



# Senate

General Assembly

**File No. 266**

February Session, 2010

Senate Bill No. 450

*Senate, April 1, 2010*

The Committee on Commerce reported through SEN. LEBEAU of the 3rd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

## ***AN ACT ESTABLISHING A REVOLVING LOAN FUND FOR SMALL BUSINESSES.***

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

1 Section 1. (NEW) (*Effective from passage and applicable to taxable years*  
2 *commencing on or after January 1, 2010*) (a) For purposes of this section:

3 (1) "TARP bonus" means aggregate disqualified bonus payments of  
4 one million dollars or more received from covered TARP recipients,  
5 where such bonus represents a payment received in the taxable year  
6 commencing January 1, 2010, or January 1, 2011, or award for work  
7 performed during the taxable year commencing January 1, 2010, or  
8 January 1, 2011. "TARP bonus" includes, but is not limited to, cash,  
9 loans, payments received in a medium other than cash, or  
10 arrangements for payments to be awarded in the future.

11 (2) "Covered TARP recipient" means (A) any entity that, on or after  
12 December 31, 2007, received funds directly from the federal Troubled  
13 Assets Relief Program established pursuant to P.L. 110-343, (B) any

14 entity that is a member of the same affiliated group, as defined in  
15 Section 1504 of the Internal Revenue Code of 1986, or any subsequent  
16 corresponding internal revenue code of the United States, as amended  
17 from time to time, as an entity, association or corporation described in  
18 subparagraph (A) of this subdivision, and (C) any partnership, if more  
19 than fifty per cent of the capital or profits interests of such partnership  
20 are owned, directly or indirectly, by one or more entities, associations  
21 or corporations described in subparagraph (A) or (B) of this  
22 subdivision.

23 (3) "Disqualified bonus payment" means any retention payment,  
24 incentive payment or other bonus paid by a covered TARP recipient  
25 that is in addition to any amount payable to a taxpayer for services  
26 performed by such taxpayer at a regular hourly, daily, weekly,  
27 monthly or similar periodic rate. "Disqualified bonus payment" does  
28 not include commissions, welfare or fringe benefits or expense  
29 reimbursements.

30 (4) "TARP" means the federal Troubled Assets Relief Program  
31 established under P.L. 110-343.

32 (5) "Taxpayer" means any person, trust or estate subject to the tax  
33 imposed by chapter 229 of the general statutes.

34 (b) Notwithstanding the provisions of section 12-700 of the general  
35 statutes, for taxable years commencing on January 1, 2010, and January  
36 1, 2011, a taxpayer who receives a TARP bonus shall pay a tax on such  
37 bonus at a rate of eight and ninety-seven-hundredths per cent. Such  
38 TARP bonus shall not be subject to the provisions of section 12-700 of  
39 the general statutes, but any income received by such taxpayer in  
40 addition to such TARP bonus shall continue to be subject to the  
41 provisions of section 12-700 of the general statutes.

42 (c) The provisions of this section shall not apply to a taxpayer who  
43 irrevocably waives his or her right to the full amount of a TARP bonus  
44 or returns the full amount of such bonus to the covered TARP recipient  
45 prior to December thirty-first of the applicable taxable year, provided

46 the taxpayer receives no benefit from the covered TARP recipient in  
47 connection with the waiver or return of such bonus.

48 (d) Any reimbursement to a taxpayer by a covered TARP recipient  
49 of the tax imposed by this section shall be treated as a disqualified  
50 bonus payment to the taxpayer liable for such tax.

51 (e) The provisions of this section shall apply to any bonus received  
52 by a taxpayer from a covered TARP recipient, regardless of whether  
53 such covered TARP recipient has repaid in full or in part to the federal  
54 government any funds received pursuant to the Troubled Assets Relief  
55 Program.

56 (f) Any covered TARP recipient that pays or awards a TARP bonus  
57 of one million dollars or more during the taxable years commencing  
58 January 1, 2010, and January 1, 2011, shall comply with the provisions  
59 of sections 12-705 and 12-706 of the general statutes, as applicable.

60 Sec. 2. Subdivision (8) of subsection (a) of section 12-701 of the 2010  
61 supplement to the general statutes is repealed and the following is  
62 substituted in lieu thereof (*Effective from passage and applicable to taxable*  
63 *years commencing on or after January 1, 2010*):

64 (8) "Connecticut taxable income of a resident" means the  
65 Connecticut adjusted gross income of a natural person with respect to  
66 any taxable year reduced by (A) the amount of the exemption  
67 provided in section 12-702, and (B) for applicable taxable years, the  
68 amount of any TARP bonus, as defined in section 1 of this act.

69 Sec. 3. (NEW) (*Effective July 1, 2010*) (a) As used in this section,  
70 "small business" means a business employing fewer than fifty people.

71 (b) The Department of Economic and Community Development  
72 shall establish a small business assistance program to provide direct  
73 loans and loan guarantees to small businesses.

74 (c) As part of the small business assistance program, the department  
75 may: (1) (A) Guarantee, make an advance commitment to guarantee or

76 cause to be guaranteed loans to small businesses, or (B) in the case that  
77 loans are not made available in the private market in connection with  
78 such guarantees, make or cause to be made direct loans to any  
79 qualified business; (2) make or cause to be made, direct loans to any  
80 small business; and (3) enter into participation agreements with other  
81 state or federal agencies, provided such agreements shall be limited to  
82 loans and loan guarantees that meet the requirements of the program  
83 established pursuant to this section.

84 (d) There is established an account to be known as the "small  
85 business assistance account" which shall be a separate, nonlapsing  
86 account within the General Fund. The account shall contain any  
87 moneys required by law to be deposited in the account. Moneys in the  
88 account shall be expended by the Department of Economic and  
89 Community Development for the purposes of providing the loans and  
90 loan guarantees in the small business assistance program.

91 Sec. 4. (*Effective July 1, 2010*) (a) For the purposes described in  
92 subsection (b) of this section, the State Bond Commission shall have  
93 the power, from time to time, to authorize the issuance of bonds of the  
94 state in one or more series and in principal amounts not exceeding in  
95 the aggregate twenty million dollars.

96 (b) The proceeds of the sale of said bonds, to the extent of the  
97 amount stated in subsection (a) of this section, shall be deposited into  
98 the small business assistance account established pursuant to section 3  
99 of this act, to be used by the Department of Economic and Community  
100 Development for the purposes of the small business assistance  
101 program.

102 (c) All provisions of section 3-20 of the general statutes, or the  
103 exercise of any right or power granted thereby, which are not  
104 inconsistent with the provisions of this section are hereby adopted and  
105 shall apply to all bonds authorized by the State Bond Commission  
106 pursuant to this section, and temporary notes in anticipation of the  
107 money to be derived from the sale of any such bonds so authorized  
108 may be issued in accordance with said section 3-20 and from time to

109 time renewed. Such bonds shall mature at such time or times not  
 110 exceeding twenty years from their respective dates as may be provided  
 111 in or pursuant to the resolution or resolutions of the State Bond  
 112 Commission authorizing such bonds. None of said bonds shall be  
 113 authorized except upon a finding by the State Bond Commission that  
 114 there has been filed with it a request for such authorization which is  
 115 signed by or on behalf of the Secretary of the Office of Policy and  
 116 Management and states such terms and conditions as said commission,  
 117 in its discretion, may require. Said bonds issued pursuant to this  
 118 section shall be general obligations of the state and the full faith and  
 119 credit of the state of Connecticut are pledged for the payment of the  
 120 principal of and interest on said bonds as the same become due, and  
 121 accordingly and as part of the contract of the state with the holders of  
 122 said bonds, appropriation of all amounts necessary for punctual  
 123 payment of such principal and interest is hereby made, and the State  
 124 Treasurer shall pay such principal and interest as the same become  
 125 due.

|   |  |              |
|---|--|--------------|
| This act shall take effect as follows and shall amend the following sections: |  |              |
| Section 1   | <i>from passage and applicable to taxable years commencing on or after January 1, 2010</i> | New section  |
| Sec. 2  | <i>from passage and applicable to taxable years commencing on or after January 1, 2010</i> | 12-701(a)(8) |
| Sec. 3  | <i>July 1, 2010</i>  | New section  |
| Sec. 4  | <i>July 1, 2010</i>  | New section  |

**CE**            *Joint Favorable*

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:**

| <b>Agency Affected</b>         | <b>Fund-Effect</b> | <b>FY 11 \$</b>    | <b>FY 12 \$</b>    |
|--------------------------------|--------------------|--------------------|--------------------|
| Treasurer, Debt Serv.          | GF - Cost          | See Below          | See Below          |
| Department of Revenue Services | GF - Revenue Gain  | 2.8 to 4.7 million | 2.8 to 4.7 million |
| Department of Revenue Services | GF - Cost          | 50,000             | None               |

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill will result in a revenue gain to the General Fund from the personal income tax of between \$2.7 and \$4.8 million in FY 11 and FY 12. The revenue gain is a result of imposing a higher income tax rate on certain bonuses paid to employees of companies receiving Troubled Asset Relief Plan (TARP) assistance.

The estimate is based on actual 2009 wage and employee data from the Department of Labor (DOL) for Connecticut companies identified as having received TARP funds and information gathered by the New York State Attorney General on companies receiving TARP funds. Based on these sources it is estimated that fewer than 100 employees in Connecticut received qualifying bonuses in excess of \$1 million, which would be subject to the higher income tax rate.

The revenue gain is dependent upon the extent to which; 1) the data on the distribution of bonuses contained in the New York report is substantially different than in Connecticut, 2) actual individual bonus payments are significantly greater than \$3 million, 3) companies alter their current bonus payment plans, and 4) actions are taken to minimize the potential increase in tax liability.

The bill will result in a one time cost to the Department of Revenue Services (DRS) of approximately \$50,000 to make changes to forms and their computer system.

Section 4 authorizes \$20 million in General Obligation (GO) bonds in FY 11 for a small business assistance program administered by the Department of Economic and Community Development. The total General Fund debt service cost for principal and interest payments to issue this amount over 20 years assuming a 5.0% interest rate is \$30.5 million. The first year that the state will experience costs associated with the bonds depends on when they are allocated through the State Bond Commission and when the funds are expended.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and for the term of issuance of the bonds.

*Sources: Department of Labor  
New York State Attorney General, No Rhyme or Reason, Appendix A*

**OLR Bill Analysis****SB 450*****AN ACT ESTABLISHING A REVOLVING LOAN FUND FOR SMALL BUSINESSES.*****SUMMARY:**

This bill requires the Department of Economic and Community Development (DECD) to create a financing program for businesses with fewer than 50 employees. It authorizes \$20 million in bonds for the program and creates a separate, nonlapsing General Fund account for depositing the bond proceeds. The bill is silent on whether DECD must deposit loan fees and repayments in the account.

The bill imposes a separate income tax rate on bonuses paid by banks and other financial institutions that received federal financial assistance to remain liquid and stable. The rate is 8.97%, and it applies to bonuses over \$1 million paid during the 2010 and 2011 income years. The 8.97% rate is in lieu of the 6.5% rate that would otherwise apply to Connecticut taxable income over \$1 million.

**EFFECTIVE DATE:** July 1, 2010, except for the 8.97% rate on bonuses, which takes effect upon passage and is applicable to tax years on or after January 1, 2010.

**SMALL BUSINESS ASSISTANCE PROGRAM**

The bill allows DECD to provide three forms of financing to businesses with fewer than 50 employees.

1. DECD can guarantee loans made by banks and other lenders and commit to guaranteeing loans before lenders make them.
2. DECD can make direct loans regardless of whether lenders accept its guarantees.

3. Lastly, DECD can participate with other state and federal agencies in making or guaranteeing loans for small businesses. It may do this by entering into participation agreements with these agencies.

## **HIGHER INCOME TAX RATE ON TARP BONUSES**

### ***Rate***

The bill imposes an 8.97% income tax rate on TARP bonuses over \$1 million paid or awarded for work performed between 2010 and 2011 income years. TARP refers to the Troubled Assets Relief Fund, which is federal program that purchased troubled mortgages, securities, and other obligations from banks and other financial institutions (i.e., TARP recipients).

The bill's tax rate applies to the entire amount over \$1 million. Taxpayers must pay the resulting tax in addition to taxes on any other income, which is still taxed at the applicable rates. The rate applies to the taxpayer's TARP bonuses even if his or her employer subsequently repaid the federal aid.

### ***TARP Recipient***

The rate applies to a TARP bonus regardless of whether the financial institution directly received the TARP funds or (1) was part of a group of affiliated businesses that included a TARP recipient or (2) belonged to a partnership in which one or more entities that own at least half of the capital or profits received TARP funds.

### ***Bonuses***

The TARP bonus tax rate applies to retention or incentive payments or other bonuses a TARP recipient paid. The bonus can take any form, including cash, loans, non-cash mediums, or arrangements for future payments. It also includes any payment a TARP recipient makes reimbursing a taxpayer for the tax he or she pays on the bonus.

The TARP rate does not apply to commissions, welfare or fringe benefits, or expense reimbursements. Nor does it apply to taxpayers

who irrevocably waive their right to full bonus payments or return them before December 31 of the applicable tax year. This exclusion applies as long as a taxpayer received no benefit in return for waiving or forgoing the TARP bonus.

The bill specifies that TARP recipients paying or awarding bonuses over \$1 million must still apply the applicable tax withholding requirements to these payments.

**COMMITTEE ACTION**

Commerce Committee

Joint Favorable

Yea 10 Nay 9 (03/18/2010)