



House of Representatives

General Assembly

File No. 278

February Session, 2010

Substitute House Bill No. 5357

House of Representatives, April 1, 2010

The Committee on Commerce reported through REP. BERGER of the 73rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CHANGES TO CERTAIN TAX CREDITS TO ENHANCE THEIR USE AND TO REPEAL CERTAIN UNUTILIZED TAX CREDITS.

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

1 Section 1. Section 12-217ii of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage and*
3 *applicable to income or taxable years, as appropriate, commencing on or after*
4 *January 1, 2011*):

5 (a) As used in this section:

6 (1) "Commissioner" means the Commissioner of Economic and
7 Community Development;

8 (2) "Income year" means, with respect to entities subject to the
9 insurance premiums tax under chapter 207, the corporation business
10 tax under this chapter or the utilities company tax under chapter 212,
11 the income year as determined under each of said chapters, as the case
12 may be or, with respect to affected business entities, the taxable year as

13 determined under chapter 229;

14 (3) "Taxpayer" means a person subject to tax under chapter 207, this
15 chapter or chapter 212, or an affected business entity, as defined in
16 section 12-284b;

17 (4) "New job" means a full-time job which (A) did not exist in this
18 state prior to a taxpayer's application to the commissioner for an
19 eligibility certificate under this section for a job creation credit, and (B)
20 is filled by a new employee;

21 (5) "New employee" means a person hired by the taxpayer to fill a
22 new full-time job. A new employee does not include a person who was
23 employed in Connecticut by a related person with respect to the
24 taxpayer during the prior twelve months;

25 (6) "Full-time job" means a job in which an employee is required to
26 work at least thirty-five or more hours per week. A full-time job does
27 not include a temporary or seasonal job;

28 (7) "Related person" means (A) a corporation, limited liability
29 company, partnership, association or trust controlled by the taxpayer,
30 (B) an individual, corporation, limited liability company, partnership,
31 association or trust that is in control of the taxpayer, (C) a corporation,
32 limited liability company, partnership, association or trust controlled
33 by an individual, corporation, limited liability company, partnership,
34 association or trust that is in control of the taxpayer, or (D) a member
35 of the same controlled group as the taxpayer; and

36 (8) "Control", with respect to a corporation, means ownership,
37 directly or indirectly, of stock possessing fifty per cent or more of the
38 total combined voting power of all classes of the stock of such
39 corporation entitled to vote. "Control", with respect to a trust, means
40 ownership, directly or indirectly, of fifty per cent or more of the
41 beneficial interest in the principal or income of such trust. The
42 ownership of stock in a corporation, of a capital or profits interest in a
43 partnership, limited liability company or association or of a beneficial

44 interest in a trust shall be determined in accordance with the rules for
45 constructive ownership of stock provided in Section 267(c) of the
46 Internal Revenue Code of 1986, or any subsequent corresponding
47 internal revenue code of the United States, as from time to time
48 amended, other than paragraph (3) of said Section 267(c).

49 (b) (1) There is established a jobs creation tax credit program
50 whereby a taxpayer who creates [at least ten] a new [jobs] job in
51 Connecticut may be allowed a credit against the tax imposed under
52 chapter 207, this chapter, [or] chapter 212 or chapter 229, in an amount
53 up to [sixty per cent of the income tax deducted and withheld from the
54 wages of new employees and paid over to the state pursuant to
55 chapter 229] fifteen per cent of the wages paid to a new employee,
56 provided such new job provides the employee with wages greater than
57 or equal to eighty per cent of the state median income and health care
58 benefits.

59 (2) For each new employee, [credits] a maximum annual credit of
60 four thousand dollars may be granted for [five] three successive years.
61 Such credit shall be issued in installments over three years.

62 (3) The credit shall be claimed in the income year in which it is
63 earned. Any credits not used in a tax year shall expire.

64 (c) (1) Any taxpayer planning to claim a credit under the provisions
65 of this section shall apply to the commissioner in accordance with the
66 provisions of this section. Credits shall be issued on a first-come, first-
67 served basis. The application shall be on a form provided by the
68 commissioner, and shall contain sufficient information [concerning the
69 number of new jobs to be created, feasibility studies or business plans
70 for the increased number of jobs, projected state and local revenue that
71 might derive as a result of the job growth and other information
72 necessary to demonstrate that there will be net benefits to the economy
73 of the municipality and the state] to confirm that a job was created
74 meeting the requirements in subdivision (1) of subsection (b) of this
75 section, and a state resident was hired. The commissioner [shall] may
76 impose a fee for such application as the commissioner deems

77 appropriate.

78 [(d) The commissioner shall determine whether (1) the taxpayer
79 making the application is eligible for the tax credit, and (2) the
80 proposed job growth (A) is economically viable only with use of the
81 tax credit, (B) would provide a net benefit to economic development
82 and employment opportunities in the state, and (C) conforms to the
83 state plan of conservation and development prepared pursuant to
84 section 16a-24. The commissioner may require the applicant to submit
85 such additional information as may be necessary to evaluate the
86 application.

87 (e) (1) The commissioner, upon consideration of the application and
88 any additional information the commissioner requires, may approve
89 the credit application, in whole or in part, if the commissioner
90 concludes that the increase in the number of jobs is economically
91 viable only with the use of the tax credit and that the revenue
92 generated due to economic development and employment
93 opportunities created in the state exceeds the credit and any other
94 credits to be taken. If the commissioner disapproves an application, the
95 commissioner shall specifically identify the defects in the application
96 and specifically explain the reasons for the disapproval. The
97 commissioner shall render a decision on an application not later than
98 ninety days after the date of its receipt by the commissioner.]

99 (2) The total amount of credits granted to all taxpayers shall not
100 exceed [ten] twenty-five million dollars in any one fiscal year.

101 (3) A credit under this section may be granted to a taxpayer for not
102 more than [five] three successive income years.

103 (4) The commissioner may combine approval of a credit application
104 with the exercise of any of the commissioner's other powers, including,
105 but not limited to, the provision of other forms of financial assistance.

106 [(f)] (d) Upon approving a taxpayer's credit application, the
107 commissioner shall issue a credit allocation notice certifying that the

108 credits will be available to be claimed by the taxpayer if the taxpayer
109 otherwise meets the requirements of this section. No later than thirty
110 days after the close of the taxpayer's income year, the taxpayer shall
111 provide information to the commissioner regarding (1) the number of
112 new jobs created for the year and the [income tax deducted and
113 withheld from the wages of such new employees and paid over to the
114 state for such year] wages paid for each new job, and (2) confirmation
115 that such new employees receive health benefits. The commissioner
116 shall issue a certificate of eligibility that includes the taxpayer's name,
117 the number of new jobs created, and the amount of the credit certified
118 for the year. The certificate shall be issued by the commissioner sixty
119 days after the close of the taxpayer's income year or thirty days after
120 the information is provided, whichever comes first.

121 [(g)] (e) The commissioner shall, upon request, provide a copy of the
122 certificate of eligibility issued under subsection [(f)] (d) of this section
123 to the Commissioner of Revenue Services.

124 [(h)] (f) (1) If (A) the number of new employees on account of which
125 a taxpayer claimed the credit allowed by this section decreases to less
126 than the number for which the commissioner issued an eligibility
127 certificate during any of the four years succeeding the first full income
128 year following the issuance of an eligibility certificate, and (B) those
129 employees are not replaced by other employees who have not been
130 shifted from an existing location of the taxpayer or a related person in
131 this state, the taxpayer shall be required to recapture a percentage of
132 the credit allowed under this section on its tax return, as determined
133 under the provisions of subdivision (2) of this subsection. The
134 commissioner shall provide notice of the required recapture amount to
135 both the taxpayer and the Commissioner of Revenue Services.

136 (2) If the taxpayer is required under the provisions of subdivision
137 (1) of this subsection to recapture a portion of the credit during (A) the
138 first of such four years, then ninety per cent of the credit allowed shall
139 be recaptured on the tax return required to be filed for such year, (B)
140 the second of such four years, then sixty-five per cent of the credit

141 allowed for the entire period of eligibility shall be recaptured on the
142 tax return required to be filed for such year, (C) the third of such four
143 years, then fifty per cent of the credit allowed for the entire period of
144 eligibility shall be recaptured on the tax return required to be filed for
145 such year, and (D) the fourth of such four years, then thirty per cent of
146 the credit allowed for the entire period of eligibility shall be recaptured
147 on the tax return required to be filed for such year.

148 (g) No taxpayer claiming the tax credit under this section with
149 respect to a new job or new employee may claim any credit against any
150 tax under any other provision of the general statutes with respect to
151 the same new job or new employee.

152 Sec. 2. Subsection (b) of section 12-217kk of the 2010 supplement to
153 the general statutes is repealed and the following is substituted in lieu
154 thereof (*Effective from passage and applicable to income years commencing*
155 *on or after January 1, 2010*):

156 (b) (1) (A) For income years commencing prior to January 1, 2010,
157 there shall be allowed a state-certified project credit against the tax
158 imposed under chapter 207 or this chapter to any taxpayer that invests
159 in a state-certified project. Such credit may be in the following
160 amounts: (i) For state-certified projects costing greater than fifteen
161 thousand dollars and less than one hundred fifty thousand dollars,
162 each taxpayer may be allowed a tax credit of ten per cent of the
163 investment made by such taxpayer; (ii) for state-certified projects
164 costing one hundred fifty thousand dollars or more, but less than one
165 million dollars, each taxpayer may be allowed a tax credit of fifteen per
166 cent of the investment made by such taxpayer; and (iii) for state-
167 certified projects costing one million dollars or more, each taxpayer
168 may be allowed a tax credit of twenty per cent of the investment made
169 by such taxpayer.

170 (B) For income years commencing on or after January 1, 2010, there
171 shall be allowed a state-certified project credit against the tax imposed
172 under chapter 207 or this chapter to any taxpayer that invests three
173 million dollars or more in a state-certified project in an amount equal

174 to [twenty] thirty per cent of the investment made by such taxpayer.

175 (2) Eligible expenditures pursuant to this section shall include the
176 following: All expenditures for a capital project to provide buildings,
177 facilities or installations, whether leased or purchased, together with
178 necessary equipment for a film, video, television, digital production
179 facility or digital animation production facility; project development,
180 including design, professional consulting fees and transaction costs;
181 development, preproduction, production, post-production and
182 distribution equipment and system access; and fixtures and other
183 equipment.

184 (3) Any credit allowed pursuant to this section may be sold,
185 assigned or otherwise transferred, in whole or in part, to one or more
186 taxpayers, and such taxpayers may sell, assign or otherwise transfer, in
187 whole or in part, such credit. Any taxpayer holding such credit may
188 claim such credit only for the income year in which expenditures were
189 made by the taxpayer for the infrastructure project.

190 (4) Any credit allowed pursuant to this section shall be claimed
191 against the tax imposed under chapter 207 or this chapter. If the
192 amount of the credit allowable under this section exceeds the sum of
193 any taxes due from a taxpayer, any such excess amount of the credit
194 allowable under this section may be taken in any of the three
195 immediately succeeding income years.

196 (5) Any tax credit earned under this section shall be nonrefundable.

197 Sec. 3. Subsection (a) of section 32-1m of the 2010 supplement to the
198 general statutes is amended by adding subdivision (21) as follows
199 (*Effective from passage*):

200 (NEW) (21) With regard to any new or existing financial assistance
201 programs administered by the department, including, but not limited
202 to, the urban and industrial site reinvestment program established
203 pursuant to section 32-9t, the tax credit programs established pursuant
204 to sections 12-217jj to 12-217ll, inclusive, the jobs incentive program

205 established pursuant to sections 32-9i to 32-9l, inclusive, and enterprise
206 zones established pursuant to section 32-70:

207 (A) Information as required in subparagraphs (A) and (B) of
208 subdivision (3) of this subsection regarding the entities receiving the
209 tax credits provided as part of such new or existing financial assistance
210 programs;

211 (B) A listing, by program, of the amount of tax credits approved by
212 the department during the preceding calendar year;

213 (C) A statement of the goals of each of the programs, the actual
214 economic impact and the current performance standards to ensure that
215 the tax credits provided are furthering such goals; and

216 (D) A recommendation as to whether each such new or existing
217 financial assistance program should be continued, modified or
218 repealed. Such recommendation shall be presented to the Business Tax
219 Credit and Tax Policy Review Committee established pursuant to
220 section 12-217z.

221 Sec. 4. Subsection (j) of section 38a-88a of the general statutes is
222 repealed and the following is substituted in lieu thereof (*Effective July*
223 *1, 2010, and applicable to income or taxable years, as applicable, commencing*
224 *on or after January 1, 2010*):

225 (j) The tax credit allowed by this section shall only be available for
226 investments in funds that are not open to additional investments or
227 investors beyond the amount subscribed at the formation of the fund.
228 No credits shall be allowed under this section for investments in any
229 fund created on or after July 1, 2000. [No] On and after January 1, 2010,
230 no credit shall be allowed under this section for investments made in
231 an insurance business through [such fund after December 31, 2015]
232 any fund regardless of the date on which the fund was created. Any
233 tax credit allowed by this section prior to January 1, 2010, may be
234 claimed in accordance with the provisions of this section.

235 Sec. 5. (NEW) (*Effective from passage*) On or before December 31,

236 2010, and annually thereafter, the Commissioner of Revenue Services
237 shall, in accordance with the provisions of section 11-4a of the general
238 statutes, provide a report to the Business Tax Credit and Tax Policy
239 Review Committee established pursuant to section 12-217z of the
240 general statutes summarizing and evaluating all tax credit programs
241 administered by the Department of Revenue Services. Such report
242 shall include, but need not be limited to, for each tax credit program
243 (1) the number of taxpayers granted tax credits during the previous
244 twelve-month period, (2) the amount of the tax credits granted, (3) a
245 summary of the goals of each tax credit program, the actual economic
246 impact and an analysis of whether the goals of each such program are
247 being met, and (4) a recommendation as to whether each of such
248 programs should be continued, modified or repealed.

249 Sec. 6. Section 32-236 of the general statutes is repealed and the
250 following is substituted in lieu thereof (*Effective from passage*):

251 (a) In furtherance of the economic development of the state, the
252 Department of Economic and Community Development may provide
253 financial assistance under sections 32-220 to 32-235, inclusive, to a
254 financial institution, [as defined in section 12-217u,] which has not less
255 than two thousand qualified employees, determined in accordance
256 with [subsections (d) and (e) of said section 12-217u] subsection (c) of
257 this section, at a facility or facilities located in a municipality in this
258 state with a population greater than one hundred thousand. The
259 provisions of section 32-462 shall not apply to such assistance.

260 (b) For purposes of this section:

261 (1) "Financial institution" means (A) any bank, holding company or
262 out-of-state bank, as those terms are defined in section 36a-2, or out-of-
263 state holding company, as that term is defined in section 36a-410,
264 which directly or indirectly establishes an office in the state and is
265 subject to the supervision of or regulation by the Banking
266 Commissioner pursuant to title 36a or by one or more federal banking
267 agencies pursuant to applicable federal law, and (B) any establishment
268 described in major group 61 or 62 in the Standard Industrial

269 Classification Manual, United States Office of Management and
270 Budget, 1987 edition, or in Subsector 522 or 523 in the North American
271 Industrial Classification System, United States Manual, United States
272 Office of Management and Budget, 1997 edition, as engaged primarily
273 in the extending of credit in the form of loans or the underwriting,
274 purchase, sale or brokerage of securities and other financial contracts
275 on their own account or for the account of others, and exchanges,
276 exchange clearinghouses and other services allied with the exchange of
277 securities and commodities or a holding company controlling any such
278 establishment.

279 (2) "Qualified employee" means an individual whose compensation
280 is paid within this state and who is (A) is employed directly by the
281 financial institution or a related person and who works an average of
282 at least thirty-five hours per week for at least eight consecutive weeks
283 for such financial institution or related person, (B) an independent
284 contractor of the financial institution or of a related person and who
285 works an average of at least thirty-five hours per week for at least eight
286 consecutive weeks for such financial institution or related person, or
287 (C) an employee or principal of a company other than the financial
288 institution or a related person if (i) such individual works an average
289 of at least thirty-five hours per week for at least eight consecutive
290 weeks providing services to the financial institution or a related
291 person, and (ii) such company derives not less than eighty per cent of
292 its gross revenues from the financial institution, one or more related
293 persons or a combination thereof. "Qualified employee" shall not
294 include any individual who would have satisfied the criteria of a
295 qualified employee prior to the date that a proposal by the financial
296 institution to create new positions in this state was approved by the
297 commissioner; and (D) notwithstanding the provisions of
298 subparagraphs (A) to (C), inclusive, of this subdivision, an individual
299 is not a qualified employee if (i) the prior employer of such individual
300 was a company other than the financial institution or a related person,
301 (ii) compensation was paid in this state to such individual by such
302 employer, (iii) the individual was employed for an average of at least
303 thirty-five hours per week and had been employed by such employer

304 for at least eight consecutive weeks, and (iv) either (I) the individual is
305 employed directly by the financial institution or a related person in
306 which the prior employer had an ownership interest equal to ten per
307 cent or more of the voting rights of the financial institution or related
308 person at the time such individual became employed by the financial
309 institution or related person, unless the position previously held by
310 such individual with the prior employer has been filled by the prior
311 employer; (II) the individual is employed directly by the financial
312 institution or a related person which had an ownership interest equal
313 to ten per cent or more of the voting rights of the prior employer at the
314 time such individual became employed by the financial institution or
315 related person, unless the position previously held by such individual
316 with the prior employer has been filled by the prior employer; or (III)
317 the prior employer of such individual was a company which was
318 acquired directly or indirectly by, or merged or consolidated with, the
319 financial institution or a related person and the individual was
320 employed by that company at the date of such acquisition, merger or
321 consolidation.

322 (3) "Related person" means a corporation, limited liability company,
323 partnership, trust, association, unincorporated organization or similar
324 organization that is controlled by the financial institution.

325 (4) "Control" with respect to a corporation means ownership of
326 stock possessing at least fifty per cent of the total combined voting
327 power of all classes of stock entitled to vote. "Control" with respect to a
328 partnership, association or similar unincorporated organization means
329 ownership of at least fifty per cent of the capital or profits interest in
330 such partnership or association. "Control" with respect to a trust means
331 ownership of at least fifty per cent of the beneficial interest in the
332 principal or income of such trust. Ownership shall be determined as
333 provided in Section 267(c) of the Internal Revenue Code of 1986, as in
334 effect on October 14, 1994, other than Paragraph (3) of said section.

335 (c) For purposes of determining the number and specification of
336 qualified employees under this section, with respect to any taxpayer

337 that has received financial assistance under this section, the dates,
338 numbers and specifications shall be the dates, numbers and
339 specifications provided in an agreement executed by the
340 Commissioner of Economic and Community Development with such
341 financial institution to provide financial assistance pursuant to this
342 section. In no event shall the definition of qualified employee be more
343 favorable to the employer than the definition provided in this section.

344 Sec. 7. Subdivision (59) of section 12-81 of the 2010 supplement to
345 the general statutes is repealed and the following is substituted in lieu
346 thereof (*Effective from passage*):

347 (59) (a) Any manufacturing facility, as defined in section 32-9p,
348 acquired, constructed, substantially renovated or expanded on or after
349 July 1, 1978, in a distressed municipality, as defined in said section or
350 in a targeted investment community, as defined in section 32-222, or in
351 an enterprise zone designated pursuant to section 32-70 and for which
352 an eligibility certificate has been issued by the Department of
353 Economic and Community Development, and any manufacturing
354 plant designated by the Commissioner of Economic and Community
355 Development under subsection (a) of section 32-75c as follows: To the
356 extent of eighty per cent of its valuation for purposes of assessment in
357 each of the five full assessment years following the assessment year in
358 which the acquisition, construction, renovation or expansion of the
359 manufacturing facility is completed, except that a manufacturing
360 facility having a standard industrial classification code of 2833 or 2834
361 and having at least one thousand full-time employees, as defined in
362 subsection (f) of section 32-9j, shall be eligible to have the assessment
363 period extended for five additional years upon approval of the
364 commissioner, in accordance with all applicable regulations, provided
365 such full-time employees have not been relocated from another facility
366 in the state operated by the same eligible applicant;

367 (b) Any service facility, as defined in section 32-9p, acquired,
368 constructed, substantially renovated or expanded on or after July 1,
369 1996, and for which an eligibility certificate has been issued by the

370 Department of Economic and Community Development, as follows: (i)
371 In the case of an investment of twenty million dollars or more but not
372 more than thirty-nine million dollars in the service facility, to the
373 extent of forty per cent of its valuation for purposes of assessment in
374 each of the five full assessment years following the assessment year in
375 which the acquisition, construction, renovation or expansion of the
376 service facility is completed; (ii) in the case of an investment of more
377 than thirty-nine million dollars but not more than fifty-nine million
378 dollars in the service facility, to the extent of fifty per cent of its
379 valuation for purposes of assessment in each of the five full assessment
380 years following the assessment year in which the acquisition,
381 construction, renovation or expansion of the service facility is
382 completed; (iii) in the case of an investment of more than fifty-nine
383 million dollars but not more than seventy-nine million dollars in the
384 service facility, to the extent of sixty per cent of its valuation for
385 purposes of assessment in each of the five full assessment years
386 following the assessment year in which the acquisition, construction,
387 renovation or expansion of the service facility is completed; (iv) in the
388 case of an investment of more than seventy-nine million dollars but
389 not more than ninety million dollars in the service facility, to the extent
390 of seventy per cent of its valuation for purposes of assessment in each
391 of the five full assessment years following the assessment year in
392 which the acquisition, construction, renovation or expansion of the
393 service facility is completed; or (v) in the case of an investment of more
394 than ninety million dollars in the service facility, to the extent of eighty
395 per cent of its valuation for purposes of assessment in each of the five
396 full assessment years following the assessment year in which the
397 acquisition, construction, renovation or expansion of the service
398 facility is completed, except that any financial institution, as defined in
399 [section 12-217u] subsection (b) of section 32-236, as amended by this
400 act, having at least four thousand qualified employees, as determined
401 in accordance with an agreement pursuant to [subdivision (3) of
402 subsection (n) of section 12-217u] subsection (c) of section 32-236, as
403 amended by this act, shall be eligible to have the assessment period
404 extended for five additional years upon approval of the commissioner,

405 in accordance with all applicable regulations, provided such full-time
406 employees have not been relocated from another facility in the state
407 operated by the same eligible applicant. In no event shall the definition
408 of qualified employee be more favorable to the employer than the
409 definition provided in section [12-217u] 32-236, as amended by this act;

410 (c) The completion date of a manufacturing facility, manufacturing
411 plant or a service facility will be determined by the Department of
412 Economic and Community Development taking into account the
413 issuance of occupancy certificates and such other factors as it deems
414 relevant. In the case of a manufacturing facility, manufacturing plant
415 or a service facility which consists of a constructed, renovated or
416 expanded portion of an existing plant, the assessed valuation of the
417 facility or manufacturing plant is the difference between the assessed
418 valuation of the plant prior to its being improved and the assessed
419 valuation of the plant upon completion of the improvements. In the
420 case of a manufacturing facility, manufacturing plant or a service
421 facility which consists of an acquired portion of an existing plant, the
422 assessed valuation of the facility or manufacturing plant is the assessed
423 valuation of the portion acquired. This exemption shall be applicable
424 during each such assessment year regardless of any change in the
425 ownership or occupancy of the facility or manufacturing plant. If
426 during any such assessment year, however, any facility for which an
427 eligibility certificate has been issued ceases to qualify as a
428 manufacturing facility, manufacturing plant or a service facility, the
429 entitlement to the exemption allowed by this subdivision shall
430 terminate for the assessment year following the date on which the
431 qualification ceases, and there shall not be a pro rata application of the
432 exemption. Any person who desires to claim the exemption provided
433 in this subdivision shall file annually with the assessor or board of
434 assessors in the distressed municipality, targeted investment
435 community or enterprise zone designated pursuant to section 32-70 in
436 which the manufacturing facility or service facility is located, on or
437 before the first day of November, written application claiming such
438 exemption on a form prescribed by the Secretary of the Office of Policy
439 and Management. Failure to file such application in this manner and

440 form within the time limit prescribed shall constitute a waiver of the
441 right to such exemption for such assessment year, unless an extension
442 of time is allowed pursuant to section 12-81k, and upon payment of the
443 required fee for late filing;

444 Sec. 8. Subdivision (60) of section 12-81 of the 2010 supplement to
445 the general statutes is repealed and the following is substituted in lieu
446 thereof (*Effective from passage*):

447 (60) (a) (1) Machinery and equipment which represents an addition
448 to the assessment or grand list of the municipality in which this
449 exemption is claimed and is installed in any manufacturing facility, as
450 defined in section 32-9p, which facility is or has been constructed, or
451 substantially renovated or expanded on or after July 1, 1978, in a
452 distressed municipality or targeted investment community or
453 enterprise zone designated pursuant to section 32-70 and for which an
454 eligibility certificate has been issued by the Department of Economic
455 and Community Development, concurrently with and directly
456 attributable to such construction, renovation or expansion, (2)
457 machinery and equipment which represents an addition to the
458 assessment or grand list of the municipality in which this exemption is
459 claimed and is installed, or machinery and equipment existing, in any
460 manufacturing facility, as defined in section 32-9p, which facility is or
461 has been acquired on or after July 1, 1978, in a distressed municipality,
462 targeted investment community or enterprise zone designated
463 pursuant to section 32-70 and for which an eligibility certificate has
464 been issued by the Department of Economic and Community
465 Development, and (3) machinery and equipment acquired and
466 installed on or after October 1, 1986, in a manufacturing facility that is
467 or has at one time been certified as eligible for the exemption under
468 this subparagraph in accordance with section 32-9r, and which
469 continues to be used for manufacturing purposes, provided such
470 machinery and equipment is installed in conjunction with an
471 expansion program that satisfies the requirements for a manufacturing
472 facility, as defined in section 32-9p, and is contiguous to and represents
473 an increase in square feet of floor space of not less than fifty per cent of

474 the floor space in the certified manufacturing facility, as follows: To the
475 extent of eighty per cent of its valuation for purposes of assessment in
476 each of the five full assessment years for which the manufacturing
477 facility in which it is installed qualifies for an exemption under
478 subdivision (59) of this section, except that a facility having a code
479 classification 2833 or 2834 in the Standard Industrial Code
480 Classification Manual, United States Office of Management and
481 Budget, 1987 edition, wherein at least one thousand new full-time
482 employees, as defined in subsection (f) of section 32-9j, are employed,
483 shall be eligible to have the assessment period under this subdivision
484 extended for five additional years upon approval of the commissioner,
485 provided the commissioner approves an extension of the assessment
486 period under subdivision (59) of this section for said facility;

487 (b) (1) Machinery and equipment which represents an addition to
488 the assessment or grand list of the municipality in which this
489 exemption is claimed and is installed in any service facility, as defined
490 in section 32-9p, which facility is or has been constructed, or
491 substantially renovated or expanded on or after July 1, 1996, and for
492 which an eligibility certificate has been issued by the Department of
493 Economic and Community Development, concurrently with and
494 directly attributable to such construction, renovation or expansion, (2)
495 machinery and equipment which represents an addition to the
496 assessment or grand list of the municipality in which this exemption is
497 claimed and is installed, or machinery and equipment existing, in any
498 service facility, as defined in section 32-9p, which facility is or has been
499 acquired on or after July 1, 1996, and for which an eligibility certificate
500 has been issued by the department, and (3) machinery and equipment
501 acquired and installed on or after July 1, 1996, in a service facility that
502 is or has at one time been certified as eligible for the exemption under
503 this subparagraph in accordance with section 32-9r and which
504 continues to be used for service purposes, provided such machinery
505 and equipment is installed in conjunction with an expansion program
506 that satisfies the requirements for a service facility, as defined in
507 section 32-9p, and is contiguous to and represents an increase in
508 square feet of floor space of not less than fifty per cent of the floor

509 space in the certified service facility, as follows: (i) In the case of an
510 investment of twenty million dollars or more but not more than thirty-
511 nine million dollars in the service facility, to the extent of forty per cent
512 of its valuation for purposes of assessment in each of the five full
513 assessment years for which the service facility in which it is installed
514 qualifies for an exemption under subdivision (59) of this section; (ii) in
515 the case of an investment of more than thirty-nine million dollars but
516 not more than fifty-nine million dollars in the service facility, to the
517 extent of fifty per cent of its valuation for purposes of assessment in
518 each of the five full assessment years for which the service facility in
519 which it is installed qualifies for an exemption under subdivision (59)
520 of this section; (iii) in the case of an investment of more than fifty-nine
521 million dollars but not more than seventy-nine million dollars in the
522 service facility, to the extent of sixty per cent of its valuation for
523 purposes of assessment in each of the five full assessment years for
524 which the service facility in which it is installed qualifies for an
525 exemption under subdivision (59) of this section; (iv) in the case of an
526 investment of more than seventy-nine million dollars but not more
527 than ninety million dollars in the service facility, to the extent of
528 seventy per cent of its valuation for purposes of assessment in each of
529 the five full assessment years for which the service facility in which it
530 is installed qualifies for an exemption under subdivision (59) of this
531 section; or (v) in the case of an investment of more than ninety million
532 dollars in the service facility, to the extent of eighty per cent of its
533 valuation for purposes of assessment in each of the five full assessment
534 years for which the service facility in which it is installed qualifies for
535 an exemption under subdivision (59) of this section, except that any
536 financial institution, as defined in section [12-217u] 32-236, as amended
537 by this act, having at least four thousand qualified employees, as
538 determined in accordance with an agreement pursuant to [subdivision
539 (3) of subsection (n) of section 12-217u] subsection (c) of section 32-236,
540 as amended by this act, shall be eligible to have the assessment period
541 extended for five additional years upon approval of the commissioner,
542 in accordance with all applicable regulations, provided such full-time
543 employees have not been relocated from another facility in the state

544 operated by the same eligible applicant. In no event shall the definition
 545 of qualified employee be more favorable to the employer than the
 546 definition provided in section [12-217u] 32-236, as amended by this act;

547 (c) This exemption shall terminate for the assessment year next
 548 following if the manufacturing facility or service facility in which such
 549 machinery and equipment is installed no longer qualifies for an
 550 exemption under said subdivision (59), and there shall not be a pro
 551 rata application of the exemption of such machinery and equipment in
 552 the assessment year of such termination. Any person who desires to
 553 claim the exemption provided in this subdivision shall file annually
 554 with the assessor or board of assessors in the distressed municipality,
 555 targeted investment community or enterprise zone designated
 556 pursuant to section 32-70 in which the manufacturing facility or service
 557 facility is located, on or before the first day of November, written
 558 application claiming such exemption on a form prescribed by the
 559 Secretary of the Office of Policy and Management. Failure to file such
 560 application in this manner and form within the time limit prescribed
 561 shall constitute a waiver of the right to such exemption for such
 562 assessment year, unless an extension of time is allowed pursuant to
 563 section 12-81k, and upon payment of the required fee for late filing.
 564 This exemption shall not apply to rolling stock;

565 Sec. 9. Sections 10-228b, 12-217l, 12-217u and 12-217cc of the general
 566 statutes are repealed. (*Effective from passage and applicable to income years*
 567 *commencing on or after January 1, 2011*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage and applicable to income or taxable years, as appropriate, commencing on or after January 1, 2011</i>	12-217ii

Sec. 2	<i>from passage and applicable to income years commencing on or after January 1, 2010</i>	12-217kk(b)
Sec. 3	<i>from passage</i>	32-1m(a)
Sec. 4	<i>July 1, 2010, and applicable to income or taxable years, as applicable, commencing on or after January 1, 2010</i>	38a-88a(j)
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	32-236
Sec. 7	<i>from passage</i>	12-81(59)
Sec. 8	<i>from passage</i>	12-81(60)
Sec. 9	<i>from passage and applicable to income years commencing on or after January 1, 2011</i>	Repealer section

CE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Department of Revenue Services	GF - Revenue Loss	See Below	See Below
Department of Revenue Services	GF - Revenue Gain	155,000	155,000
Department of Economic & Community Development	GF - Cost	129,022	132,892
Comptroller Misc. Accounts (Fringe Benefits) ¹	GF - Cost	34,397	88,386

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill is estimated to result in a significant annual revenue loss to the General Fund beginning in FY 11 from the personal income tax, the corporation business tax, and the insurance premiums tax. The revenue loss will grow over time to as much as \$22 million per year beginning in FY 13 because companies can claim the credit for a new job created for up to three years.

The revenue loss is a result of numerous changes to the job creation tax credit that is anticipated to result in a net increase in the amount of credits claimed. The amount of credits claimed will be approximately \$4,000 per year for three years for each new job created in Connecticut that pays greater than or equal to 80% of the median income of the state and provides the employee with health insurance.

¹ The estimated non-pension fringe benefit rate as a percentage of payroll is 26.66% which includes health insurance, social security, Medicare, life insurance, and unemployment compensation. Fringe benefit costs for new positions do not include pension costs as new positions will not impact the state's pension contribution until FY 12 after the next scheduled actuarial valuation.

The bill will result in a revenue loss to the General Fund of approximately \$800,000 per year beginning in FY 11. The revenue loss will be from the corporation business tax and the insurance premiums tax as a result of increasing the film infrastructure tax credit from 20% to 30% of infrastructure expenditures.

The bill will result in a revenue gain of approximately \$155,000 per year from eliminating corporation tax credits for donating computers to public and private schools (CGS § 10-228b), research and development grants to colleges and universities (CGS § 12-217l), financial institutions constructing new facilities (CGS § 12-217u), and Small Business Administration guaranty fee (CGS § 12-217cc).

The table below provides the history of the four credits from tax year 2005 to 2007.

Credit	2005	2006	2007	Average
Computer Donation	250	340	0	197
Financial Institutions	0	839	0	280
Research Grants to Higher Ed	229,755	0	21,657	83,804
SBA Guaranty Fee	178,791	893	33,324	71,003
Total	408,796	2,072	54,981	155,283

It is anticipated that Department of Economic and Community Development will require two economic and community development agents (AR-25) with a salary of \$64,511 each, to administer the tax credits.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

The bill will preclude a revenue loss to the General Fund beginning in FY 13 as a result of changing the sunset date of the insurance reinvestment tax credit from December 31, 2015 to January 1, 2010.

Sources: *Department of Community Development*
Department of Revenue Services

OLR Bill Analysis**sHB 5357*****AN ACT CONCERNING CHANGES TO CERTAIN TAX CREDITS TO ENHANCE THEIR USE AND TO REPEAL CERTAIN UNUTILIZED TAX CREDITS.*****SUMMARY:**

This bill makes several substantive and technical changes to programs providing business tax credits. It makes more businesses eligible for job incentive tax credits by increasing the annual cap from \$10 million to \$25 million and allowing “S” corporations and limited liability partnerships and companies to qualify for credits. But it also tightens the criteria for counting jobs toward the credits, reduces and caps the amount of credit businesses can claim, and shortens the term for claiming the credits.

The bill increases the insurance premium and corporation business tax credits for developing film infrastructure in Connecticut from 20% to 30% of the amount spent developing the infrastructure. By law, a company qualifies for them if it spends at least \$3 million developing the buildings, facilities, and installations needed to produce films and digital media here. Companies may transfer these credits to other taxpayers.

The bill advances the sunset date for the insurance reinvestment tax credits from December 31, 2015 to January 1, 2010. These credits go to taxpayers who invest in funds providing capital to insurance companies occupying new facilities and creating new jobs. Taxpayers claim a portion of the credit over 10 years according to a statutory schedule. Although the bill allows no credits after January 1, 2010, it allows taxpayers who were awarded funds before that date to continue claiming them as the law provides.

The bill repeals the tax credits for (1) donating computers to public and private schools (CGS § 10-228b), (2) making grants to colleges and universities for research and development (CGS § 12-217l), (3) constructing new facilities housing financial institutions (CGS § 12-217u), and (4) paying Small Business Administration guaranty fees (CGS § 12-217cc).

The bill requires annual reports evaluating all of the tax credits. The Department of Economic and Community Development (DECD) commissioner must report on the credits she administers in her comprehensive annual report to the legislature. The Department of Revenue Services (DRS) commissioner must do the same with respect to the credits he administers. Both commissioners must submit their reports to the Business Tax Credit and Policy Review Committee.

The bill makes technical changes regarding the DECD's authority to provide Manufacturing Assistance Act funds to financial institutions employing at least 2,000 people and the eligibility of these institutions for a state-reimbursed property tax exemption.

EFFECTIVE DATE: Upon passage, except for the provisions repealing specific tax credits, which take effect upon passage and applicable to income years on or after January 1, 2011, and the changes to the (1) job incentive tax credit, which take effect upon passage and are applicable to income or taxable years on or after January 1, 2011; (2) the film infrastructure tax credit, which take effect upon passage and are applicable to income years on or after January 1, 2010; and (3) the insurance reinvestment act, which takes effect July 1, 2010 and is applicable to income or tax years on or after January 1, 2010.

JOB CREATION TAX CREDIT

Expansion

The bill simultaneously extends the job creation tax credit program to more businesses, tightens the criteria for claiming them, and reduces the credits' value and term. Current law limits the amount of credits available to all eligible businesses to \$10 million per fiscal year. The bill

increases the annual limit to \$25 million.

Under current law, the program is open to businesses paying the corporation business, utility company, and insurance premium taxes. The businesses subject to these taxes do not include “S” corporations and limited liability companies and partnerships, whose owners and partners pay income taxes on their own share of the income the business generates. The bill allows these businesses to qualify for the credits by extending them to the personal income tax.

The bill also extends the program to more taxpayers by reducing the minimum number of full-time jobs they must create to claim the credits. Current law requires them to create at least 10 full-time jobs; the bill requires them to create only one.

The bill makes the program more accessible by reducing certain application requirements. Under current law, a taxpayer applying for the credits must show that it qualifies for the credit and that the expansion resulting in the new jobs will benefit the economy without sacrificing the state’s conservation and development goals. The DECD commissioner must weigh this analysis in deciding whether to award the credit.

The bill eliminates these requirements and makes conforming technical changes. It specifies that the commissioner must approve credit requests on a first-come, first-served basis. It also allows, instead of requires, the commissioner to charge an application fee.

Reduction

Although the bill reduces the minimum number of jobs a taxpayer must create, it tightens the criteria each new job must meet before a business can claim a credit. Under current law, only new full-time jobs filled by new employees count toward the credit. Temporary or seasonal jobs or those that require an employee to work less than 35 hours per week do not count toward the credit. Under the bill, the wages for the new full-time jobs must be at least 80% of the state’s median income and include health care benefits. These jobs must also

be filled by Connecticut residents.

The taxpayer must verify that it paid these wages and provided the benefits when it applies, as it must by law, for the DECD certificate that allows the taxpayer to claim the credit on its return. The taxpayer must, by law, apply for the certificate within 30 days after the end of its income year.

The bill also reduces the credits' value. Under current law, the credit equals 60% of the income withheld from the new employees' wages for income taxes. Under the bill, the credit equals 15% of the wages paid to the new employees. Current law imposes no cap on the dollar amount of the credits a business may claim and allows it to claim the credits for five successive years. The bill imposes a \$4,000 cap per employee on the total amount of credits a business can claim each year and reduces the term for the credits to three years.

Lastly, the bill specifies that businesses claiming credits for creating new jobs under the job incentive program cannot claim credits for creating these jobs under other tax credit programs.

REPORTING AND EVALUATION

DECD Annual Comprehensive Report

The bill requires DECD to include a section in its comprehensive annual report listing the entities that received financial assistance under any new or existing program it administers. It specifically requires DECD to do this regarding entities assisted under the job incentive grant program; the urban and industrial sites reinvestment, film production, film infrastructure, and digital animation tax credit programs; and the enterprise zone program.

In doing so, DECD must identify the businesses that received a package of tax credits and loans, loan guarantees, credit extensions, or other financing. Besides identifying these businesses, it must provide the same information it provides in the annual report about the businesses it assisted. Among other things, that section lists each business' industrial classification, the number and types of jobs it

created, and the terms and conditions for state assistance.

The section must also provide information about the tax credit programs DECD administers. For each program, the section must provide:

1. the total amount of credits awarded during the preceding calendar year and
2. the goals, the actual economic impact, and the performance standards used to determine if the program is meeting the goals.

The section must also include recommendations about whether each new or existing financial assistance program should be continued, modified, or repealed. DECD must present these recommendations to the Business Tax Credit and Tax Policy Review Committee, which consists of legislators, executive branch officials, and gubernatorial and legislative appointees. The committee was formed to evaluate the state's tax credit policies and programs (CGS § 12-217z).

DRS Evaluation of Tax Credits

The bill requires DRS to annually summarize and evaluate all the tax credit programs it administers, on or before December 31, 2010. DRS must submit the report to the Business Tax Credit and Policy Review Committee described above. At a minimum, the report must:

1. list the number of taxpayers granted credits during the previous 12 months and the amount of credits they received;
2. summarize each program's goals, their its' actual economic impact, and whether the goals are being met; and
3. recommend whether each program should be continued, modified, or repealed.

BACKGROUND

Related Bills

sHB 5209, which the Commerce Committee reported on March 16,

authorizes tax credits for small businesses creating new jobs and places them under the same annual \$10 million cap for the job incentive credits.

sSB 176 (File 162) tightens the criteria for determining eligible production and infrastructure costs for the film tax credit.

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/18/2010)