Senate

General Assembly

File No. 597

February Session, 2010

Senate Bill No. 110

Senate, April 20, 2010

The Committee on Finance, Revenue and Bonding reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT ELIMINATING THE SUNSET FOR CERTAIN TAX INCREMENTAL FINANCING PROGRAMS.

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

Section 1. Section 32-23zz of the 2010 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) For the purpose of assisting (1) any information technology project, as defined in subsection (ee) of section 32-23d, which is located in an eligible municipality, as defined in subdivision (12) of subsection (a) of section 32-9t, or (2) any remediation project, as defined in subsection (ii) of section 32-23d, the Connecticut Development Authority may, upon a resolution of the legislative body of a municipality, issue and administer bonds which are payable solely or in part from and secured by: (A) A pledge of and lien upon any and all of the income, proceeds, revenues and property of such a project, including the proceeds of grants, loans, advances or contributions from the federal government, the state or any other source, including financial assistance furnished by the municipality or any other public body, (B) taxes or payments or grants in lieu of taxes allocated to and payable into a special fund of the Connecticut Development Authority pursuant to the provisions of subsection (b) of this section, or (C) any combination of the foregoing. Any such bonds of the Connecticut Development Authority shall mature at such time or times not exceeding thirty years from their date of issuance and shall be subject to the general terms and provisions of law applicable to the issuance of bonds by the Connecticut Development Authority, except that such bonds shall be issued without a special capital reserve fund as provided in subsection (b) of section 32-23j and, for purposes of section 32-23f, only the approval of the board of directors of the authority shall be required for the issuance and sale of such bonds. Any pledge made by the municipality or the Connecticut Development Authority for bonds issued as provided in this section shall be valid and binding from the time when the pledge is made, and revenues and other receipts, funds or moneys so pledged and thereafter received by the municipality or the Connecticut Development Authority shall be subject to the lien of such pledge without any physical delivery thereof or further act. The lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the municipality or the Connecticut Development Authority, even if the parties have no notice of such lien. Recording of the resolution or any other instrument by which such a pledge is created shall not be required. In connection with any such assignment of taxes or payments in lieu of taxes, the Connecticut Development Authority may, if the resolution so provides, exercise the rights provided for in section 12-195h of an assignee for consideration of any lien filed to secure the payment of such taxes or payments in lieu of taxes. All expenses incurred in providing such assistance may be treated as project costs.

(b) Any proceedings authorizing the issuance of bonds under this section may contain a provision that taxes or a specified portion thereof, if any, identified in such authorizing proceedings and levied upon taxable real or personal property, or both, in a project each year, or payments or grants in lieu of such taxes or a specified portion thereof, by or for the benefit of any one or more municipalities, districts or other public taxing agencies, as the case may be, shall be divided as follows: (1) In each fiscal year that portion of the taxes or payments or grants in lieu of taxes which would be produced by applying the then current tax rate of each of the taxing agencies to the total sum of the assessed value of the taxable property in the project on the date of such authorizing proceedings, adjusted in the case of grants in lieu of taxes to reflect the applicable statutory rate of reimbursement, shall be allocated to and when collected shall be paid into the funds of the respective taxing agencies in the same manner as taxes by or for said taxing agencies on all other property are paid; and (2) that portion of the assessed taxes or the payments or grants in lieu of taxes, or both, each fiscal year in excess of the amount referred to in subdivision (1) of this subsection shall be allocated to and when collected shall be paid into a special fund of the Connecticut Development Authority to be used in each fiscal year, in the discretion of the Connecticut Development Authority, to pay the principal of and interest due in such fiscal year on bonds issued by the Connecticut Development Authority to finance, refinance or otherwise assist such project, to purchase bonds issued for such project, or to reimburse the provider of or reimbursement party with respect to any guarantee, letter of credit, policy of bond insurance, funds deposited in a debt service reserve fund, funds deposited as capitalized interest or other credit enhancement device used to secure payment of debt service on any bonds issued by the Connecticut Development Authority to finance, refinance or otherwise assist such project, to the extent of any payments of debt service made therefrom. Unless and until the total assessed valuation of the taxable property in a project exceeds the total assessed value of the taxable property in such project as shown by the last assessment list referred to in subdivision (1) of this subsection, all of the taxes levied and collected and all of the payments or grants in lieu of taxes due and collected upon the taxable property in such project shall be paid into the funds of the respective taxing agencies. When such bonds and interest thereof, and such debt service reimbursement to the provider of or reimbursement party with respect to such credit enhancement, have been paid in full, all moneys thereafter received from taxes or payments or grants in lieu of taxes upon the taxable property in such development project shall be paid into the funds of the respective taxing agencies in the same manner as taxes on all other property are paid. The total amount of bonds issued pursuant to this section which are payable from grants in lieu of taxes payable by the state shall not exceed an amount of bonds, the debt service on which in any state fiscal year is, in total, equal to one million dollars.

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

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

(e) For purposes of this section, references to the Connecticut

Development Authority shall include any subsidiary of the Connecticut Development Authority established pursuant to subsection (l) of section 32-11a, and a municipality may act by and through its implementing agency, as defined in subsection (k) of section 32-222.

[(f) No commitments for new projects shall be approved by the authority under this section on or after July 1, 2012.**]**

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

Sec. 2. Section 32-285 of the 2010 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) (1) There is hereby established a tax incremental financing program, under which the incremental hotel taxes collected under subparagraph (H) of subdivision (2) of subsection (a) of section 12-407, which are generated by a project approved by the authority under this section may be used to pay the debt service on bonds issued by the authority to help finance, on a self-sustaining basis, significant economic projects and encourage their location in the state.

(2) The incremental sales taxes collected under chapter 219, other than the sales tax referenced in subdivision (1) of this subsection, and admissions, cabaret and dues taxes collected under chapter 225 which

are generated by a project may, subject to approval pursuant to this section by the joint standing committees of the General Assembly having cognizance of matters relating to the Department of Economic and Community Development and finance, revenue and bonding, and the authority, be used to pay the debt service on bonds issued by the authority to help finance, on a self-sustaining basis, significant economic projects and encourage their location in the state.

(b) As used in this section: (1) "Authority" means the Connecticut Development Authority; and (2) "eligible project" means a large-scale economic development project (A) that may add a substantial amount of new economic activity and employment in the municipality in which it is to be located and surrounding areas, and may generate significant additional tax revenues in the state; (B) for which use of the tax incremental financing mechanism may be necessary to attract the project to locate in the state; (C) which is economically viable and self-sustaining, taking into account the application of the proceeds of the bonds to be issued under the tax incremental financing program; (D) for which the direct and indirect economic benefits to the state and the municipality in which it will be located outweigh the costs of the project; and (E) which is consistent with the strategic development priorities of the state.

(c) Any person, firm or corporation wishing to participate in the tax incremental financing program, or any municipality wishing to obtain tax incremental financing to support a project within its boundaries, may apply to the authority in accordance with the provisions of this subsection. The application shall contain such information as the authority may require, which may include information concerning the type of business proposed to be established and its location, the number of jobs to be created or retained and their average wage rates, feasibility studies or business plans for the project and other information necessary to demonstrate its financial viability, the amounts and types of bonds proposed to be issued for the project and the proposed use of the proceeds, information about other sources of financing available to support repayment of the bonds proposed to be issued, including property tax increments to be made available by the municipality, a geographic description of the area surrounding the proposed site of the project and the existing firms doing business in that area, an economic impact assessment of the effects of the project on the municipality, an assessment of the incremental hotel taxes, or, if applicable, the incremental sales and admissions, cabaret and dues taxes to be generated by the project, an analysis of necessary infrastructure development to support the project and any available sources of financing for such infrastructure and other information which demonstrates that the bonds will be self-sustaining from the incremental taxes collected and any amounts made available by a municipality under subsection (i) of this section, and that the project will provide net benefits to the economy and employment opportunity in the state. The authority shall impose a fee for such application as it deems appropriate. Any costs incurred by the authority which are associated with such application and are not covered by such fee shall be paid from funds of the authority which are not otherwise committed or pledged.

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

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

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

(3) The authority shall prepare a revenue impact assessment that estimates the incremental hotel taxes or, if applicable, the incremental sales and admissions, cabaret and dues taxes that would be generated by the project, the state and local revenues that would be foregone as a result of the project, all state and local revenues that would be generated by the project and the economic benefits that would likely result from construction of the project, including revenue effects of such economic benefits.

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

(B) If such project uses incremental sales and admissions, cabaret and dues taxes, the notice required pursuant to subparagraph (A) of this subdivision shall not be required, but the procedure in subdivision (6) of subsection (f) of this section shall be followed after the board of directors of the authority has given approval to such project.

(f) (1) Upon consideration of the application, the results of the independent financial assessment, the revenue impact assessment and any additional information that the board of directors of the authority requires concerning a proposed project, such board of directors shall determine whether to approve the project for participation in the tax incremental financing program and, if so, the amount and type of bonds the authority shall issue to support the approved project, the purposes for which the funds generated by sale of the bonds may be applied and the amount of the incremental sales and admissions, cabaret and dues taxes that shall be annually allocated to pay principal and interest on the bonds to be issued for the project. The amounts so allocated shall not exceed the estimated amount of incremental taxes to be collected, except that in the case of retail shopping center projects, the amount of incremental sales allocated to calculating incremental sales taxes shall not exceed thirty per cent of gross sales directly associated with the project. From the amount of incremental taxes so allocated by the authority, the amount required for payment of principal and interest on the bonds issued in accordance with subsection (g) of this section shall be deemed appropriated from the state General Fund, provided, for projects using incremental sales and admissions, cabaret and dues taxes, an amount shall be deemed appropriated only upon final approval of such projects pursuant to subdivision (6) of this subsection.

(2) The authority may approve a project only if it concludes that: (A) The project is an eligible project; (B) the incremental hotel taxes or, if applicable, the incremental sales taxes collected under chapter 219 and the incremental admissions, cabaret and dues taxes collected under chapter 225 that are generated by the project, together with other dedicated sources of financing available to pay debt service on the bonds, will be sufficient to pay interest and principal on the bonds as

they come due; (C) the project will be economically viable and will contribute significantly to economic development and employment opportunity in the state; and (D) the direct and indirect economic benefits of the project to the state and the municipality in which it shall be located will be greater than the costs to the state and such municipality.

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

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

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

(6) For final approval of any proposed project using incremental sales and admissions, cabaret and dues taxes, the authority shall submit, in a manner consistent with the protection of any confidential financial information provided by the project sponsor, copies of the application, the independent financial assessment, the revenue impact assessment, and the proposed financial assistance to be offered by the authority to the proposed project, to the joint standing committees of the General Assembly having cognizance of matters relating to the Department of Economic and Community Development and finance, revenue and bonding for final approval. Not later than forty-five days after said committees' receipt of such proposed project information, said committees shall advise the authority of their approval or modifications, if any, to such proposed financial assistance. If said committees do not agree, the committee chairpersons shall appoint a

committee on conference which shall be comprised of three members from each joint standing committee. At least one member appointed from each committee shall be a member of the minority party. The report of the committee on conference shall be made to each committee, which shall vote to accept or reject the report. The report of the committee on conference may not be amended. If a joint standing committee rejects the report of the committee on conference, the proposed financial assistance shall be deemed approved. If the joint standing committees accept the report, the committee having cognizance of finance, revenue and bonding shall advise the authority of their approval or modifications, if any, of such proposed financial assistance, provided, if the committees do not act within forty-five days, the proposed financial assistance shall be deemed approved. Financial assistance by the authority for the proposed project shall be in accordance with the proposed financial assistance as approved or modified by the committees.

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

(2) The issuance of any bonds by the authority under this section shall be subject to the approval of the State Bond Commission. Upon approving a project, the authority shall submit the matter to the State Bond Commission for final approval. The State Bond Commission shall not approve any project unless it has received the submission from the authority at least ten days prior to the meeting at which such project is to be considered. Such submission shall include the information considered by the authority in approving the project, the independent financial assessment and such other information as the commission deems appropriate. In reaching its decision, the State Bond Commission may consider such information as submitted. After such approval by the Bond Commission, no other approval shall be required for the project.

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

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

(j) (1) Not later than July first in each year that bonds issued to support an approved project are outstanding, the authority shall submit a report to the joint standing committees of the General Assembly having cognizance of matters relating to the Department of Economic and Community Development and finance, revenue and bonding with respect to the operations, finances and achievement of the economic development objectives of the projects approved under this section. The authority shall review and evaluate the progress of each project and shall devise and employ techniques for forecasting and measuring relevant indices of accomplishment of its goals of economic development, including, but not limited to, (A) the actual expenditures compared to original estimated costs, (B) whether there have been significant cost increases over original estimates, (C) the number of jobs created, or to be created, by or as a result of the project, (D) the cost or estimated cost, to the authority, involved in the creation of those jobs, (E) the amount of private capital investment in, or stimulated by, the project, in proportion to the public funds invested in such project, (F) the number of additional businesses created and associated jobs, and (G) any impact on tourism.

(2) Not later than July first in each year that bonds issued to support an approved project are outstanding, the Office of Policy and Management shall retain independent financial experts to conduct an analysis of the financial status of each project approved under this section. The independent financial analysis shall include, but not be limited to, determinations as to whether the incremental hotel taxes or, if applicable, the incremental sales and admissions, cabaret and dues taxes actually generated by the project are equal to the estimates made at the time the project was approved, whether the project is economically viable and whether the bonds issued are self-sustaining with the incremental taxes actually collected and other financing

sources dedicated to repayment of the bonds. The authority shall require the project sponsor to reimburse the Office of Policy and Management for the costs of such annual analyses. The results of such analyses shall be made available to the president pro tempore of the Senate, the speaker of the House of Representatives, the majority and minority leaders of both houses, and to the chairpersons and ranking members of said committees.

[(k) No commitments for new projects shall be approved by the authority under this section on or after July 1, 2012.**]**

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2010*	32-23zz
Sec. 2	*October 1, 2010*	32-285

CE *Joint Favorable C/R* FIN

FIN *Joint Favorable*

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect
Various Municipalities	Potential Grand List Increase

Explanation

The bill eliminates the sunset date for the municipal tax incremental financing (TIF) program. To the extent that this enhances the ability of information technology and industrial site development projects to be financed, there is a potential for grand list expansion in those municipalities. This could result in an increase in state revenue collections if it produces economic development that leads to an increase in the state's tax base.

The bill also eliminates the sunset date for the state TIF program. This may result in an increase in state revenue from a variety of state taxes to the degree that projects using the TIF financing mechanism generate more revenue than the amount required to pay the cost of the bonds issued to finance the project.

Eliminating the sunset date for the TIF program may result in costs to the Connecticut Development Authority (CDA) if towns submit applications for TIF projects that do not subsequently receive funding. Under the program, towns are required to reimburse the agency for expenses associated with the statutory evaluation process, including a financial assessment, a revenue impact assessment and legal fees. However if for any reason the project does not receive TIF funding, the agency's costs are not reimbursed.

The Out Years

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

OLR Bill Analysis
SB 110

AN ACT ELIMINATING THE SUNSET FOR CERTAIN TAX INCREMENTAL FINANCING PROGRAMS.

SUMMARY:

This bill makes permanent two Connecticut Development Authority (CDA) programs that provide bond financing for large-scale development projects. Existing law prohibits CDA from approving new projects under both programs on or after July 1, 2012.

The programs use the incremental tax revenue a project generates to repay the bonds (i.e., tax increment financing). One uses incremental property tax revenue to repay the bonds issued for projects that clean up and redevelop contaminated property (i.e., brownfields) or develop land for information technology uses. The other uses incremental sales, hotel, dues, cabaret, and admission tax revenue to repay bonds issued for projects that create jobs or stimulate significant business activities.

EFFECTIVE DATE: October 1, 2010

COMMITTEE ACTION

Commerce Committee

Joint Favorable Change of Reference

Yea	20	Nay	0	(03/16/2010)

Finance, Revenue and Bonding Committee

Joint Favorable

Yea	55	Nay	0	(04/05/2010)