestment project or eligible
202 industrial site investment project was made and the three next
203 succeeding income years, ten per cent; (C) with respect to the seventh
204 full income year succeeding the year in which the investment in the
205 eligible urban reinvestment project or eligible industrial site
206 investment project was made and the next two succeeding years,
207 twenty per cent. The sum of all tax credits granted pursuant to the
208 provisions of this section shall not exceed fifty million dollars with
209 respect to a single eligible urban reinvestment project or a single
210 eligible industrial site investment project approved by the
211 commissioner.

212 (2) Notwithstanding the provisions of subdivision (1) of this
213 subsection, any applicant may, at the time of application, apply to the
214 commissioner for a credit that exceeds the limitations established by
215 this subsection. The commissioner shall evaluate the benefits of such
216 application and make recommendations to the General Assembly if
217 said commissioner determines that the proposal would be of economic
218 benefit to the state.

219 (3) Notwithstanding the provisions of subdivision (1) of this
220 subsection, in any case in which, upon consideration of an application
221 for approval of an investment or upon consideration of the
222 reinstatement of a certificate of eligibility under subsection (p) of this
223 section, the commissioner determines that the state revenue generated
224 by the investment shall not exceed the amount of the investment, the
225 commissioner may approve a grant of credits on a different schedule
226 or of a different amount than that set forth in said subdivision (1),
227 provided in no case shall the amount of such credits exceed the
228 amount of state revenue the commissioner determines will be

229 generated by such investment.

230 (i) The credits allowed by this section may be claimed by a taxpayer
231 who has made an investment directly only if such investment has a
232 total asset value of not less than twenty million dollars.

233 (j) Each taxpayer claiming the credit allowed under this section shall
234 submit to the Commissioner of Revenue Services a copy of the
235 eligibility certificate issued under subsection (h) of this section with its
236 tax return for each taxable year for which a credit is claimed.

237 (k) (1) The Commissioner of Revenue Services may treat one or
238 more corporations that are properly included in a combined
239 corporation business tax return under section 12-223a of the general
240 statutes as one taxpayer in determining whether the appropriate
241 requirements under this section are met. Where corporations are
242 treated as one taxpayer for purposes of this subsection, then the credit
243 shall be allowed only against the amount of the combined tax for all
244 corporations properly included in a combined return that, under the
245 provisions of subdivision (2) of this subsection, is attributable to the
246 corporations treated as one taxpayer.

247 (2) The amount of the combined tax for all corporations properly
248 included in a combined corporation business tax return that is
249 attributable to the corporations that are treated as one taxpayer under
250 the provisions of this subsection shall be in the same ratio to such
251 combined tax that the net income apportioned to this state of each
252 corporation treated as one taxpayer bears to the net income
253 apportioned to this state, in the aggregate, of all corporations included
254 in such combined return. Solely for the purposes of computing such
255 ratio, any net loss apportioned to this state by a corporation treated as
256 one taxpayer or by a corporation included in such combined return
257 shall be disregarded.

258 (l) Any taxpayer allowed a credit under this section may assign such

259 credit to another person, provided such person may claim such credit
260 only with respect to a calendar year for which the assigning taxpayer
261 would have been eligible to claim such credit. The taxpayer shall file
262 with the Commissioner of Revenue Services information requested by
263 the commissioner regarding such assignments, including, but not
264 limited to, the current holders of credits as of the end of the preceding
265 calendar year.

266 (m) No taxpayer shall be eligible for a credit under (1) this section,
267 and (2) section 12-217e or 38a-88a of the general statutes, for the same
268 investment. No two taxpayers shall be eligible for any tax credit with
269 respect to the same investment, employee or facility.

270 (n) Any credit not used in the income year for which it was allowed
271 may be carried forward for the five immediately succeeding income
272 years until the full credit has been allowed.

273 (o) Any tax credits approved under this section that would
274 constitute in excess of fifteen million dollars in total for a single
275 investment shall be submitted to the General Assembly for approval. If
276 such submission is not disapproved by the House of Representatives
277 or the Senate, or both, within thirty days of the submission date, such
278 credits shall be deemed approved.

279 (p) Not later than July first in each year that credits allowed by this
280 section are claimed by a taxpayer with respect to an approved
281 investment, the commissioner may retain such persons as said
282 commissioner may deem appropriate to conduct a study to estimate
283 the state revenue that is being and will be generated by such
284 investment. Such economic impact study shall determine whether the
285 state revenue actually generated by such investment is equal to the
286 estimate of state revenue made at the time such investment was
287 approved. If the sum of all state revenue actually generated by such
288 investment is less than the amount of the total sum of tax credits
289 claimed on the date of such analysis, the commissioner may determine

290 from the person retained pursuant to this subsection the applicable
291 recapture amount and may revoke the certificate of eligibility issued
292 under subsection (g) of this section. The commissioner may require the
293 taxpayer or the fund manager that made such approved investment to
294 reimburse the commissioner for all or any part of the cost of any
295 economic impact study performed under this subsection.

296 (q) (1) Any taxpayer which has claimed credits allowed by this
297 section related to an investment concerning which the commissioner
298 has revoked the certificate of eligibility issued under subsection (g) of
299 this section, shall be required to recapture such taxpayer's pro rata
300 share of the recapture amount as determined under the provisions of
301 subdivision (2) of this subsection and no subsequent credit shall be
302 allowed unless such certificate of eligibility is reinstated under the
303 provisions of subdivision (3) of this subsection.

304 (2) If the taxpayer is required under the provisions of subdivision
305 (1) of this subsection to recapture its pro rata share of the recapture
306 amount during (A) the first year such credit was claimed, then ninety
307 per cent of such share shall be recaptured on the tax return required to
308 be filed for such year, (B) the second of such years, then sixty-five per
309 cent of such share shall be recaptured on the tax return required to be
310 filed for such year, (C) the third of such years, then fifty per cent of
311 such share shall be recaptured on the tax return required to be filed for
312 such year, (D) the fourth of such years, then thirty per cent of such
313 share shall be recaptured on the tax return required to be filed for such
314 year, (E) the fifth of such years, then twenty per cent of such share
315 shall be recaptured on the tax return required to be filed for such year,
316 and (F) the sixth or subsequent of such years, then ten per cent of such
317 share shall be recaptured on the tax return required to be filed for such
318 year. The Commissioner of Revenue Services may recapture such share
319 from the taxpayer who has claimed such credits. If the commissioner is
320 unable to recapture all or part of such share from such taxpayer, the
321 commissioner may seek to recapture such share from any taxpayer

322 who has assigned credits in an amount at least equal to such share to
 323 another taxpayer. If the commissioner is unable to recapture all or part
 324 of such share from any such taxpayer, the commissioner may
 325 recapture such share from any fund through which the investment was
 326 made.

327 (3) If the commissioner has revoked the certificate of eligibility
 328 issued under subsection (g) of this section, such certificate of eligibility
 329 shall be reinstated by the commissioner if, upon a request made by the
 330 taxpayer who made such approved investment, an economic impact
 331 study conducted pursuant to subsection (p) of this section shall
 332 determine that the sum of all state revenue actually generated by such
 333 investment is greater than the amount of the total sum of tax credits
 334 claimed on the date of such analysis, provided no such request shall be
 335 made pursuant to this subsection during the calendar year in which
 336 such certificate was revoked. For the purpose of determining whether
 337 such certificate shall be reinstated, the commissioner shall, upon
 338 receipt of a request made under this subsection, obtain one such
 339 economic impact study per calendar year and may obtain additional
 340 such economic impact studies as the commissioner deems appropriate.

341 Sec. 2. This act shall take effect July 1, 2000.

Statement of Legislative Commissioners:

Changes were made throughout the bill for consistency with the general statutes and to correct errors in grammar.

CE Committee Vote: Yea 26 Nay 0 JFS C/R FIN

FIN Committee Vote: Yea 40 Nay 3 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: See Explanation Below

Affected Agencies: Department of Economic and Community Development, Department of Revenue Services

Municipal Impact: See Explanation Below

Explanation

State Impact:

Because the bill provides that the amounts of credits in no case may exceed the amount of state revenue the Commissioner of Economic and Community Development determines will be generated by the investment, the revenue loss from the credits is expected to be offset by the tax revenue from the new investment.

Additional costs will be incurred by the Department of Economic and Community Development (DECD) for the consideration of applications for the urban and industrial site reinvestment program. These costs are estimated at \$3,000 to \$5,000 per application. Although DECD can impose a fee, there is no provision for the fee to be retained by the agency, and therefore the fee revenue in an amount similar to their costs would be deposited in the General Fund. Revenue impact statements are estimated to cost \$15,000 per project. The Commissioner can be reimbursed for these costs.

Municipal Impact:

To the extent that sites are cleaned up and improvements to properties are made that would not have occurred without the tax credit incentives, municipalities are expected to have a grand list increase.

OLR Bill Analysis

sSB 450

AN ACT CONCERNING URBAN AND INDUSTRIAL SITE REINVESTMENT.**SUMMARY:**

This bill authorizes tax credits to businesses that develop new facilities in designated towns or invest in the redevelopment of contaminated or potentially contaminated properties anywhere in the state. In both cases, the investments must generate substantial economic benefits.

A business must invest at least \$20 million in the facility or the property to qualify for up to \$50 million in credits. The revenue generated by the investment must exceed the amount invested plus the value of the credits. The business must claim the credits according to the 10-year schedule the bill specifies. If the business cannot use any credits during a year, it can carry them forward for the next five years. It can assign credits to other businesses.

Businesses must apply to the economic and community development commissioner for credits in the manner the bill specifies. The commissioner must determine if the proposed project meets the bill's eligibility criteria and assess its potential economic impact. He can adjust the schedule for claiming the credits and the credit amounts if the projected revenue does not exceed the investment. He can also provide loans, grants, or other types of assistance under existing programs. He must submit applications requesting more than \$15 million in credits to the legislature for approval.

The bill specifies the procedure businesses must follow when claiming credits and requires them to repay the credits if the project fails to generate the projected revenue. Businesses must recapture the credits on their tax returns according to the schedule the bill specifies.

EFFECTIVE DATE: July 1, 2000

CREDIT AMOUNTS

The bill allows businesses to claim up to \$50 million in tax credits for the amounts they invest in developing new facilities or contaminated or potentially contaminated properties. The credits apply to the insurance premium; corporate business; and insurance companies, hospitals, and medical services taxes. The legislature may approve credits for more than \$50 million if the commissioner determines that it would benefit the state.

The credits equal 100% of the invested amount spread out over 10 years from when it was made. A business can begin claiming the credits three years after that date. It can claim 10% per year during the next four years and 20% during the last three.

The bill allows businesses to carry forward tax credits under the conditions discussed below. A business can carry forward the credits for the next five tax years until the full amount is used.

The commissioner can change this schedule if he determines that the project will not generate enough state revenue to exceed the investment. He can also allow the business to claim credits only for a portion of the amount it invested. The commissioner can take these actions when a business first applies for credits or when it reapplies for them after he revoked its eligibility.

ELIGIBILITY REQUIREMENTS

Urban Reinvestment Projects

Businesses also qualify for credits for investing in the redevelopment of facilities in designated towns. A facility qualifies if:

1. The business acquired, leased, or constructed it on or after the date the business applied to the commissioner for tax credits and
2. the facility had not been used during the one-year period before the business applied for them.

The bill allows the commissioner to waive both conditions if the business can show good cause.

The facility must also be located in a town with an enterprise zone (17 towns), a state-designated “distresses municipality” (25 towns, which include 11 with enterprise zones), or a town with more than 100,000 people (five towns, each of which has an enterprise zones).

The project must meet essentially the same economic benefit criteria that apply to industrial site investment projects. It must create new jobs, and the business must fill them with new hires or current employees who were transferred from other states. The employees holding these jobs must do so on a permanent, regular, and full-time or full-time equivalent basis.

The bill specifies a formula for limiting the total number of new employees the business can count when calculating the tax credit amount, but does not base the credits on the number of new employees working at the facility. Under this formula, the total number of new employees cannot exceed the difference between (1) number of employees working for the business when it applied for the credit plus the number of new employees that count toward the credit and (2) the highest number of employees working for the business during the year before the business applied for the credit.

The business must show that it may not be able to redevelop the facility without tax credits. It must also show that the redeveloped facility will be economically viable and generate benefits that exceed the investment.

Lastly, the business must show that the project is consistent with the state’s and the town’s strategic economic development priorities.

Industrial Site Projects

Businesses qualify for credits for investing in the redevelopment of a property where hazardous materials were produced, stored, or discharged. They must show that they may not be able to do this without the credits and that the business located on the redeveloped property will be economically viable and generate direct and indirect economic benefits to the state’s economy. These benefits must exceed

the investment during the 10-year period for claiming the credits.

Economic Impact

The bill prohibits the commissioner from approving an otherwise eligible project unless he determines that it is large enough to generate a substantial return to the state's economy.

APPLYING FOR CREDITS

Businesses must apply to the commissioner for tax credits. In doing so, they must:

1. show that the proposed project meets the bill's criteria,
2. describe the type of investment they propose to make,
3. indicate the project's location,
4. identify the number of jobs the project will create or retain,
5. describe the physical infrastructure that may be created or preserved,
6. provide feasibility studies or business plans,
7. estimate the amount of state revenue the project will generate, and
8. provide other information demonstrating the project's financial viability and showing how it will benefit the state's economy and create jobs for residents of the town and the state.

The commissioner must charge an application fee in an amount he decides is appropriate.

COMMISSIONER REVIEW AND APPROVAL

Determining Project Eligibility

The commissioner must determine if the project meets the eligibility criteria and needs the credits in order to be economically viable. He must also determine how the project will affect the town and the extent to which it will create new jobs and produce other economic benefits. The commissioner can require the business to provide any additional information he needs in order to evaluate its application.

Revenue Impact Assessment

The commissioner must prepare a revenue impact assessment that estimates the state and local taxes the project will generate. He can charge the business for the assessment if he subsequently approves the application. The commissioner can also study the project's economic feasibility. He can hire people to prepare these studies.

The commissioner must use the revenue impact assessment to determine the portion of the investment that qualifies for the tax credits. That portion cannot exceed the projected revenue minus the value of the tax credits.

Approval Deadline and Requirements

The bill contains two apparently conflicting provisions regarding the commissioner's power to approve a project. It allows him to approve an investment only if he decides that the property meets the bill's criteria. But it also requires him to approve the application for tax credits if the business demonstrates eligibility. When deciding whether to approve a project, he must consider the information contained in the application, the revenue impact assessment, and any additional information he required.

The commissioner must decide whether to approve the application within 60 days after he receives it. If he rejects the application, he must identify the its defects and explain the reasons for rejecting it. He must issue a certificate of eligibility if he approves the application. The application is automatically approved if the commissioner fails to act within the 60-day period. But it is not clear if he must issue an eligibility certificate if he misses the 60-day deadline.

The commissioner can use his existing powers when approving the application. These include extending other types of economic development assistance, such as grants, loans, and loan guarantees.

GENERAL ASSEMBLY APPROVAL

The commissioner must submit applications requesting over \$15 million in credits to the General Assembly, which then has 30 days to act on them. The application is approved if both chambers approve

it. It is automatically approved if both chambers fail to act. If the request exceeds \$50 million, the commissioner must state if the project would benefit the state's economy.

CLAIMING CREDITS

Eligibility Certificate

The bill specifies how businesses must claim the credits. A business must submit a copy of the eligibility certificate with its tax return for each year it claims credits.

Businesses claiming credits for an investment under the bill cannot claim credits that are also available to it under the Enterprise Zone and Connecticut Insurance Reinvestment Fund programs. But it appears that they can claim credits available for investing in "service facilities" located outside of enterprise zones in towns with the zones if their investment qualifies for credits under this program. The bill prohibits two businesses from claiming credits for the same investment, employee, or facility.

Combined Returns

The revenue services commissioner can treat businesses filing a combined return as one taxpayer when determining if they meet the bill's requirements. In these cases, the credit applies only to the amount of the combined tax attributable to the businesses as a single taxpayer. The combined tax attributed to a business must be in proportion to its share of the net income apportioned to Connecticut. The business must disregard any net loss apportioned to Connecticut when computing its share of net income.

ASSIGNING CREDITS

The bill allows businesses to assign their credits to other businesses, which can claim them only during the same tax year that the assigning business could have claimed credits. The businesses receiving the credits must give the revenue services commissioner information about the assignment, including the names of the businesses that held the credit at the end of the previous calendar year, if he requests it.

RECAPTURING CREDITS

Revenue Study

Businesses must recapture the credits if the project fails to generate the projected revenue. The economic and community development commissioner must annually determine if each project generated the projected revenue. He can hire people by July 1 annually that he needs to prepare this analysis and charge the business or the fund manager that made the investment for the cost.

Recapture Amounts

The business must recapture its pro rata share of the total amount that must be recaptured. It can claim no more credits unless the commissioner reinstates its eligibility certificate. The pro rata share is the amount of the approved investment that was actually invested in the project. The business's pro rata share is its share of the actual investment.

The business must recapture its pro rata share of the credits on its tax return. The size of the share depends on the year in which the business must recapture the credits. It must recapture 90% of its share if the commissioner requires recapture during the first year it claimed the credit. The share decreases for the subsequent years as follows: 65% for the second year, 50% for the third, 30% for the fourth, 20% for the fifth, and 10% for years six through 10. As noted above, the business receives no credit for the first three years, 10% for years four through seven, and 20% for years eight through 10.

The revenue services commissioner can recapture these shares from the taxpayer who claimed the credits. If he cannot recapture all or part of the share because the credits that were assigned to another business, then the commissioner can recapture the credits from the business that assigned them. The recapture amount must at least equal the share that was assigned. The bill specifies that the commissioner can also recapture shares from any fund through which an investment was made even though funds do not explicitly qualify for credits.

Reinstating Eligibility Certificates

A business can ask the commissioner to reinstate its certificate. He must conduct a new economic impact assessment and reinstate the credit if the amount of state revenue the project is generating exceeds the total value of the credits the business claimed as of the date of the study. The business cannot request reinstatement during the year in which the commissioner revokes its certificate. The commissioner must conduct the assessment each subsequent year and obtain other economic analyses he needs.

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute Change of Reference
Yea 26 Nay 0

Finance, Revenue and Bonding Committee

Joint Favorable Substitute
Yea 40 Nay 3