



General Assembly

January Session, 2001

Raised Bill No. 6675

LCO No. 3640

Referred to Committee on Commerce

Introduced by:
(CE)

AN ACT CONCERNING BROWNFIELD REDEVELOPMENT.

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

1 Section 1. (NEW) As used in sections 1 to 6, inclusive, of this act,
2 section 12-412 of the general statutes, as amended by this act, section
3 12-81 of the general statutes, as amended by this act, subsection (a) of
4 section 12-81r of the general statutes, as amended by this act, section
5 32-23qq of the general statutes, as amended by this act, section 11 of
6 this act and subsection (a) of section 22a-452 of the general statutes, as
7 amended by this act:

8 (1) "Authority" means the Connecticut Development Authority.

9 (2) "Brownfield" means an abandoned, idled or under-used
10 industrial or commercial facility or site where development, financing,
11 expansion or redevelopment is complicated by real or perceived
12 environmental contamination.

13 (3) "Brownfield investment" means all amounts invested in a
14 brownfield redevelopment, whether directly or through a corporation
15 or investment trust or fund, on behalf of a taxpayer or brownfield

16 redeveloper.

17 (4) "Brownfield redevelopment site" means any commercial,
18 industrial or residential real property, improvements, or vacant
19 commercial plants, as defined in section 8-187 of the general statutes,
20 that (A) has been subject to a spill, as defined in section 22a-452c of the
21 general statutes; (B) is an establishment, as defined in subdivision (3)
22 of section 22a-134 of the general statutes; (C) is a "facility", as defined
23 in 42 USC 9601(9); or (D) is functionally obsolete property.

24 (5) "Brownfield redeveloper" means any person, including a
25 brownfield redevelopment corporation, who has assumed
26 responsibility and liability for undertaking and completing a
27 brownfield redevelopment.

28 (6) "Brownfield redevelopment" means the remediation, in
29 accordance with regulations by the Commissioner of Environmental
30 Protection, renovation, development or improvement of a brownfield
31 or a brownfield redevelopment site.

32 (7) "Brownfield redevelopment corporation" means any corporation,
33 investment trust or partnership created after the effective date of this
34 act by any person, including, but not limited to, a municipality,
35 regional council of governments, regional growth partnership,
36 metropolitan district commission or nonprofit corporation organized
37 for the purpose of purchasing, managing, leasing, or developing a
38 brownfield or undertaking brownfield redevelopment in accordance
39 with the provisions of sections 1 to 6, inclusive, of this act, section 12-
40 412 of the general statutes, as amended by this act, section 12-81 of the
41 general statutes, as amended by this act, subsection (a) of section 12-
42 81r of the general statutes, as amended by this act, section 32-23qq of
43 the general statutes, as amended by this act, section 11 of this act and
44 subsection (a) of section 22a-452 of the general statutes, as amended by
45 this act.

46 (8) "Brownfield redevelopment facility" means a brownfield

47 redevelopment site that a brownfield redeveloper has certified to the
48 commissioner as (A) having a plan for renovation, development or
49 improvement that has been substantially completed, and (B) having a
50 remedial action plan deemed to be complete by the Department of
51 Environmental Protection or by a licensed environmental professional,
52 except for groundwater monitoring as required by subsection (g) of
53 section 22a-133k-3 of the Regulations of Connecticut State Agencies.

54 (9) "Brownfield redevelopment income" means any income received
55 by a taxpayer and attributable to an eligible brownfield redevelopment
56 project.

57 (10) "Brownfield redevelopment period" means the ten-year period
58 which begins with the first taxable year, or portion thereof, in which a
59 brownfield redevelopment is commenced by the taxpayer.

60 (11) "Captured taxable value" means the amount by which the
61 expected taxable value of a brownfield redevelopment facility exceeds
62 the present taxable value of an existing brownfield redevelopment site
63 over the proposed term of a tax increment financing. As used in this
64 subdivision, "expected taxable value" means the sum of all taxes levied
65 by each taxing jurisdiction in the state including, but not limited to,
66 taxes on real property, personal property, fixtures, equipment,
67 corporate income and services, sales taxes on construction activities
68 and materials associated with the brownfield redevelopment and any
69 payments made in lieu of taxes. The department shall adopt
70 regulations, in accordance with the provisions of chapter 54 of the
71 general statutes, establishing a method for calculating captured taxable
72 value that is consistent with generally accepted tax increment
73 financing principles. Not more than ninety days after the effective date
74 of this act the department shall commence the process of adoption of
75 such regulations.

76 (12) "Commissioner" means the Commissioner of Economic and
77 Community Development.

78 (13) "Department" means the Department of Economic and
79 Community Development.

80 (14) "Eligible brownfield redevelopment project" means a
81 brownfield redevelopment or a brownfield redevelopment facility that,
82 based on a development plan prepared by the brownfield redeveloper
83 and submitted to the commissioner, (A) may add new economic
84 activity and employment in the state, (B) can be expected to generate
85 new state tax revenue, (C) can be expected to produce an economically
86 viable brownfield redevelopment facility, and (D) will generate direct
87 and indirect economic benefits to the state that will exceed the amount
88 of the brownfield investment.

89 (15) "Eligible municipality" means (A) a municipality with an area
90 designated as an enterprise zone pursuant to section 32-70 of the
91 general statutes; (B) a distressed municipality, as defined in subsection
92 (b) of section 32-9p of the general statutes; (C) a municipality in an
93 enterprise corridor zone; (D) a municipality with a high density of
94 brownfield properties, brownfield redevelopment facilities or sites; or
95 (E) any municipality with a population in excess of seventy-five
96 thousand.

97 (16) "Eligible property" means any brownfield redevelopment site
98 that is owned or operated by a brownfield redeveloper, a municipality,
99 a municipal brownfield redeveloper or a brownfield redevelopment
100 corporation and includes any personal property that may be or is
101 located thereon.

102 (17) "Functionally obsolete property" means property that cannot be
103 used to adequately perform the function for which it was intended due
104 to a substantial loss in value resulting from factors such as over
105 capacity, changes in technology, deficiencies or inadequacies in design
106 or other similar factors that affect the property itself or the property's
107 relationship with other surrounding property.

108 (18) "Gain on a brownfield redevelopment facility" means the net

109 gain recognized from the sale or exchange of a brownfield
110 redevelopment facility.

111 (19) "High density" means brownfield properties, facilities or sites in
112 a municipality that comprise three per cent or more of the total
113 industrial or commercial acreage of the municipality.

114 (20) "High technology brownfield redevelopment income" means
115 income from a high technology brownfield redevelopment project.

116 (21) "High technology brownfield redevelopment project" means a
117 brownfield redevelopment or brownfield redevelopment facility (A) in
118 which twenty per cent or more of the commercially useable floor space
119 is dedicated to biotechnology or to Internet and e-commerce business
120 use, (B) which constructs or renovates existing buildings to
121 accommodate broadband or other new communication technologies,
122 or (C) is a business engaged in cluster or cluster related activities as
123 identified in the report prepared by the Commissioner of Economic
124 Development under section 32-4g of the general statutes.

125 (22) "Infrastructure improvements" means a street, road, sidewalk,
126 parking facility, pedestrian mall, alley, bridge, sewer, sewage
127 treatment plant or other improvement designed to reduce or prevent
128 the spread of identified soil or groundwater contamination, drainage
129 system, waterway, waterline, water storage facility, rail line, utility
130 line, fiber optic cable or pipeline or other similar or related structure or
131 improvement, together with necessary easements for the structure or
132 improvement, owned or used by a public agency or functionally
133 connected to similar or supporting property owned or used by a public
134 agency, or designed and dedicated to use by, for the benefit of, or for
135 the protection of the health, welfare or safety of the public generally,
136 whether or not used by a single business entity, provided that any
137 road, street or bridge shall be continuously open to public access and
138 that other property shall be located in public easements or rights-of-
139 way and sized to accommodate reasonably foreseeable development of
140 eligible property in adjoining areas.

141 (23) "Municipal brownfield developer" means any municipality,
142 regional council of governments, regional growth partnership or other
143 public, nonprofit entity that engages in or funds an eligible brownfield
144 redevelopment project.

145 (24) "Municipality" means any municipal corporation.

146 (25) "Tax increment revenues" means the amount of property taxes
147 and specific taxes attributable to the application of the levy of all
148 taxing jurisdictions in the state upon the captured taxable value of each
149 brownfield redevelopment site or brownfield redevelopment facility,
150 including all personal property located thereon, excluding (A) tax
151 increment property taxes specifically levied for the payment of
152 principal of and interest on either obligations approved by the electors
153 or obligations pledging the unlimited taxing power of the local
154 governmental unit, and specific taxes attributable to those property
155 taxes, and (B) the amount of property taxes or specific captured tax
156 value by a downtown development authority, tax increment finance
157 authority, or local development finance authority if such taxes were
158 captured on the date that eligible property became a brownfield
159 redevelopment site.

160 (26) "Taxpayer" means any person subject to tax imposed under
161 chapter 207, 208, 209, 210, 211, 212, 212a or 229 of the general statutes
162 or section 38a-743 of the general statutes.

163 Sec. 2. (NEW) (a) For each year during the brownfield
164 redevelopment period, there shall be allowed the following credits: (1)
165 For the brownfield redeveloper of an eligible brownfield
166 redevelopment project, a credit in an amount equal to sixty-five per
167 cent, and for a brownfield redeveloper of an eligible high technology
168 brownfield redevelopment project, a credit in the amount of seventy-
169 five per cent, against any tax imposed under chapter 207, 208, 209, 210,
170 211, 212, 212a or 229 of the general statutes or section 38a-743 of the
171 general statutes, or against any tax liability that is attributable to any
172 gain on a brownfield redevelopment facility; (2) a credit of twenty per

173 cent on any tax liability attributable to a taxpayer as a result of
174 brownfield redevelopment income tax liability; (3) a credit of forty per
175 cent on any tax liability attributable to a taxpayer as a result of high
176 technology brownfield redevelopment income tax liability.

177 (b) Any tax credit not used in an income year during the brownfield
178 redevelopment period may be carried forward for the five
179 immediately succeeding income years until the full credit has been
180 allowed.

181 (c) If the brownfield redevelopment is abandoned or otherwise not
182 completed in substantial compliance with the brownfield redeveloper's
183 development plan, as submitted to the commissioner, the brownfield
184 redeveloper shall recapture one hundred per cent of the amount of the
185 credit allowed under this section on its tax return required to be filed
186 for the income year immediately succeeding the income year in which
187 the abandonment or failure to complete in accordance with the
188 development plan occurred. The provisions of this subsection shall not
189 apply if the brownfield redevelopment that is the subject of the credit
190 under this section is exchanged for another brownfield redevelopment
191 or brownfield redevelopment facility, or if the commissioner has
192 agreed to modifications in the development plan. If any amount of
193 credit required to be recaptured has not been paid to the commissioner
194 on or before the first day of the fourth month next succeeding the end
195 of the income year immediately succeeding the income year during
196 which the abandonment or failure occurred, then such amount shall
197 bear interest at the rate of one per cent per month or fraction thereof
198 from such date to the date of payment.

199 (d) Any taxpayer allowed a credit under this section may assign
200 such credit to another person provided such person may claim such
201 credit only with respect to a calendar year for which the assigning
202 taxpayer would have been eligible to claim such credit. The taxpayer
203 shall file with the Commissioner of Revenue Services information
204 requested by the commissioner regarding such assignments, including,

205 but not limited to, the current holders of the credits as of the end of the
206 preceding calendar year.

207 (e) The total amount of the tax credits available to the brownfield
208 redeveloper during the brownfield redevelopment period shall not
209 exceed the total cost of the brownfield redevelopment.

210 Sec. 3. (NEW) (a) The brownfield redeveloper shall submit an
211 application containing sufficient information to reasonably
212 demonstrate that the brownfield redevelopment or brownfield
213 redevelopment facility is an eligible brownfield redevelopment project
214 that qualifies for the credit under section 2 of this act. The
215 commissioner shall approve the application if the brownfield
216 redeveloper has demonstrated qualification. If the commissioner
217 rejects an application, such commissioner shall specifically state the
218 reasons for such disapproval. The commissioner shall render a
219 decision on an application not later than sixty days from its receipt.
220 Failure to render a decision within such time shall be deemed to be an
221 approval of the application.

222 (b) The commissioner may adopt regulations, in accordance with
223 the provisions of chapter 54 of the general statutes, to implement the
224 provisions of this section. Such regulations may include, but not be
225 limited to, provisions for applying the credit allowed by this section to
226 partnerships, limited liability companies or other pass-through entities
227 in which one or more taxpayers are partners or members.

228 Sec. 4. (NEW) (a) Any brownfield redevelopment corporation
229 created pursuant to sections 4 to 6, inclusive, of this act, may do one or
230 more of the following:

231 (1) Sue and be sued;

232 (2) Adopt, amend and repeal bylaws for the regulation of its affairs
233 and the conduct of its business;

234 (3) Incur and expend funds to pay or reimburse a public or private

235 person for costs of eligible activities attributable to a brownfield
236 redevelopment site;

237 (4) As approved by a municipality, incur costs and expend funds
238 from the local site remediation revolving fund created under section 6
239 of this act for purposes authorized in said section;

240 (5) Make and enter into contracts necessary or incidental to the
241 exercise of its powers and the performance of its duties, including, but
242 not limited to, lease or purchase agreements, land contracts,
243 installment sales agreements and loan agreements;

244 (6) On terms and conditions and in a manner and for consideration
245 the corporation considers proper, own, mortgage, convey or otherwise
246 dispose of, or lease as lessor or lessee, land and other property, real or
247 personal, or rights or interests in the property, that the corporation
248 determines are reasonably necessary to achieve its purposes, and grant
249 or acquire licenses, easements and options with respect to its property;

250 (7) Acquire, maintain, repair or operate all devices necessary to
251 ensure brownfield redevelopment occurs;

252 (8) Accept grants and donations of property, labor or other things of
253 value from a public or private source;

254 (9) Incur costs in connection with the performance of its authorized
255 functions, including, but not limited to, administrative costs and
256 architect, engineer, legal or accounting fees;

257 (10) Study, develop and prepare the reports or plans the authority
258 considers necessary to assist it in the exercise of its powers under
259 sections 4 to 6, inclusive, of this act;

260 (11) Procure insurance against loss in connection with the
261 corporation's property, assets or activities;

262 (12) Invest the corporation's money, at the corporation's discretion,

263 in obligations determined proper by the corporation's board, and name
264 and use depositories for its money;

265 (13) Make loans, participate in the making of loans, undertake
266 commitments to make loans and mortgages, buy and sell loans and
267 mortgages at public or private sale, rewrite loans and mortgages,
268 discharge loans and mortgages, foreclose on a mortgage, commence an
269 action to protect or enforce a right conferred upon the corporation by a
270 law, mortgage, loan, contract, or other agreement, bid for and purchase
271 property that was the subject of the mortgage at a foreclosure or other
272 sale, acquire and take possession of the property and in that event
273 compute, administer, pay the principal and interest on obligations
274 incurred in connection with that property, and dispose of and
275 otherwise deal with the property, in a manner as may be necessary or
276 desirable to protect the interests of the authority;

277 (14) Borrow money and issue its notes in anticipation of collection of
278 tax increment revenues or of other sources of income;

279 (15) Determine the captured taxable value of a brownfield
280 redevelopment site, which taxable value shall not be less than zero;
281 and

282 (16) Do all other things necessary or convenient to achieve the
283 objectives and purposes of the corporation.

284 (b) (1) The board of the corporation shall employ and fix the
285 compensation of the executive director. The executive director shall
286 serve at the pleasure of the board and shall supervise and be
287 responsible for the preparation of plans and the performance of the
288 corporation's functions in the manner authorized by sections 4 to 6,
289 inclusive, of this act. A member of the board shall not be the executive
290 director. The director shall attend the meetings of the board and shall
291 render to the board a regular report covering the corporation's
292 activities and financial condition.

293 (2) The board may appoint or employ and fix the compensation of a
294 treasurer who shall keep the corporation's financial records who,
295 together with the executive director, shall approve all vouchers for the
296 expenditure of corporation funds.

297 (3) The board may appoint or employ and fix the compensation of a
298 secretary who shall maintain custody of the official seal and of records,
299 books, documents or other papers not required to be maintained by
300 the treasurer. The secretary shall attend meetings of the board and
301 keep a record of its proceedings and shall perform other duties as may
302 be delegated by the board.

303 (4) The board may employ and retain personnel and consultants as
304 considered necessary by the board, including legal counsel to advise
305 the board in the proper performance of its duties and to represent the
306 corporation in actions brought by or against the corporation.

307 (5) Upon the corporation's request, its incorporating municipality,
308 regional council of governments, regional growth partnership,
309 intermunicipal consortium, metropolitan district commission or other
310 nonprofit entity may provide assistance to the corporation in the
311 performance of its powers and duties. An incorporator may transfer its
312 funds to the corporation or to another person on behalf of the
313 corporation in anticipation of repayment by the corporation.

314 (6) If the incorporator of the brownfield redevelopment corporation
315 is a municipality, regional growth partnership, metropolitan district, or
316 other municipal corporation, the employees of the corporation may be
317 eligible to participate in state retirement and insurance programs as if
318 such employees were civil service employees on the same basis as civil
319 service employees.

320 (c) The corporation's activities shall be financed from one or more of
321 the following sources: (1) Contributions, contractual payments or
322 appropriations to the corporation for the performance of its functions;
323 (2) revenues from a property, building, or facility owned, leased,

324 licensed or operated by the corporation or under its control; (3) tax
325 increment revenues or proceeds of tax increment bonds and notes; (4)
326 proceeds of revenue bonds and notes; (5) revenue available in the
327 authority's revolving loan fund for the costs associated with
328 brownfield redevelopment, the costs described in section 10 of this act,
329 and infrastructure improvements; (6) money obtained from all other
330 sources approved by the corporation's board or otherwise authorized
331 by law for use by the corporation or another person to finance
332 activities authorized by sections 4 to 6, inclusive, of this act.

333 (d) A municipality may transfer private property taken pursuant to
334 sections 8-128 and 48-12 of the general statutes to the corporation for
335 brownfield redevelopment, on such terms and conditions as the parties
336 may agree. The taking, transfer and use shall be considered necessary
337 for public purposes and for the benefit of the public.

338 (e) The exercise by a corporation of the powers conferred by sections
339 4 to 6, inclusive, of this act, shall be considered to be an essential
340 governmental function and benefit to, and a legitimate public purpose
341 of, the state.

342 Sec. 5. (NEW) (a) The corporation may borrow money and issue its
343 negotiable revenue bonds or notes to finance all or part of the costs of
344 eligible activities or of another activity authorized by sections 4 to 6,
345 inclusive, of this act or to refund or refund in advance bonds or notes
346 issued under this section. The costs that may be financed by the
347 issuance of revenue bonds or notes may include the costs of
348 purchasing, acquiring, constructing, improving, enlarging, extending
349 or repairing a brownfield remediation site; engineering, architectural,
350 legal, accounting or financial expenses; the costs necessary or
351 incidental to the borrowing of money; interest on the bonds or notes
352 during the period of construction; a reserve for payment of principal
353 and interest on the bonds or notes; and a reserve for operation and
354 maintenance until sufficient revenues have developed. The corporation
355 may secure the bonds and notes by mortgage, assignment or pledge of

356 the property and all money, revenues or income received in connection
357 with the property.

358 (b) A pledge made by the corporation shall be valid and binding
359 from the time the pledge is made. The money or property pledged by
360 the corporation immediately shall be subject to the lien of the pledge
361 without a physical delivery, filing or further act. The lien of such a
362 pledge shall be valid and binding as against parties having claims in
363 tort, contract or otherwise against the authority, irrespective of
364 whether the parties have notice of the lien. Filing of the resolution, the
365 trust agreement or another instrument by which a pledge is created is
366 not required.

367 (c) Bonds or notes issued under this section shall be exempt from all
368 taxation, and the interest on the bonds or notes shall be exempt from
369 all taxation in this state, notwithstanding that the interest may be
370 subject to federal income tax.

371 (d) Unless otherwise provided by a majority vote of the members of
372 its governing body, the corporation's incorporators shall not be liable
373 on any bonds or notes of the corporation issued under this section.

374 (e) A corporation's bonds and notes may be invested in by the State
375 Treasurer and all other public officers, state agencies and political
376 subdivisions, insurance companies, banks, savings and loan
377 associations, investment companies, pension funds and fiduciaries and
378 trustees, and may be deposited with and received by the State
379 Treasurer and all other public officers and the agencies and political
380 subdivisions of this state for all purposes for which the deposit of
381 bonds or notes is authorized. The authority granted by this section is
382 supplemental and in addition to all other authority granted by law.

383 Sec. 6. (NEW) (a) By resolution of its board, a corporation may
384 authorize, issue and sell tax increment revenue bonds and notes,
385 subject to the limitations set forth in this section, to finance brownfield
386 redevelopment, a brownfield redevelopment site or a brownfield

387 redevelopment facility. The bonds or notes shall mature in not more
388 than fifteen years after the brownfield redevelopment facility is
389 established and shall bear interest and be sold and be payable in the
390 manner and upon the terms and conditions determined, or within the
391 parameters specified, by the corporation in the resolution authorizing
392 issuance of the bonds or notes. The bonds or notes may include
393 capitalized interest, an amount sufficient to fund costs of the issuance
394 of the bonds or notes and a sum to provide a reasonable reserve for
395 payment of principal and interest on the bonds or notes. The resolution
396 authorizing the bonds shall create a lien on the tax increment revenues
397 and other revenues pledged by the resolution that shall be a statutory
398 lien and shall be a first lien subject only to liens previously created.
399 The resolution may provide the terms upon which additional bonds or
400 notes may be issued of equal standing and parity of lien as to the tax
401 increment revenues and other revenues pledged under the resolution.

402 (b) A municipality, by majority vote of the members of its legislative
403 body, may make a limited tax pledge to support a corporation's tax
404 increment bonds or notes or may pledge its unlimited tax full faith and
405 credit for the payment of the principal of and interest on the
406 corporation's tax increment bonds or notes.

407 (c) The bonds or notes issued under this section shall be secured by
408 one or more sources of revenue identified in sections 4 to 6, inclusive,
409 of this act, as sources of financing of activities of the corporation.
410 Furthermore, bonds or notes issued under this section shall be exempt
411 from all taxation in this state, and the interest on the bonds or notes
412 shall be exempt from all taxation in this state, notwithstanding that the
413 interest may be subject to federal income tax.

414 (d) The corporation's bonds and notes may be invested in by the
415 State Treasurer and all other public officers, state agencies and political
416 subdivisions, insurance companies, banks, savings and loan
417 associations, investment companies, pension funds and fiduciaries and
418 trustees, and may be deposited with and received by the State

419 Treasurer and all other public officers and the agencies and political
420 subdivisions of this state for one or more of the purposes for which the
421 deposit of bonds or notes is authorized. The authority granted by this
422 section is supplemental and in addition to all other authority granted
423 by law.

424 (e) The net present value of the principal and interest to be paid on
425 an obligation issued or incurred by a corporation or by a municipality
426 on behalf of a corporation to refund an obligation incurred under this
427 section, including the cost of issuance, shall be less than the net present
428 value of the principal and interest to be paid on the obligation being
429 refunded as calculated using a method approved by the Department of
430 Revenue Services.

431 (f) The corporation shall give notice of intent to issue tax increment
432 bonds or notes secured by the captured taxable value of a brownfield
433 redevelopment site to the chief executive officer of the municipality in
434 which the relevant brownfield redevelopment site is located no later
435 than sixty days prior to the issuance of the proposed tax increment
436 bonds or notes. No more than two weeks after receipt of such notice, a
437 special meeting of the municipality's governing legislative body shall
438 be convened to (1) provide municipal officials and taxpayers with an
439 opportunity to comment on the proposed brownfield redevelopment,
440 and (2) approve or disapprove the proposed tax increment bonds or
441 notes. The municipality's governing legislative body shall approve the
442 proposed tax increment bonds or notes upon a showing of sufficient
443 evidence in the record (A) that the captured taxable value will service
444 the principal and interest due on the tax increment bonds or notes over
445 the life of those bonds or notes, and (B) that the proposed brownfield
446 redevelopment is in the public interest.

447 Sec. 7. Section 12-412 of the general statutes is amended by adding
448 subsection (113) as follows:

449 (NEW) (113) Sales and use of any services or tangible personal
450 property to be incorporated into or used or otherwise consumed in (A)

451 the demolition, remediation or preparation of a brownfield
452 redevelopment site, (B) the construction of a brownfield
453 redevelopment facility, or (C) the construction of any future capital
454 improvements to a brownfield redevelopment facility.

455 Sec. 8. Section 12-81 of the general statutes is amended by adding
456 subsections (75) and (76) as follows:

457 (NEW) (75) The use of tangible personal property, provided such
458 property is used exclusively for (A) the demolition, remediation or
459 preparation of a brownfield redevelopment site, (B) the construction of
460 the brownfield redevelopment facility, or (C) the construction of any
461 future capital improvements to a brownfield redevelopment facility.

462 (NEW) (76) Any eligible brownfield redevelopment project that is
463 acquired, constructed, substantially renovated or expanded on or after
464 October 1, 2001, to the extent of sixty-five per cent of the difference
465 between the valuation of the brownfield redevelopment site prior to
466 the commencement of construction of the brownfield redevelopment
467 facility, and the valuation of the brownfield redevelopment site after
468 completion of construction of the brownfield redevelopment facility,
469 provided this exemption shall only apply to the first ten assessment
470 years beginning with the year in which the brownfield redevelopment
471 facility is first placed in service. For the purposes of this subsection,
472 valuation shall be determined by two duly licensed and independent
473 appraisers.

474 Sec. 9. Subsection (a) of section 12-81r of the general statutes is
475 repealed and the following is substituted in lieu thereof:

476 (a) Any municipality may (1) enter into an agreement with the
477 owner of any real property to abate the property tax due as of the date
478 of the agreement for a period not to exceed seven years if the property
479 has been subject to a spill, as defined in section 22a-452c, and the
480 owner agrees to conduct any environmental site assessment,
481 demolition and remediation of the spill necessary [to redevelop the

482 property] for brownfield redevelopment. Any such tax abatement shall
483 only be for the period of remediation and redevelopment and shall be
484 contingent upon the continuation and completion of the remediation
485 and redevelopment process with respect to the purposes specified in
486 the agreement. The abatement shall cease upon the sale or transfer of
487 the property for any other purpose unless the municipality consents to
488 its continuation. The municipality may also establish a recapture
489 provision in the event of sale provided such recapture shall not exceed
490 the original amount of taxes abated and may not go back further than
491 the date of the agreement; [or] (2) forgive, [all or a portion of the
492 principal balance and interest due on delinquent property taxes for the
493 benefit of any prospective purchaser who has obtained an
494 environmental investigation or remediation plan approved by the
495 Commissioner of Environmental Protection or a licensed
496 environmental professional under section 22a-133w, 22a-133x or 22a-
497 133y and completes such remediation plan for an establishment, as
498 defined in section 22a-134, deemed by the municipality to be
499 abandoned] for the benefit of any owner who can demonstrate it did
500 not cause such spill, or for any prospective purchaser, all or portion of
501 the real or personal property taxes due or attached to (A) any real
502 property or improvement that has been subject to a spill, (B) any
503 establishment, or (C) any facility, as defined in 42 USC 9601(9); or (3)
504 enter into an agreement providing for specific payments in lieu of
505 taxes for infrastructure improvements that might be useful or desirable
506 for a brownfield redevelopment.

507 Sec. 10. Section 32-23qq of the general statutes is amended by
508 adding subsection (d) as follows:

509 (NEW) (d) (1) The state, acting through the authority, shall provide
510 municipal brownfield redevelopers with grants to fund environmental
511 investigation, environmental remediation, site remediation, site
512 acquisition, and other related activities, from the Environmental
513 Assistance Revolving Loan Fund.

514 (2) The authority shall adopt written procedures, in accordance with
515 section 1-121, within forty-five days of the effective date of this act,
516 implementing the grant application criteria. Such criteria shall include
517 the following: (A) A statement that the amount of each grant shall be
518 two hundred fifty thousand dollars; and (B) a process to give
519 preference to high technology brownfield redevelopment projects,
520 municipal brownfield redevelopers in high density areas and projects
521 involving revolving loan, innovative technologies and infrastructure
522 redevelopment.

523 (3) If the authority rejects a grant application, it shall specifically
524 identify the defects in the application relative to the promulgated grant
525 criteria and explain the reasons for disapproval. The authority shall
526 render a decision on an application no later than sixty days from its
527 receipt. Failure to render a decision within that time shall be deemed
528 an approval of the application. The municipal brownfield redeveloper
529 may use the grant funds for any purpose consistent with the
530 provisions of this subsection.

531 (4) Subject to the approval of the department, a municipal
532 brownfield redeveloper may issue tax increment revenue financing
533 bonds, guaranteed by the state, for the purposes of financing the
534 development of an eligible high technology brownfield redevelopment
535 project.

536 Sec. 11. (NEW) Any brownfield redevelopment corporation,
537 brownfield redeveloper, municipal brownfield redeveloper, tenant or
538 successor thereof that is engaged in a brownfield remediation or any
539 owner, operator or tenant of a brownfield redevelopment facility, or
540 any successor thereof, shall be deemed innocent landowners, as
541 defined in subdivision (1) of section 22a-452d of the general statutes, or
542 prospective purchasers or owners of contaminated real property, as
543 provided in section 22a-133a of the general statutes or subsection (b) of
544 section 22a-133bb of the general statutes, who meet the requirements
545 set forth in subdivision (1) or (2) of subsection (a) of section 22a-133aa

546 of the general statutes or subsection (a) of section 22a-133bb of the
547 general statutes, and shall not be liable for any cleanup and removal
548 costs or damages pursuant to any other statutory or civil common law,
549 to any person, other than the federal government.

550 Sec. 12. Subsection (a) of section 22a-452 of the general statutes is
551 repealed and the following is substituted in lieu thereof:

552 [(a) Any person, firm, corporation or municipality which contains or
553 removes or otherwise mitigates the effects of oil or petroleum or
554 chemical liquids or solid, liquid or gaseous products or hazardous
555 wastes resulting from any discharge, spillage, uncontrolled loss,
556 seepage or filtration of such substance or material or waste shall be
557 entitled to reimbursement from any person, firm or corporation for the
558 reasonable costs expended for such containment, removal, or
559 mitigation, if such oil or petroleum or chemical liquids or solid, liquid
560 or gaseous products or hazardous wastes pollution or contamination
561 or other emergency resulted from the negligence or other actions of
562 such person, firm or corporation. When such pollution or
563 contamination or emergency results from the joint negligence or other
564 actions of two or more persons, firms or corporations, each shall be
565 liable to the others for a pro rata share of the costs of containing, and
566 removing or otherwise mitigating the effects of the same and for all
567 damage caused thereby.]

568 (a) (1) Any person who has discharged or released any oil or
569 petroleum or chemical liquids or solid, liquid or gaseous products or
570 hazardous substances to any real property or to the waters of the state,
571 shall be strictly liable, jointly and severally, without regard to fault, for
572 all cleanup or removal costs associated therewith no matter by whom
573 incurred, and for any diminution in the fair market value of any real
574 property attributable to such discharge or release, and for any personal
575 injury, including emotional distress, attributable thereto. No person
576 shall be required to remediate contamination (A) below the regional
577 background level or concentration for any particular contaminant

578 identified in soil or groundwater; (B) below the level or concentration
579 for any particular contaminant that is found to be migrating through
580 soil or groundwater from another property owned or operated by an
581 unrelated person; or (C) below the level or concentration for any
582 particular contaminant as identified in the remediation standards set
583 by the Department of Environmental Protection.

584 (2) Any person who is not otherwise liable under subdivision (1) of
585 this subsection may bring an action against any liable person and shall
586 be awarded (A) a declaratory ruling requiring the responsible person
587 to undertake cleanup or removal of a discharge or release in
588 accordance with the regulations of the Commissioner of
589 Environmental Protection, (B) all reasonable costs and attorney fees
590 incurred in the prosecution of the action, (C) damages in the amount of
591 any diminution in the property's fair market value and any economic
592 loss reasonably attributable to the discharge or release, and (D) such
593 other damages for personal injury as may be claimed and proven,
594 including, but not limited to, damages for emotional distress, pain and
595 suffering, medical monitoring for increased risk of disease or injury
596 due to an exposure resulting from a discharge or release, increased risk
597 of disease or injury and such other damages as the law may allow. Any
598 action under this subdivision shall be brought within six months of the
599 effective date of this act, or within two years from the date that the
600 person had actual knowledge of the discharge or release, whichever is
601 later, and is triable by a jury.

602 (3) Any person liable under subdivision (1) of this subsection who
603 has incurred any cleanup or removal costs, whether prior to or
604 subsequent to the effective date of this act, shall have an equitable right
605 of contribution for cleanup or removal costs incurred from any other
606 person liable thereunder. Such person may be awarded an equitable
607 measure of the damages attributable to any diminution in the
608 property's fair market value as a result of the discharge or release and
609 shall be awarded such other damages for personal injury as may be
610 claimed and proven, including, but not limited to, damages for

611 emotional distress, pain and suffering, medical monitoring for
612 increased risk of disease or injury associated with an exposure to a
613 discharge or release of hazardous substances, increased risk of disease
614 or injury, and such other damages as the law may allow, subject to
615 comparative fault. Any action for contribution under this subdivision
616 shall be brought no later than two years after the person has incurred
617 the claimed cleanup or removal costs, and is triable by a jury. Claims
618 for property damage or personal injury under this subsection shall be
619 brought no later than two years from the date that the person
620 discovered a discharge or release, and are triable by a jury.

621 (4) For the purposes of this section:

622 (A) "Cleanup or removal costs" means all costs associated with
623 responding to or remediating a spill or discharge of any oil, petroleum
624 or chemical liquids or solid, liquid, or gaseous products, or hazardous
625 substances, in a manner consistent with the regulations of the
626 Commissioner of Environmental Protection. Reasonable attorney fees
627 and other expenses required to obtain contribution from a liable
628 person are a "cleanup and removal cost".

629 (B) "Discharge" means any intentional or negligent (i) action, (ii)
630 failure to act, or (iii) omission, any of which results in the releasing,
631 spilling, leaking, seepage, uncontrolled loss, pumping, pouring,
632 emitting, emptying or dumping of oil, petroleum or chemical liquids
633 or solid, liquid or gaseous products or hazardous wastes.

634 (C) "Fair market value" means the difference between a property's
635 value as contaminated and its value as remediated, measured as of the
636 date an action is commenced.

637 (D) "Release" shall have the meaning set forth in 42 USC 9601(22).

638 (E) "Hazardous substances" shall have the meaning set forth at 42
639 USC 9601.

640 (5) Notwithstanding the provisions of the general statutes, the

641 provisions of this section shall be the exclusive remedy for any and all
642 claims attributable to a discharge.

643 Sec. 13. The sum of fifteen million dollars is appropriated to the
644 Connecticut Development Authority, from the General Fund, for the
645 fiscal year ending June 30, 2002, for grants under subsection (d) of
646 section 32-23qq of the general statutes, as amended by this act,
647 provided grants in an amount equal to five million dollars shall be
648 made in each fiscal year until the fiscal year ending June 30, 2005.

649 Sec. 14. This act shall take effect July 1, 2001.

Statement of Purpose:

To establish financial incentives for the formation of brownfield redevelopment corporations to clean up brownfield redevelopment sites.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]