



General Assembly

January Session, 2007

**Raised Bill No. 1265**

LCO No. 4409

\*04409\_\_\_\_\_CE\_\*

Referred to Committee on Commerce

Introduced by:

(CE)

**AN ACT CONCERNING TAX INCREMENTAL FINANCING.**

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

1 Section 1. Section 32-23zz of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) For the purpose of assisting (1) any information technology  
4 project, as defined in subsection (ee) of section 32-23d, which is located  
5 in an eligible municipality, as defined in subdivision (12) of subsection  
6 (a) of section 32-9t, or (2) any remediation project, as defined in  
7 subsection (ii) of section 32-23d, the Connecticut Development  
8 Authority may, upon a resolution of the legislative body of a  
9 municipality, issue and administer bonds which are payable solely or  
10 in part from and secured by: (A) A pledge of and lien upon any and all  
11 of the income, proceeds, revenues and property of such a project,  
12 including the proceeds of grants, loans, advances or contributions from  
13 the federal government, the state or any other source, including  
14 financial assistance furnished by the municipality or any other public  
15 body, (B) taxes or payments or grants in lieu of taxes allocated to and  
16 payable into a special fund of the Connecticut Development Authority  
17 pursuant to the provisions of subsection (b) of this section, or (C) any

18 combination of the foregoing. Any such bonds of the Connecticut  
19 Development Authority shall mature at such time or times not  
20 exceeding thirty years from their date of issuance and shall be subject  
21 to the general terms and provisions of law applicable to the issuance of  
22 bonds by the Connecticut Development Authority, except that such  
23 bonds shall be issued without a special capital reserve fund as  
24 provided in subsection (b) of section 32-23j and, for purposes of section  
25 32-23f, only the approval of the board of directors of the authority shall  
26 be required for the issuance and sale of such bonds. Any pledge made  
27 by the municipality or the Connecticut Development Authority for  
28 bonds issued as provided in this section shall be valid and binding  
29 from the time when the pledge is made, and revenues and other  
30 receipts, funds or moneys so pledged and thereafter received by the  
31 municipality or the Connecticut Development Authority shall be  
32 subject to the lien of such pledge without any physical delivery thereof  
33 or further act. The lien of such pledge shall be valid and binding  
34 against all parties having claims of any kind in tort, contract or  
35 otherwise against the municipality or the Connecticut Development  
36 Authority, even if the parties have no notice of such lien. Recording of  
37 the resolution or any other instrument by which such a pledge is  
38 created shall not be required. In connection with any such assignment  
39 of taxes or payments in lieu of taxes, the Connecticut Development  
40 Authority may, if the resolution so provides, exercise the rights  
41 provided for in section 12-195h of an assignee for consideration of any  
42 lien filed to secure the payment of such taxes or payments in lieu of  
43 taxes. All expenses incurred in providing such assistance may be  
44 treated as project costs.

45 (b) Any proceedings authorizing the issuance of bonds under this  
46 section may contain a provision that taxes or a specified portion  
47 thereof, if any, identified in such authorizing proceedings and levied  
48 upon taxable real or personal property, or both, in a project each year,  
49 or payments or grants in lieu of such taxes or a specified portion  
50 thereof, by or for the benefit of any one or more municipalities,  
51 districts or other public taxing agencies, as the case may be, shall be

52 divided as follows: (1) In each fiscal year that portion of the taxes or  
53 payments or grants in lieu of taxes which would be produced by  
54 applying the then current tax rate of each of the taxing agencies to the  
55 total sum of the assessed value of the taxable property in the project on  
56 the date of such authorizing proceedings, adjusted in the case of grants  
57 in lieu of taxes to reflect the applicable statutory rate of  
58 reimbursement, shall be allocated to and when collected shall be paid  
59 into the funds of the respective taxing agencies in the same manner as  
60 taxes by or for said taxing agencies on all other property are paid; and  
61 (2) that portion of the assessed taxes or the payments or grants in lieu  
62 of taxes, or both, each fiscal year in excess of the amount referred to in  
63 subdivision (1) of this subsection shall be allocated to and when  
64 collected shall be paid into a special fund of the Connecticut  
65 Development Authority to be used in each fiscal year, in the discretion  
66 of the Connecticut Development Authority, to pay the principal of and  
67 interest due in such fiscal year on bonds issued by the Connecticut  
68 Development Authority to finance, refinance or otherwise assist such  
69 project, to purchase bonds issued for such project, or to reimburse the  
70 provider of or reimbursement party with respect to any guarantee,  
71 letter of credit, policy of bond insurance, funds deposited in a debt  
72 service reserve fund, funds deposited as capitalized interest or other  
73 credit enhancement device used to secure payment of debt service on  
74 any bonds issued by the Connecticut Development Authority to  
75 finance, refinance or otherwise assist such project, to the extent of any  
76 payments of debt service made therefrom. Unless and until the total  
77 assessed valuation of the taxable property in a project exceeds the total  
78 assessed value of the taxable property in such project as shown by the  
79 last assessment list referred to in subdivision (1) of this subsection, all  
80 of the taxes levied and collected and all of the payments or grants in  
81 lieu of taxes due and collected upon the taxable property in such  
82 project shall be paid into the funds of the respective taxing agencies.  
83 When such bonds and interest thereof, and such debt service  
84 reimbursement to the provider of or reimbursement party with respect  
85 to such credit enhancement, have been paid in full, all moneys

86 thereafter received from taxes or payments or grants in lieu of taxes  
87 upon the taxable property in such development project shall be paid  
88 into the funds of the respective taxing agencies in the same manner as  
89 taxes on all other property are paid. The total amount of bonds issued  
90 pursuant to this section which are payable from grants in lieu of taxes  
91 payable by the state shall not exceed an amount of bonds, the debt  
92 service on which in any state fiscal year is, in total, equal to one million  
93 dollars.

94 (c) The authority may make grants or provide loans or other forms  
95 of financial assistance from the proceeds of special or general  
96 obligation notes or bonds of the authority issued without the security  
97 of a special capital reserve fund within the meaning of subsection (b)  
98 of section 32-23j, which bonds are payable from and secured by, in  
99 whole or in part, the pledge and security provided for in section 8-134,  
100 8-192, 32-227 or this section, all on such terms and conditions,  
101 including such agreements with the municipality and the developer of  
102 the project, as the authority determines to be appropriate in the  
103 circumstances, provided any such project in an area designated as an  
104 enterprise zone pursuant to section 32-70 receiving such financial  
105 assistance shall be ineligible for any fixed assessment pursuant to  
106 section 32-71, and the authority, as a condition of such grant, loan or  
107 other financial assistance, may require the waiver, in whole or in part,  
108 of any property tax exemption with respect to such project otherwise  
109 available under subsection (59) or (60) of section 12-81.

110 (d) As used in this section, "bonds" means any bonds, including  
111 refunding bonds, notes, temporary notes, interim certificates,  
112 debentures or other obligations; "legislative body" has the meaning  
113 provided in subsection (y) of section 32-222; and "municipality" means  
114 a town, city, consolidated town or city or consolidated town and  
115 borough.

116 (e) For purposes of this section, references to the Connecticut  
117 Development Authority shall include any subsidiary of the

118 Connecticut Development Authority established pursuant to  
119 subsection (l) of section 32-11a, and a municipality may act by and  
120 through its implementing agency, as defined in subsection (k) of  
121 section 32-222.

122 [(f) No commitments for new projects shall be approved by the  
123 authority under this section on or after July 1, 2008.]

124 [(g)] (f) In the case of a remediation project, as defined in subsection  
125 (ii) of section 32-23d, that involves buildings that are vacant,  
126 underutilized or in deteriorating condition and as to which municipal  
127 real property taxes are delinquent, in whole or in part, for more than  
128 one fiscal year, the amount determined in accordance with subdivision  
129 (1) of subsection (b) of this section may, if the resolution of the  
130 municipality so provides, be established at an amount less than the  
131 amount so determined, but not less than the amount of municipal  
132 property taxes actually paid during the most recently completed fiscal  
133 year. If the Connecticut Development Authority issues bonds for the  
134 remediation project, the amount established in the resolution shall be  
135 used for all purposes of subsection (a) of this section.

136 Sec. 2. Section 32-285 of the general statutes is repealed and the  
137 following is substituted in lieu thereof (*Effective October 1, 2007*):

138 (a) There is hereby established a tax incremental financing program,  
139 under which the incremental sales taxes collected under chapter 219  
140 and admissions, cabaret and dues taxes collected under chapter 225,  
141 which are generated by a project approved by the authority under this  
142 section may be used to pay the debt service on bonds issued by the  
143 authority to help finance, on a self-sustaining basis, significant  
144 economic projects and encourage their location in the state.

145 (b) As used in this section: (1) "Authority" means the Connecticut  
146 Development Authority; and (2) "eligible project" means a large-scale  
147 economic development project (A) that may add a substantial amount  
148 of new economic activity and employment in the municipality in

149 which it is to be located and surrounding areas, and may generate  
150 significant additional tax revenues in the state; (B) for which use of the  
151 tax incremental financing mechanism may be necessary to attract the  
152 project to locate in the state; (C) which is economically viable and self-  
153 sustaining, taking into account the application of the proceeds of the  
154 bonds to be issued under the tax incremental financing program; (D)  
155 for which the direct and indirect economic benefits to the state and the  
156 municipality in which it will be located outweigh the costs of the  
157 project; and (E) which is consistent with the strategic development  
158 priorities of the state.

159 (c) Any person, firm or corporation wishing to participate in the tax  
160 incremental financing program, or any municipality wishing to obtain  
161 tax incremental financing to support a project within its boundaries,  
162 may apply to the authority in accordance with the provisions of this  
163 subsection. The application shall contain such information as the  
164 authority may require, which may include information concerning the  
165 type of business proposed to be established and its location, the  
166 number of jobs to be created or retained and their average wage rates,  
167 feasibility studies or business plans for the project and other  
168 information necessary to demonstrate its financial viability, the  
169 amounts and types of bonds proposed to be issued for the project and  
170 the proposed use of the proceeds, information about other sources of  
171 financing available to support repayment of the bonds proposed to be  
172 issued, including property tax increments to be made available by the  
173 municipality, a geographic description of the area surrounding the  
174 proposed site of the project and the existing firms doing business in  
175 that area, an economic impact assessment of the effects of the project  
176 on the municipality, an assessment of the incremental sales and  
177 admissions, cabaret and dues taxes to be generated by the project, an  
178 analysis of necessary infrastructure development to support the project  
179 and any available sources of financing for such infrastructure and  
180 other information which demonstrates that the bonds will be self-  
181 sustaining from the incremental taxes collected and any amounts made  
182 available by a municipality under subsection (i) of this section, and

183 that the project will provide net benefits to the economy and  
184 employment opportunity in the state. The authority shall impose a fee  
185 for such application as it deems appropriate. Any costs incurred by the  
186 authority which are associated with such application and are not  
187 covered by such fee shall be paid from funds of the authority which  
188 are not otherwise committed or pledged.

189 (d) Upon receiving an application for participation in the tax  
190 incremental financing program and any supporting information, the  
191 executive director of the authority shall make a preliminary  
192 determination as to whether a proposed project may be eligible for  
193 participation in the program.

194 (e) (1) The authority shall review each application that has been  
195 preliminarily determined to be eligible under subsection (d) of this  
196 section. In reviewing an application, the authority shall obtain such  
197 additional information as may be necessary to make a final  
198 determination as to whether the project is eligible for participation in  
199 the program, whether the project is economically viable with use of the  
200 tax incremental financing mechanism, the effects of the project on the  
201 municipality and whether the project would provide net benefits to  
202 economic development and employment opportunity in the state. The  
203 authority may require the project sponsor to submit such additional  
204 information as may be necessary to evaluate the application.

205 (2) The authority shall retain such financial advisors and other  
206 experts as it deems appropriate to conduct an independent financial  
207 assessment of the application and supporting information, including,  
208 in particular, the amount of the incremental sales and admissions,  
209 cabaret and dues taxes to be generated by the project, whether the  
210 project will be economically viable and whether the bonds will be self-  
211 sustaining.

212 (3) The authority shall prepare a revenue impact assessment that  
213 estimates the incremental sales and admissions, cabaret and dues taxes  
214 that would be generated by the project, the state and local revenues

215 that would be foregone as a result of the project, all state and local  
216 revenues that would be generated by the project and the economic  
217 benefits that would likely result from construction of the project,  
218 including revenue effects of such economic benefits.

219 (4) Not later than seventy-two hours before presenting a proposed  
220 project to the board of directors of the authority for final approval, the  
221 executive director of the authority shall give notice of the proposed  
222 project and meeting to the president pro tempore and minority leader  
223 of the Senate, the speaker and minority leader of the House of  
224 Representatives and the chairpersons and ranking members of the  
225 joint standing committees of the General Assembly having cognizance  
226 of matters relating to finance, revenue and bonding and the  
227 Department of Economic and Community Development. Such notice  
228 shall include such information about the project, the estimated tax  
229 increments and the revenue impact assessment, as may be appropriate,  
230 consistent with the protection of any confidential financial information  
231 provided by the project sponsor. Any such member of the General  
232 Assembly may, by notifying the executive director, request that the  
233 board of directors of the authority defer final consideration of the  
234 project for thirty days.

235 (f) (1) Upon consideration of the application, the results of the  
236 independent financial assessment, the revenue impact assessment and  
237 any additional information that the board of directors of the authority  
238 requires concerning a proposed project, such board of directors shall  
239 determine whether to approve the project for participation in the tax  
240 incremental financing program and, if so, the amount and type of  
241 bonds the authority shall issue to support the approved project, the  
242 purposes for which the funds generated by sale of the bonds may be  
243 applied and the amount of the incremental sales and admissions,  
244 cabaret and dues taxes that shall be annually allocated to pay principal  
245 and interest on the bonds to be issued for the project. The amounts so  
246 allocated shall not exceed the estimated amount of incremental taxes to  
247 be collected, except that in the case of retail shopping center projects,

248 the amount of incremental sales allocated to calculating incremental  
249 sales taxes shall not exceed thirty per cent of gross sales directly  
250 associated with the project. From the amount of incremental taxes so  
251 allocated by the authority, the amount required for payment of  
252 principal and interest on the bonds issued in accordance with  
253 subsection (g) of this section shall be deemed appropriated from the  
254 state General Fund.

255 (2) The authority may approve a project only if it concludes that: (A)  
256 The project is an eligible project; (B) the incremental sales taxes  
257 collected under chapter 219 and the incremental admissions, cabaret  
258 and dues taxes collected under chapter 225 that are generated by the  
259 project, together with other dedicated sources of financing available to  
260 pay debt service on the bonds, will be sufficient to pay interest and  
261 principal on the bonds as they come due; (C) the project will be  
262 economically viable and will contribute significantly to economic  
263 development and employment opportunity in the state; and (D) the  
264 direct and indirect economic benefits of the project to the state and the  
265 municipality in which it shall be located will be greater than the costs  
266 to the state and such municipality.

267 (3) The authority shall seek to obtain diversification among the  
268 types of projects supported under this program and among the  
269 geographic regions in the state in which projects are located.

270 (4) The approval of a project by the authority may be combined with  
271 the exercise of any of its other powers, including but not limited to, the  
272 provision of other forms of financial assistance. The proceeds of the  
273 bonds may be combined with any other funds available from state or  
274 federal programs, or from investments by the private sector, to support  
275 the project.

276 (5) Upon approving a project, the authority may require the project  
277 sponsor to reimburse the authority for all or any part of the costs of the  
278 independent financial assessment conducted in reviewing the  
279 application and any other related costs incurred.

280 (g) (1) The authority may issue one or more series of bonds in  
281 accordance with the provisions of chapter 579, to the extent not  
282 inconsistent with the provisions of this subsection, payable in whole or  
283 in part from the incremental taxes allocated and deemed appropriated  
284 from the state General Fund under subsection (f) of this section and  
285 any amounts contributed by a municipality under subsection (i) of this  
286 section, to finance a project approved under this section or to refund  
287 bonds previously issued under this section. The authority is  
288 authorized to make a grant of all or part of the proceeds of such bonds  
289 to any person in connection with the acquisition, construction and  
290 equipping of an eligible project, including the expense of the state or  
291 any municipality, or any instrumentality or agency of the state or any  
292 municipality, in connection therewith. Subject to applicable federal tax  
293 law, the authority may issue such bonds, the interest on which is  
294 excludable from gross income for federal income tax purposes, or such  
295 bonds, the interest on which is not so excludable. The authority, when  
296 authorizing the issuance of any series of such bonds, shall, in  
297 conjunction with the State Treasurer, determine the rate of interest of  
298 such bonds, the date or dates of their maturity, the medium of  
299 payment, the redemption terms and privileges, whether such bonds  
300 shall be sold by negotiated or competitive sale and any and all other  
301 terms, covenants and conditions not inconsistent with this section, in  
302 connection with the issuance thereof, including but not limited to, the  
303 pledging of special capital reserve funds authorized under subsection  
304 (b) of section 32-23j.

305 (2) The issuance of any bonds by the authority under this section  
306 shall be subject to the approval of the State Bond Commission. Upon  
307 approving a project, the authority shall submit the matter to the State  
308 Bond Commission for final approval. The State Bond Commission  
309 shall not approve any project unless it has received the submission  
310 from the authority at least ten days prior to the meeting at which such  
311 project is to be considered. Such submission shall include the  
312 information considered by the authority in approving the project, the  
313 independent financial assessment and such other information as the

314 commission deems appropriate. In reaching its decision, the State  
315 Bond Commission may consider such information as submitted. After  
316 such approval by the Bond Commission, no other approval shall be  
317 required for the project.

318 (h) For such period of time as bonds issued to support an approved  
319 project are outstanding, the Treasurer shall make payment of interest  
320 and principal on the bonds to the trustee when due, but not exceeding  
321 in any fiscal year the amount deemed appropriated pursuant to  
322 subsection (f) of this section.

323 (i) A portion of the proceeds of bonds issued pursuant to this  
324 section may be made available to a municipality in which a project is  
325 located for the purpose of carrying out or administering a  
326 redevelopment plan or other functions authorized under chapter 130  
327 or chapter 132. Such municipality may contribute all or any part of the  
328 money specified in subdivision (2) of section 8-134a or subdivision (b)  
329 of section 8-192a to the authority for the payment of principal and  
330 interest on the bonds issued by the authority under this section to  
331 support such approved project. In exercising such power, such  
332 municipalities shall proceed as provided in said chapter 130 or 132, as  
333 the case may be, except that the references therein to bonds and bond  
334 anticipation notes shall be deemed to refer to the bonds issued by the  
335 authority under this section.

336 (j) (1) Not later than July first in each year that bonds issued to  
337 support an approved project are outstanding, the authority shall  
338 submit a report to the joint standing committees of the General  
339 Assembly having cognizance of matters relating to the Department of  
340 Economic and Community Development and finance, revenue and  
341 bonding with respect to the operations, finances and achievement of  
342 the economic development objectives of the projects approved under  
343 this section. The authority shall review and evaluate the progress of  
344 each project and shall devise and employ techniques for forecasting  
345 and measuring relevant indices of accomplishment of its goals of

346 economic development, including, but not limited to, (A) the actual  
347 expenditures compared to original estimated costs, (B) whether there  
348 have been significant cost increases over original estimates, (C) the  
349 number of jobs created, or to be created, by or as a result of the project,  
350 (D) the cost or estimated cost, to the authority, involved in the creation  
351 of those jobs, (E) the amount of private capital investment in, or  
352 stimulated by, the project, in proportion to the public funds invested in  
353 such project, (F) the number of additional businesses created and  
354 associated jobs, and (G) any impact on tourism.

355 (2) Not later than July first in each year that bonds issued to support  
356 an approved project are outstanding, the Office of Policy and  
357 Management shall retain independent financial experts to conduct an  
358 analysis of the financial status of each project approved under this  
359 section. The independent financial analysis shall include, but not be  
360 limited to, determinations as to whether the incremental sales and  
361 admissions, cabaret and dues taxes actually generated by the project  
362 are equal to the estimates made at the time the project was approved,  
363 whether the project is economically viable and whether the bonds  
364 issued are self-sustaining with the incremental taxes actually collected  
365 and other financing sources dedicated to repayment of the bonds. The  
366 authority shall require the project sponsor to reimburse the Office of  
367 Policy and Management for the costs of such annual analyses. The  
368 results of such analyses shall be made available to the president pro  
369 tempore of the Senate, the speaker of the House of Representatives, the  
370 majority and minority leaders of both houses, and to the chairpersons  
371 and ranking members of said committees.

372 [(k) No commitments for new projects shall be approved by the  
373 authority under this section on or after July 1, 2008.]

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	32-23zz
Sec. 2	<i>October 1, 2007</i>	32-285

***Statement of Purpose:***

To remove the sunset dates for the tax incremental financing programs, thereby continuing a source of economic development.

*[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.]*