



House of Representatives

General Assembly

File No. 536

February Session, 2004

Substitute House Bill No. 5647

House of Representatives, April 8, 2004

The Committee on Finance, Revenue and Bonding reported through REP. STILLMAN of the 38th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE URBAN AND INDUSTRIAL SITE REINVESTMENT PROGRAM.

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

1 Section 1. Section 32-9t of the general statutes, as amended by
2 section 77 of public act 03-6 of the June 30 special session, is repealed
3 and the following is substituted in lieu thereof (*Effective from passage*):

4 (a) As used in this section:

5 (1) "Commissioner" means the Commissioner of Economic and
6 Community Development.

7 (2) "Eligible industrial site investment project" means a project
8 located within this state for the development or redevelopment of real
9 property: (A) (i) That has been subject to a "spill", as defined in section
10 22a-452c, (ii) is an "establishment", as defined in subdivision (3) of
11 section 22a-134, as amended, or (iii) is a "facility", as defined in 42 USC

12 9601(9); (B) that, if remediated, renovated or demolished in accordance
13 with applicable law and regulations and the standards of remediation
14 of the Department of Environmental Protection and used for business
15 purposes, will add significant new economic activity and employment
16 in the municipality in which the investment is to be made, and will
17 generate additional tax revenues to the state; (C) for which the use of
18 the urban and industrial site reinvestment program will be necessary
19 to attract private investment to the project; (D) the business use of
20 which would be economically viable and would generate direct and
21 indirect economic benefits to the state that exceed the amount of the
22 investment during the period for which the tax credits granted
23 pursuant to [public act 00-170*] this section are granted; and (E) that is,
24 in the judgment of the commissioner, consistent with the strategic
25 economic development priorities of the state and the municipality.

26 (3) "Eligible urban reinvestment project" means a project: (A) That
27 would add significant new economic activity in the eligible
28 municipality in which the project is located, and will generate
29 significant additional tax revenues to the state or the municipality; (B)
30 for which the use of the urban and industrial site reinvestment
31 program will be necessary to attract private investment to an eligible
32 municipality; (C) that is economically viable; (D) for which the direct
33 and indirect economic benefits to the state outweigh the costs of the
34 project; and (E) that is, in the judgment of the commissioner, consistent
35 with the strategic economic development priorities of the state and the
36 municipality.

37 (4) "Related person" means: (A) A corporation, limited liability
38 company, partnership, association or trust controlled by the taxpayer;
39 (B) an individual, corporation, limited liability company, partnership,
40 association or trust that is in control of the taxpayer; (C) a corporation,
41 limited liability company, partnership, association or trust controlled
42 by an individual, corporation, limited liability company, partnership,
43 association or trust that is in control of the taxpayer; or (D) a member
44 of the same controlled group as the taxpayer. For purposes of this
45 section, "control", with respect to a corporation, means ownership,

46 directly or indirectly, of stock possessing fifty per cent or more of the
47 total combined voting power of all classes of the stock of such
48 corporation entitled to vote. "Control", with respect to a trust, means
49 ownership, directly or indirectly, of fifty per cent or more of the
50 beneficial interest in the principal or income of such trust. The
51 ownership of stock in a corporation, of a capital or profits interest in a
52 partnership or association or of a beneficial interest in a trust shall be
53 determined in accordance with the rules for constructive ownership of
54 stock provided in Section 267(c) of the Internal Revenue Code of 1986,
55 or any subsequent corresponding internal revenue code of the United
56 States, as from time to time amended, other than paragraph (3) of such
57 section.

58 (5) "Investment" means all amounts invested in an eligible project by
59 or on behalf of a taxpayer, whether directly, through a fund, or
60 through a community development entity including, but not limited
61 to, (A) equity investments made by the taxpayer, and (B) loans.

62 (6) "Income year" means with respect to entities subject to taxation
63 under chapters 207 to 212a, inclusive, the income year as determined
64 under each of said chapters, as the case may be.

65 (7) "Taxpayer" means any person, as defined in section 12-1,
66 whether or not subject to any taxes levied by this state.

67 (8) "Fund manager" means a fund manager registered in accordance
68 with subsection (d) of this section.

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

75 (10) "New employee" means a person hired by a subject business to
76 fill a position for a new job or a person shifted from an existing

77 location of the subject business outside this state to a new facility in
78 this state, provided (A) in no case shall the total number of new
79 employees allowed for purposes of this credit exceed the total increase
80 in the taxpayer's employment in this state, which increase shall be the
81 difference between (i) the number of employees employed by the
82 subject business in this state at the time of application for an eligibility
83 certificate to the commissioner plus the number of new employees
84 who would be eligible for inclusion under the credit allowed under
85 this section without regard to this calculation, and (ii) the highest
86 number of employees employed by the subject business in this state in
87 the year preceding the subject business' application for an eligibility
88 certificate to the commissioner, and (B) a person shall be deemed to be
89 a "new employee" only if such person's duties in connection with the
90 operation of the facility are on a regular, full-time, or equivalent
91 thereof, and permanent basis.

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

104 (12) "Eligible municipality" means (A) a municipality with an area
105 designated as an enterprise zone pursuant to section 32-70, (B) a
106 distressed municipality, as defined in subsection (b) of section 32-9p,
107 or (C) a municipality that has a population in excess of one hundred
108 thousand.

109 (13) "Eligible project" means an eligible urban reinvestment project

110 or an eligible industrial site investment project or both.

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

113 (15) "Recapture amount" means the amount by which the total of tax
114 credits claimed with respect to any approved investment as of the date
115 of calculation exceeds the sum of all state revenue actually generated
116 through such date by the eligible project in which such approved
117 investment was made.

118 (16) "Pro rata share" means the percentage the amount of the
119 approved investment by an individual investor in an eligible project
120 bears to the total amount of the approved investment in such project,
121 or in the case of a taxpayer to whom credits are transferred under this
122 section, the percentage the amount of credits with respect to an
123 approved investment transferred bears to the total credits with respect
124 to such approved investment.

125 (17) "Community development entity" means any corporation,
126 limited partnership or limited liability company qualified to do
127 business in this state and which (A) is organized for the purpose of
128 providing investment capital or financing for eligible projects under
129 this section, (B) maintains accountability to residents of more than one
130 eligible municipality through representation on the governing board of
131 the entity, (C) is organized for the purpose of seeking certification and
132 an allocation of new markets tax credits as provided in Section 45D of
133 the Internal Revenue Code of 1986, or any subsequent corresponding
134 internal revenue code of the United States, as from time to time
135 amended, and (D) is registered in accordance with subsection (d) of
136 this section. No community development entity shall be eligible for
137 any tax credits under this section unless it is certified under said
138 Section 45D on the date any approved investment is made. A
139 community development entity shall not be deemed a "fund" for
140 purposes of this section.

141 (18) "Project" means the acquisition, leasing, demolition,

142 remediation, construction, renovation, expansion or other
143 development or redevelopment of real property and improvements
144 within this state, including furniture, fixtures, equipment and other
145 personal property which is reasonably necessary in connection
146 therewith, and associated interest and other financing costs and
147 charges, relocation and start-up costs, and architectural, engineering,
148 legal and other professional services, plans, specifications, surveys,
149 permits, studies and evaluations necessary or incident to the
150 development, financing, completion and placing in operation of such a
151 project.

152 (b) There is established an urban and industrial site reinvestment
153 program under which taxpayers who make investments in eligible
154 urban reinvestment projects or eligible industrial site investment
155 projects may be allowed a credit against the tax imposed under
156 chapters 207 to 212a, inclusive, or section 38a-743, or a combination of
157 said taxes, in an amount equal to the percentage of their approved
158 investment determined in accordance with subsection (i) of this
159 section.

160 (c) No project shall be deemed an eligible project unless such project
161 shall, in the judgment of the commissioner, be of sufficient size, by
162 itself or in conjunction with related new investments, to generate a
163 substantial return to the state economy. No project shall be deemed an
164 eligible project unless such project does not involve the relocating of
165 facilities from one municipality in this state to another municipality in
166 this state, provided this restriction shall not apply if the commissioner
167 determines that the project is reasonably necessary to discourage the
168 project occupant from removing such facility to a location outside the
169 state, which determination is supported by a certification by the
170 applicant that there is a bona fide offer or incentive to the project
171 occupant from a governmental entity outside this state.

172 (d) (1) The commissioner may register managers of funds and
173 community development entities created for the purpose of investing
174 in eligible urban reinvestment projects and eligible industrial site

175 investment projects. Any manager or community development entity
176 registered under this subsection shall have its primary place of
177 business in this state. Each applicant shall submit an application under
178 oath to the commissioner to be registered and shall furnish evidence
179 satisfactory to the commissioner of its financial responsibility,
180 integrity, professional competence and experience in managing
181 investment funds. Failure to maintain adequate fiduciary standards
182 with respect to investments made under this section shall constitute
183 cause for the commissioner to revoke, after hearing, any registration
184 granted under this section or section 38a-88a. The fund manager or
185 community development entity shall make a report on or before the
186 first day of March in each year, under oath, to the Commissioner of
187 Economic and Community Development and the Commissioner of
188 Revenue Services specifying the name, address and Social Security
189 number or employer identification number of each investor, the year
190 during which each investment was made by each investor, the amount
191 of each investment, a description of the fund's investment objectives
192 and relative performance, or the entity's projects, as the case may be,
193 and a description, including amounts, of all fees received by such
194 manager or entity in relation to each such fund.

195 (2) Any manager of funds registered on or before July 1, 2000,
196 pursuant to section 38a-88a shall be deemed registered as a fund
197 manager for all purposes under the provisions of this section upon
198 submission, in writing, to the commissioner of such manager's
199 intention to act as a manager of funds under this section. The
200 commissioner may request from any such manager such information
201 as the commissioner may require relating to such manager's financial
202 responsibility, integrity, professional competence and experience in
203 managing investment funds.

204 (e) (1) Any taxpayer or fund manager, or community development
205 entity wishing to make an investment under the provisions of this
206 section shall apply to the commissioner in accordance with the
207 provisions of this section. The application shall contain sufficient
208 information to establish that the project in which the proposed

209 investment will be made is an eligible industrial site investment project
210 or an urban reinvestment project, as appropriate, and information
211 concerning the type of investment proposed to be made, the location of
212 the project, the number of jobs to be created or retained, physical
213 infrastructure that might be created or preserved, feasibility studies or
214 business plans for the project, projected state and local revenue that
215 might derive as a result of the project and other information necessary
216 to demonstrate the financial viability of the project and to demonstrate
217 that the investment will provide net benefits to the economy of, and
218 employment for citizens of, the municipality and the state, and in the
219 case of an eligible industrial site investment project, how such project
220 will meet the standards of remediation of the Department of
221 Environmental Protection. The commissioner shall impose a fee for
222 such application as the commissioner deems appropriate.

223 (2) Upon receipt of a formal application for credits filed under this
224 section, the commissioner shall provide notice regarding such
225 application to the speaker of the House of Representatives, president
226 pro tempore of the Senate and the chairpersons of the joint standing
227 committees of the General Assembly having cognizance of matters
228 relating to finance, revenue and bonding and economic and
229 community development, and to the chief elected official of any
230 municipality which may be directly affected by the project for which
231 the application is being filed.

232 (3) Any tax credits approved under this section that would
233 constitute in excess of ten million dollars in total for a single
234 investment shall not be effective unless approved under subsection (q)
235 of this section.

236 (f) (1) The commissioner shall determine whether the project in
237 which the proposed investment is to be made is an eligible urban
238 reinvestment project or an eligible industrial site investment project,
239 whether the project is economically viable only with use of the urban
240 and industrial site reinvestment program, the effects of the project on
241 the municipality where the investment will be made, [and] whether

242 the project would provide a net benefit to economic development and
243 employment opportunities in the state, [and] whether the project will
244 conform to the state plan of conservation and development and
245 whether there is a reasonable probability that available and qualified
246 residents of this state and available and qualified members of
247 minorities, as defined in section 32-9n, will be employed in
248 construction jobs at all levels of any construction activity. The
249 commissioner may require the applicant to submit such additional
250 information as may be necessary to evaluate the application.

251 (2) The commissioner shall prepare a revenue impact assessment
252 that estimates the state and local revenue that would be generated as a
253 result of the project. The commissioner shall prepare an economic
254 feasibility study relative to such project. The commissioner shall
255 prepare an impact statement regarding the project in accordance with
256 the provisions of section 32-6k. The commissioner may retain any such
257 persons as the commissioner deems appropriate to conduct such
258 revenue impact assessment [or economic feasibility study] or to
259 prepare such impact statement. The commissioner shall retain the
260 services of an independent financial analyst who shall conduct an
261 independent financial analysis of such project and prepare a certified
262 report including, but not limited to, findings on the state and local
263 revenue that would be generated as a result of the project and the
264 economic feasibility of the project.

265 (g) (1) The commissioner, upon consideration of the application, the
266 revenue impact assessment and any additional information that the
267 commissioner requires concerning a proposed investment, may
268 approve an investment if the commissioner concludes that the project
269 in which such investment is to be made is an eligible urban
270 reinvestment project or an eligible industrial site investment project
271 and that there is a reasonable probability that the project will employ
272 available and qualified residents of this state, and available and
273 qualified members of minorities, as defined in section 32-9n, in
274 construction jobs at all levels of any construction activity. If the
275 commissioner rejects an application, the commissioner shall

276 specifically identify the defects in the application and specifically
277 explain the reasons for the rejection. The commissioner shall render a
278 decision on an application not later than ninety days from its receipt.
279 The amount of the investment so approved shall not exceed the greater
280 of: (A) The amount of state revenue that will be generated according to
281 the revenue impact assessment prepared under this subsection; or (B)
282 the total of state revenue and local revenue generated according to
283 such assessment in the case of a manufacturing business with standard
284 industrial classification codes of 3999, 2099, 2992 and 2834 which is
285 relocating to a site in Connecticut from out-of-state, provided the
286 relocation will result in new development of at least seven hundred
287 twenty-five thousand square feet in a state-sponsored industrial park.

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

292 (3) The commissioner shall require the applicant to reimburse the
293 commissioner for all or any part of the cost of any revenue impact
294 assessment economic feasibility study or other activities performed in
295 the exercise of due diligence pursuant to subsection (f) of this section.

296 (4) There is established an account to be known as the "Connecticut
297 economic impact and analysis account" which shall be a separate,
298 nonlapsing account within the General Fund. The account shall
299 contain any moneys required by law to be deposited in the account
300 and shall be held separate and apart from other moneys, funds and
301 accounts. There shall be deposited in the account any proceeds
302 realized by the state from activities pursuant to this section.
303 Investment earnings credited to the account shall become part of the
304 assets of the account. Any balance remaining in the account at the end
305 of any fiscal year shall be carried forward in the account for the next
306 fiscal year. Amounts in the account may be used by the Department of
307 Economic and Community Development to fund the cost of any
308 activities of the department pursuant to this section, including

309 administrative costs related to such activities.

310 (h) Upon approving an investment, the commissioner shall issue a
311 certificate of eligibility certifying that the applicant has complied with
312 the provisions of this section.

313 (i) (1) There shall be allowed as a credit against the tax imposed
314 under chapters 207 to 212a, inclusive, or section 38a-743, or a
315 combination of said taxes, an amount equal to the following
316 percentage of approved investments made by or on behalf of a
317 taxpayer with respect to the following income years of the taxpayer:
318 (A) With respect to the income year in which the investment in the
319 eligible project was made and the two next succeeding income years,
320 zero per cent; (B) with respect to the third full income year succeeding
321 the year in which the investment in the eligible project was made and
322 the three next succeeding income years, ten per cent; (C) with respect
323 to the seventh full income year succeeding the year in which the
324 investment in the eligible project was made and the next two
325 succeeding years, twenty per cent. The sum of all tax credits granted
326 pursuant to the provisions of this section shall not exceed one hundred
327 million dollars with respect to a single eligible urban reinvestment
328 project or a single eligible industrial site investment project approved
329 by the commissioner. The sum of all tax credits granted pursuant to
330 the provisions of this section shall not exceed five hundred million
331 dollars.

332 (2) Notwithstanding the provisions of subdivision (1) of this
333 subsection, any applicant may, at the time of application, apply to the
334 commissioner for a credit that exceeds the limitations established by
335 this subsection. The commissioner shall evaluate the benefits of such
336 application and make recommendations to the General Assembly
337 relating to changes in the general statutes which would be necessary to
338 effect such application if the commissioner determines that the
339 proposal would be of economic benefit to the state.

340 (j) The credits allowed by this section may be claimed by a taxpayer
341 who has made an investment (1) directly only if such investment has a

342 total asset value of not less than [twenty] five million dollars; (2)
343 through a fund managed by a fund manager registered under this
344 section only if such fund: (A) Has a total asset value of not less than
345 sixty million dollars for the income year for which the initial credit is
346 taken; and (B) has not less than three investors who are not related
347 persons with respect to each other or to any person in which any
348 investment is made other than through the fund at the date the
349 investment is made; or (3) through a community development entity.

350 (k) Each taxpayer claiming the credit allowed under this section
351 shall submit to the Commissioner of Revenue Services a copy of the
352 eligibility certificate issued under subsection (h) of this section with its
353 tax return for each taxable year for which a credit is claimed.

354 (l) The tax credit allowed by this section, when made through a
355 fund, shall only be available for investments in funds that are not open
356 to additional investments or investors beyond the amount subscribed
357 at the formation of the fund.

358 (m) (1) The Commissioner of Revenue Services may treat one or
359 more corporations that are properly included in a combined
360 corporation business tax return under section 12-223a, as amended, as
361 one taxpayer in determining whether the appropriate requirements
362 under this section are met. Where corporations are treated as one
363 taxpayer for purposes of this subsection, then the credit shall be
364 allowed only against the amount of the combined tax for all
365 corporations properly included in a combined return that, under the
366 provisions of subdivision (2) of this subsection, is attributable to the
367 corporations treated as one taxpayer.

368 (2) The amount of the combined tax for all corporations properly
369 included in a combined corporation business tax return that is
370 attributable to the corporations that are treated as one taxpayer under
371 the provisions of this subsection shall be in the same ratio to such
372 combined tax that the net income apportioned to this state of each
373 corporation treated as one taxpayer bears to the net income
374 apportioned to this state, in the aggregate, of all corporations included

375 in such combined return. Solely for the purposes of computing such
376 ratio, any net loss apportioned to this state by a corporation treated as
377 one taxpayer or by a corporation included in such combined return
378 shall be disregarded.

379 (n) Any taxpayer allowed a credit under this section may assign
380 such credit to another taxpayer, provided such other taxpayer may
381 claim such credit only with respect to a taxable year for which the
382 assigning taxpayer would have been eligible to claim such credit and
383 such other taxpayer may not further assign such credit. The taxpayer
384 allowed such credit, the fund manager or the community development
385 entity shall file with the Commissioner of Revenue Services
386 information requested by the commissioner regarding such
387 assignments, including, but not limited to, the current holders of
388 credits as of the end of the preceding calendar year.

389 (o) No taxpayer shall be eligible for a credit under (1) this section,
390 and (2) section 12-217e or 38a-88a, for the same investment. No two
391 taxpayers shall be eligible for any tax credit with respect to the same
392 investment or the same project costs.

393 (p) Any credit not used in the income year for which it was allowed
394 may be carried forward for the five immediately succeeding income
395 years until the full credit has been allowed.

396 [(q) Any tax credits approved under this section that would
397 constitute in excess of twenty million dollars in total for a single
398 investment shall be submitted by the Commissioner of Economic and
399 Community Development to the joint standing committee of the
400 General Assembly having cognizance of matters relating to finance
401 prior to the issuance of a certificate of eligibility for such investment.
402 Said commissioner shall make a recommendation to the president pro
403 tempore of the Senate and to the speaker of the House of
404 Representatives regarding approval or disapproval of such project not
405 later than thirty days after receiving such submission. If such
406 submission is not disapproved by the House of Representatives or the
407 Senate, or both, within sixty days of the submission date, the

408 commissioner may issue such certificate.]

409 (q) (1) If the commissioner approves any tax credits under this
410 section that would constitute in excess of ten million dollars in total for
411 a single investment, the commissioner shall provide notice of such
412 approval to the speaker of the House of Representatives and the
413 president pro tempore of the Senate prior to the issuance of a
414 certificate of eligibility for such investment. Not later than five days
415 after receipt of notice of such approval, the speaker of the House of
416 Representatives and the president pro tempore of the Senate shall
417 submit such notice to the joint standing committee of the General
418 Assembly having cognizance of matters relating to finance, revenue
419 and bonding. Not later than fifteen days after its receipt of such notice,
420 said joint standing committee shall hold a public hearing on such tax
421 credits. Not later than thirty days after the speaker's and president pro
422 tempore's receipt of the notice from the commissioner regarding such
423 tax credits, the joint standing committee of the General Assembly
424 having cognizance of matters relating to finance, revenue and bonding
425 shall recommend to the speaker of the House of Representatives and
426 the president pro tempore of the Senate its approval or disapproval of
427 the tax credits.

428 (2) The General Assembly may, by resolution, (A) approve any such
429 tax credits by a majority vote of the membership of each house, or (B)
430 reject such tax credits by a majority vote of the membership of either
431 house.

432 (3) If the General Assembly is in regular session when the joint
433 standing committee of the General Assembly having cognizance of
434 matters relating to finance, revenue and bonding makes such
435 recommendation, it shall vote to approve or reject such tax credits not
436 later than thirty days after such recommendation. The tax credits shall
437 be deemed approved if the General Assembly fails to vote to approve
438 or reject such tax credits by the thirtieth day after such
439 recommendation.

440 (4) (A) If the General Assembly is not in session when such

441 recommendation is made and such recommendation is for approval, it
442 may vote to approve or disapprove such credits not later than thirty
443 days after such approval. The tax credits shall be deemed approved if
444 the General Assembly fails to vote to approve or reject such tax credits
445 by the thirtieth day after the recommendation for approval.

446 (B) If the General Assembly is not in session when such
447 recommendation is made and such recommendation is for
448 disapproval, it may vote to approve or disapprove such credits not
449 later than thirty days after the first day of its next regular session. The
450 tax credits shall be deemed approved if the General Assembly fails to
451 vote to approve or reject such tax credits by the thirtieth day after the
452 first day of such session.

453 (5) If such tax credits are not disapproved by the House of
454 Representatives or the Senate under this subsection, the commissioner
455 may issue a certificate of eligibility for the investment for which the tax
456 credits are sought.

457 (r) Not later than July first in each year that credits allowed by this
458 section are claimed by a taxpayer with respect to an approved
459 investment, the commissioner may retain such persons as said
460 commissioner may deem appropriate to conduct a study to estimate
461 the state revenue that is being and will be generated by the eligible
462 project in which such investment is made. Such economic impact study
463 shall determine whether the state revenue actually generated by such
464 eligible project is equal to the estimate of state revenue made at the
465 time the investment in such eligible project was approved. If the sum
466 of all state revenue actually generated by such eligible project is less
467 than the amount of the total sum of tax credits claimed with respect to
468 the approved investment in such project on the date of such analysis,
469 the commissioner may determine from the person retained pursuant to
470 this subsection the applicable recapture amount and may revoke the
471 certificate of eligibility issued under subsection (h) of this section. The
472 commissioner may require the taxpayer, the fund manager or
473 community development entity that made such approved investment

474 to reimburse the commissioner for all or any part of the cost of any
475 economic impact study performed under this subsection.

476 (s) (1) Any taxpayer which has claimed credits allowed by this
477 section related to an investment concerning which the commissioner
478 has revoked the certificate of eligibility issued under subsection (h) of
479 this section, shall be required to recapture such taxpayer's pro rata
480 share of the recapture amount as determined under the provisions of
481 subdivision (2) of this subsection and no subsequent credit shall be
482 allowed unless such certificate of eligibility is reinstated under the
483 provisions of subdivision (3) of this subsection.

484 (2) If the taxpayer is required under the provisions of subdivision
485 (1) of this subsection to recapture its pro rata share of the recapture
486 amount during (A) the first year such credit was claimed, then ninety
487 per cent of such share shall be recaptured on the tax return required to
488 be filed for such year, (B) the second of such years, then sixty-five per
489 cent of such share shall be recaptured on the tax return required to be
490 filed for such year, (C) the third of such years, then fifty per cent of
491 such share shall be recaptured on the tax return required to be filed for
492 such year, (D) the fourth of such years, then thirty per cent of such
493 share shall be recaptured on the tax return required to be filed for such
494 year, (E) the fifth of such years, then twenty per cent of such share
495 shall be recaptured on the tax return required to be filed for such year,
496 and (F) the sixth or subsequent of such years, then ten per cent of such
497 share shall be recaptured on the tax return required to be filed for such
498 year. The Commissioner of Revenue Services may recapture such share
499 from the taxpayer who has claimed such credits. If the commissioner is
500 unable to recapture all or part of such share from such taxpayer, the
501 commissioner may seek to recapture such share from any taxpayer
502 who has assigned credits in an amount at least equal to such share to
503 another taxpayer. If the commissioner is unable to recapture all or part
504 of such share from any such taxpayer, the commissioner may
505 recapture such share from any fund through which the investment was
506 made.

507 (3) If the commissioner has revoked the certificate of eligibility
508 issued under subsection (h) of this section, such certificate of eligibility
509 shall be reinstated by the commissioner if, upon a request made by the
510 taxpayer, fund manager or community development entity who made
511 such approved investment, an economic impact study conducted
512 pursuant to subsection (r) of this section shall determine that the sum
513 of all state revenue actually generated by the project in which such
514 investment was made is greater than the amount of the total sum of tax
515 credits claimed on the date of such analysis, provided no such request
516 shall be made pursuant to this subsection during the calendar year in
517 which such certificate was revoked. For the purpose of determining
518 whether such certificate shall be reinstated, the commissioner shall,
519 upon receipt of a request made under this subsection, obtain one such
520 economic impact study per calendar year and may obtain additional
521 such economic impact studies as the commissioner deems appropriate.

522 (t) (1) The entity receiving tax credits under this section shall be
523 assessed a fine for any violation of any provision of chapter 557 or 558
524 by any contractor providing services to the project in its construction
525 phase. Such fine shall be payable in the first year in which such entity
526 may claim any amount of credit under the provisions of subsection (i)
527 of this section. The fine payable by such entity shall be equal to fifty
528 per cent of any fine assessed from such contractor for a first violation,
529 and for a second or subsequent violation, the fine payable by such
530 entity shall be equal to the fine assessed from such contractor.

531 (2) In addition to the fine imposed under subdivision (1) of this
532 subsection, the commissioner shall review the circumstances of any
533 violation described in said subdivision (1) and may recommend that
534 the tax credit be suspended for the first year in which the entity may
535 claim such credit. Such recommendation shall be submitted to the joint
536 standing committee of the General Assembly having cognizance of
537 matters relating to finance, revenue and bonding. If said joint standing
538 committee approves such recommendation, the tax credit shall be
539 suspended for such year.

540 Sec. 2. Subdivision (2) of section 32-450 of the general statutes is
541 repealed and the following is substituted in lieu thereof (*Effective from*
542 *passage*):

543 (2) "Economic development financial assistance" means any grant,
544 loan or loan guarantee, or combination thereof, or any tax credits
545 approved under section 32-9t, as amended by this act, provided to a
546 business for the purpose of economic development.

547 Sec. 3. (NEW) (*Effective July 1, 2004*) On or before January 1, 2005,
548 and annually thereafter, the Commissioner of Economic and
549 Community Development shall prepare a report regarding tax credits
550 allowed under the general statutes which require any approval or
551 certification by said commissioner. Such report shall include
552 information regarding all credits claimed, approved and allowed and
553 the amount of any credits sold or transferred, including to whom the
554 credit was transferred and for what, if any, discount. Such report shall
555 be submitted to the speaker of the House of Representatives, the
556 president pro tempore of the Senate, and the chairpersons of the joint
557 standing committees of the General Assembly having cognizance of
558 matters relating to finance, revenue and bonding and economic and
559 community development.

560 Sec. 4. (NEW) (*Effective July 1, 2004*) On or before December 1, 2004,
561 and annually thereafter, the Commissioner of Revenue Services shall
562 prepare a report regarding tax credits administered by the Department
563 of Revenue Services. Such report shall include information regarding
564 all tax credits allowed by said commissioner, the total amount allowed
565 in the preceding income year for each type or category of credit and
566 the authority for such credit.

567 Sec. 5. Section 32-1h of the general statutes, as amended by section 1
568 of public act 03-26, is repealed and the following is substituted in lieu
569 thereof (*Effective from passage*):

570 Not later than November first, annually, the Commissioner of
571 Economic and Community Development shall submit a report to the

572 Auditors of Public Accounts and the joint standing committees of the
573 General Assembly having cognizance of matters relating to the
574 Department of Economic and Community Development,
575 appropriations and capital bonding, which shall include the following
576 information with respect to new and outstanding financial assistance
577 provided by the commissioner for each financial assistance program
578 the commissioner administers, and for the urban and industrial sites
579 reinvestment program under section 32-9t, as amended by this act: (1)
580 A list of the names, addresses and locations of all recipients of such
581 assistance, (2) for each such recipient: (A) The business activities, (B)
582 the standard industrial classification manual codes, (C) the gross
583 revenues during the recipient's most recent fiscal year, (D) the number
584 of employees at the time of application, (E) whether the recipient is a
585 minority or woman-owned business, (F) a summary of the terms and
586 conditions for the assistance, including the type and amount of state
587 financial assistance, job creation or retention requirements, and
588 anticipated wage rates, and (G) the amount of investments from
589 private and other nonstate sources that have been leveraged by the
590 assistance, (3) the economic benefit criteria used in determining which
591 applications have been approved or disapproved, and (4) for each
592 recipient of assistance on or after July 1, 1991, a comparison between
593 the number of jobs to be created, the number of jobs to be retained and
594 the average wage rates for each such category of jobs, as projected in
595 the recipient's application, versus the actual number of jobs created,
596 the actual number of jobs retained and the average wage rates for each
597 such category. The report shall also indicate the actual number of full-
598 time jobs and the actual number of part-time jobs in each such category
599 and the benefit levels for each such subcategory. The report shall
600 include a summary of the activities of the department, including all
601 activities to assist small businesses and minority business enterprises,
602 as defined in section 4a-60g, and recommendations for legislation to
603 promote the purposes of the department.

This act shall take effect as follows:	
Section 1	<i>from passage</i>

Sec. 2	<i>from passage</i>
Sec. 3	<i>July 1, 2004</i>
Sec. 4	<i>July 1, 2004</i>
Sec. 5	<i>from passage</i>

FIN *Joint Favorable Subst.*

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:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Revenue Serv., Dept.	GF - Revenue Loss	See Below	See Below
Department of Economic & Community Development	GF - Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill will result in a General Fund revenue loss for the Corporation Tax to the extent that reducing the direct investment threshold for the Urban and Industrial Site Reinvestment tax credit from \$20 million to \$5 million increases the number of projects that are eligible to receive the credits.

The bill is likely to result in a cost to the Department of Economic and Community Development (DECD) because the agency is required to: (1) obtain an independent financial analysis for each application, which is estimated to be \$10,000 to \$20,000 per analysis, and (2) perform an annual study over a 10-year period for each project that is approved. The impact on DECD will depend upon: (1) the number of projects outsourced for financial analysis, (2) the number of computer simulations run, and (3) whether these costs are reimbursed under the provisions of CGS Sec. 32-9t(g)(3). There have been 7 applications submitted to date.

OLR BILL ANALYSIS

sHB 5647

AN ACT CONCERNING THE URBAN AND INDUSTRIAL SITE REINVESTMENT PROGRAM**SUMMARY:**

This bill makes many changes to the Urban and Industrial Sites Reinvestment Program, which provides business tax credits for investing in projects that develop properties and consequently generate significant state and local tax revenue.

The bill lowers, from \$20 million to \$5 million, the minimum amount a business must invest directly in a project to qualify for the credits. (The law also allows businesses to invest indirectly in a project through a fund manager or community development entity.) It disqualifies businesses from receiving credits for projects that would relocate a facility from one town to another unless the business can certify that another state offered incentives to relocate the facility there.

The bill adds more factors the Department of Economic and Community Development (DECD) commissioner must examine when deciding whether to approve credits. It requires him to determine (1) if Connecticut residents, including minority group members, are likely to be hired to construct the project; (2) the public policy goals that would be served by approving the credits; and (3) whether the business seeking them involved local officials and labor groups in the planning process.

The bill requires the commissioner to hire an independent analyst to determine the amount of tax revenue the project will generate. Under current law, he can hire an outside analyst or do the assessment in-house. The bill also requires the commissioner to determine how the project addresses the state's transportation policy goals.

The bill lowers, from \$20 million to \$10 million in tax credits, the threshold for projects requiring legislative approval and revamps the approval process.

It makes the businesses receiving the credits liable for any labor law

violations along with the contractors they hired to construct the project. In these situations, the bill also allows the commissioner to advise the Finance, Revenue and Bonding Committee if the credits should be suspended during the first year the business can claim them and requires the committee to approve any suspension.

Lastly, the bill requires the DECD and Department of Revenue Services (DRS) commissioners to report annually on the businesses receiving credits for different purposes.

EFFECTIVE DATE: Upon passage, except for the provisions requiring DECD and DRS to report annually on businesses receiving the credits, which take effect July 1, 2004.

TAX CREDITS

The law allows businesses seeking credits to invest their funds in a project directly or through a state-registered fund manager or community development entity. The credit amount can equal the state revenue a project generates, but cannot exceed \$100 million per project. Businesses may claim the credit over 10 years according to a statutory schedule, but only if the project generates the projected revenue. The law caps the total amount of credits for all projects at \$500 million.

Under current law, businesses that invest at least \$20 million of their funds directly in a project qualify for credits. The bill lowers this threshold to \$5 million. (There is no minimum required investment for investing through the two intermediaries, but an investment made through a fund manager qualifies for credits only if the fund's total asset value exceeds \$60 million.)

INTRASTATE RELOCATIONS

By law, projects must meet several criteria in order for businesses to qualify for the credits. These criteria include showing that the project needs the credit in order to attract private investment and that it will generate new economic activity and significant tax revenue.

Under the bill, a business applying for credits cannot receive them if the project would relocate a facility from one Connecticut town to another. But the DECD commissioner can approve credits for a relocation within the state if he determines that the credits would

discourage the business from relocating to another state and if the business supports this determination by certifying that it received a bona fide offer or incentive from a government agency in another state to move the facility there.

ECONOMIC DEVELOPMENT ACCOUNTABILITY

The bill requires businesses seeking over \$250,000 in credits to comply with a law that ties economic development assistance to specific public policy goals, which may include creating or retaining jobs, and brings local officials into the state's development finance process. Consequently, it requires the DECD commissioner to specify the public purpose the tax credits serve and businesses that request them to state how the project will address that purpose. Businesses must also explain whether and how they involved municipal officials and employee groups in planning the project. The commissioner must consider this information when deciding whether to approve the credits.

DECD COMMISSIONER REVIEW AND APPROVAL

The bill expands the criteria the DECD commissioner must use to evaluate projects. He must determine if there is a reasonable probability that available and qualified Connecticut residents, including minority group members, will be hired to help construct the project. The hiring requirement applies to construction jobs at all levels of any construction activity. The commissioner may approve the credits if the project meets this criterion.

The bill also makes changes to some of the analyses the commissioner must perform when evaluating a project. The bill adds studies and evaluations he must prepare or obtain before approving a project. Under current law, he must prepare (1) an economic feasibility study and (2) an assessment of the state and local revenue the project would generate. The bill adds (1) an assessment for the Transportation Strategy Board of the project's impact on the state's transportation goals and (2) a financial analysis.

Under current law, the commissioner can perform the economic feasibility study and the revenue impact assessment in-house or contract them out. Under the bill, he must do the economic feasibility study in-house, do the revenue and transportation assessments either

internally or contract them out, and must hire an independent outside analyst to conduct the financial analysis and the economic feasibility study. (It is not clear if this economic feasibility study is separate from the one the commissioner must do in-house.) The analyst must prepare a certified report that includes estimates of the state and local revenue the project will generate and its economic feasibility.

LEGISLATIVE REVIEW AND APPROVAL

Project Notification

The bill requires the commissioner to notify the legislature when he receives a formal application for credits. He must notify the House speaker, Senate president pro tempore, and chairpersons of the Commerce and Finance, Revenue and Bonding committees. He must also notify the chief elected official of any town the proposed project may directly affect.

Legislative Approval

The bill lowers the threshold for projects requiring legislative approval from \$20 million to \$10 million in credits and revamps the approval process. Under current law, the commissioner must submit applications for projects requesting over \$20 million in credits to the Finance, Revenue and Bonding Committee and advise the top legislative leaders if credits should be approved. He must do this within 30 days after receiving the request. Either chamber can act on the request within 60 days after receiving it. But if neither does, the commissioner may approve it.

The bill requires the commissioner to notify the top legislative leaders when he tentatively approves applications requesting over \$10 million in credits. They have five days from when they received the notice to notify the chairpersons of the Finance, Revenue and Bonding Committee. The chairpersons then have 15 days to schedule a public hearing on the application. The committee has 30 days from when the leaders received the commissioner's notice to recommend to them whether the credits should be approved. Current law specifies no particular action the committee must take.

The bill specifies how the legislature may act on the application when it is in or out of session. If the legislature is in regular session, it must

vote to approve or reject the credits within 30 days after the Finance, Revenue and Bonding Committee makes its recommendation. The application is approved if both chambers approve it or if both fail to act on it within the 30 days. The application is rejected if either chamber votes to reject it.

If the legislature is not in session, the approval requirement varies depending on the committee's recommendation. If the committee recommends approval, the legislature can come into session and act on the application, but it must do so within 30 days after the committee made its recommendation to the leaders. If the committee recommends disapproval, the legislature has until 30 days after the start of its next regular session to act. In either case, the bill deems the application to be approved if the legislature does not act within the 30 days.

The commissioner may issue a certificate establishing the business' eligibility for credits only if the legislature approves the credits or does not act on them.

LABOR COMPLIANCE

In addition to the construction contractors, the bill makes the business receiving the credits liable if any contractor hired to construct the project violates a labor law. The business must pay a fine equal to half the fine imposed on the contractor for the first violation and a fine equal to the entire contractor fine for any subsequent violations. The bill also requires the commissioner to review the circumstances that led to the fine and allows him advise the Finance, Revenue and Bonding Committee that the credits should be suspended during the first year the business can claim them. The credits are suspended if the committee approves the recommendation.

(The law allows businesses to claim only a portion of the credits over a 10-year period. But they may do so only if the commissioner determines that the project is generating expected the state revenue.)

REPORTING REQUIREMENTS

The bill requires the commissioner to include the businesses receiving tax credits in his annual reports to the legislature on the businesses he finances. Among other things, the report lists each business receiving financial assistance and the number of jobs they created.

The bill also imposes new reporting requirements on the DECD and DRS commissioners. Beginning January 1, 2005, it requires the DECD commissioner to report annually on all of the tax credits that require his approval. In addition to the urban and industrial sites reinvestment credits, these include the credits for creating jobs in new facilities housing financial service and information technology firms and those in enterprise zones and other designated areas.

The report must provide information on the credits claimed, approved, and allowed and the amount of credits that were sold or transferred. If a credit was transferred, the report must identify the entity to which it was sold or transferred and the discount, if any, the buyer received. The DECD commissioner must submit the report to the top legislative leaders and the chairpersons of the Commerce and Finance, Revenue and Bonding committees.

Beginning December 1, 2004, the bill requires the DRS commissioner to prepare a report on the tax credits she administers. The report must include information about these credits, the total amount allowed in the previous income year broken down by type of credit, and the statutory authorization for each.

BACKGROUND

Related Bills

sSB 500 (File 265) requires the DECD commissioner to annually assess how the tax credit programs he administers benefit the economy. The Senate referred the bill to the Finance, Revenue and Bonding Committee on March 31.

sSB 602 requires businesses receiving tax credits to report annually to the DRS commissioner on the number of jobs they created and eliminated during the period they received the credits. The commissioner must summarize this data and report it to the Finance, Revenue and Bonding Committee. That committee reported the bill favorably on March 26.

sSB 504 (File 267) requires independent financial analysts to assess the economic impact of proposed urban sites projects. The Senate referred the bill to the Finance, Revenue and Bonding Committee on March 31.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 46 Nay 0