



General Assembly

February Session, 2014

Raised Bill No. 5465

LCO No. 2072



Referred to Committee on FINANCE, REVENUE AND BONDING

Introduced by:
(FIN)

AN ACT CONCERNING THE CONNECTICUT AEROSPACE REINVESTMENT ACT.

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

1 Section 1. (NEW) (*Effective from passage*) (a) As used in this section:

2 (1) "Accumulated credits" means the amount of credits allowed, in
3 accordance with the provisions of section 12-217n of the general
4 statutes, that have not been taken through the last income year
5 completed prior to the date of an application submitted as provided in
6 subsection (b) of this section. The amount of such accumulated credits
7 shall be subject to confirmation, in accordance with the provisions of
8 title 12 of the general statutes, by the Commissioner of Revenue
9 Services in consultation with the commissioner.

10 (2) "Commissioner" means the Commissioner of Economic and
11 Community Development.

12 (3) "Eligible expenditures" means those expenditures made or
13 incurred in this state by an eligible taxpayer in furtherance of a state-

14 certified industrial reinvestment project, including, but not limited to,
15 (A) expenditures with respect to buildings, improvements, property,
16 plants and equipment, and expenses directly related to such
17 expenditures, such as design work, professional fees, surveys and site
18 preparation, remediation and clean-up, demolition, moving and
19 renovation expenses, (B) expenditures with respect to personal
20 property, (C) research and development expenses, as defined in
21 section 12-217n of the general statutes, and (D) the hiring and training
22 of employees.

23 (4) "Eligible taxpayer" means a taxpayer, or a combined group of
24 taxpayers under section 12-223a of the general statutes, that, at the
25 time application is made under subsection (b) of this section, (A) is
26 primarily engaged in the industrial sector, (B) employs at least fifteen
27 thousand people in the state, (C) has incurred at least two hundred
28 million dollars per year in research and development expenses, as
29 defined in section 12-217n of the general statutes, in the state for the
30 five full income years immediately preceding the date of such
31 application, and (D) has at least four hundred million dollars of
32 accumulated credits.

33 (5) "Income year" means the income year of an eligible taxpayer as
34 determined under subsection (a) of section 12-213 of the general
35 statutes.

36 (6) "Industrial reinvestment project" means one or more projects in
37 this state that will, if certified by the commissioner under subsection
38 (b) of this section, entail aggregate eligible expenditures in the state of
39 not less than one hundred million dollars over a period of not more
40 than five years by an eligible taxpayer in furtherance of such project.

41 (7) "Industrial sector" means all activities that, in accordance with
42 the North American Industrial Classification System, United States
43 Manual, United States Office of Management and Budget, 1997 edition,
44 would be included in Section 31, 32 or 33, including all operations in

45 support of such activities.

46 (8) "State-certified industrial reinvestment project" means an
47 industrial reinvestment project certified by the commissioner pursuant
48 to subsection (b) of this section.

49 (b) (1) Any eligible taxpayer that intends to undertake an industrial
50 reinvestment project may apply to the commissioner for certification of
51 such project as a state-certified industrial reinvestment project. In
52 order to receive such certification, an eligible taxpayer shall make
53 application to the commissioner, in a form acceptable to the
54 commissioner and containing such information as prescribed by the
55 commissioner, including, but not limited to, a detailed plan outlining
56 the industrial reinvestment project, the term of such project, the
57 estimated costs of such project and the amount of accumulated credits
58 the eligible taxpayer proposes it be allowed to exchange in connection
59 with such project. The commissioner may require the eligible taxpayer
60 to submit such additional information as may be necessary to evaluate
61 the application.

62 (2) All decisions of the commissioner with respect to applications
63 received under the provisions of subdivision (1) of this subsection shall
64 be at the commissioner's sole discretion. The provisions of this
65 subsection shall not be construed as authorizing suit against the state
66 by any taxpayer that is denied state certification by the commissioner
67 and shall not be construed as a waiver of sovereign immunity.

68 (c) (1) Upon certification by the commissioner of an application as
69 provided in subsection (b) of this section, the commissioner may enter
70 into a contract with an eligible taxpayer pursuant to which the
71 commissioner may, in consideration of the eligible taxpayer's
72 agreement to make the eligible expenditures in connection with the
73 state-certified industrial reinvestment project, agree to exchange
74 certain of the eligible taxpayer's accumulated credits up to a specified
75 amount. Such contract shall specify (A) the length of time the state-

76 certified industrial reinvestment project will take to complete, (B) the
77 aggregate amount of eligible expenditures the eligible taxpayer agrees
78 to make, (C) the amounts the eligible taxpayer shall be entitled to
79 receive during the term of such contract with respect to such eligible
80 expenditures, and the terms and conditions the eligible taxpayer must
81 satisfy in order to receive such amounts, (D) the terms and conditions
82 of the repayment of any amount paid to the eligible taxpayer in
83 exchange for the accumulated credits in the event of any failure on the
84 part of the eligible taxpayer to comply with the terms of the contract,
85 and (E) any other terms and conditions the commissioner may require.
86 Any eligible taxpayer that has entered into a contract with the
87 commissioner under this subsection may, in the event of any disputed
88 claims under such contract, bring an action against the state to the
89 superior court for the judicial district of Hartford for the purpose of
90 having such claim determined, provided notice of any such disputed
91 claim is first given to the commissioner in the method and manner
92 prescribed by such contract. No action shall be allowed unless it is
93 brought not later than two years after the date on which the eligible
94 taxpayer gave proper notice to the commissioner under such contract.
95 All legal defenses, except governmental immunity, shall be reserved to
96 the state.

97 (2) The payment by the state of amounts directly attributable to the
98 exchange of accumulated credits in connection with a state-certified
99 industrial reinvestment project may be made in the form, with the
100 timing and in the manner determined by the commissioner, including
101 as an offset or refund of state taxes otherwise payable by the eligible
102 taxpayer. To the extent that such payments involve the offset or refund
103 of state taxes, such payments shall be made in consultation with the
104 Commissioner of Revenue Services.

105 (3) The provisions of subsection (d) of section 12-217n of the general
106 statutes, section 12-217aa of the general statutes, section 12-217zz of the
107 general statutes, subsections (c) and (e) of section 32-223 of the general
108 statutes, or section 32-462 of the general statutes, shall not apply to a

109 contract entered into by the commissioner in accordance with this
110 section to the extent such provisions are inconsistent with such
111 contract.

112 (4) The amount of accumulated credits that an eligible taxpayer may
113 be allowed to exchange with respect to any state-certified industrial
114 reinvestment project shall not exceed the eligible expenditures made
115 by such taxpayer with respect to such project. No eligible taxpayer
116 shall make any further claims with respect to any accumulated credits
117 exchanged in connection with a state-certified industrial reinvestment
118 project and the commissioner shall notify the Commissioner of
119 Revenue Services of all accumulated credits, and the amounts thereof,
120 exchanged in connection with such project.

121 (d) Notwithstanding any provision of law, an eligible taxpayer that
122 enters into a contract with the commissioner under the provisions of
123 this section and that is authorized to exchange accumulated credits in
124 connection with a state-certified industrial reinvestment project shall
125 not be allowed any credit pursuant to section 12-217n of the general
126 statutes, during the exclusion period under such contract, nor be
127 eligible to exchange credits under the provisions of section 12-217ee of
128 the general statutes, during such exclusion period. For purposes of this
129 subsection, the exclusion period means those income years of the
130 eligible taxpayer specified by the commissioner in such contract as
131 comprising the exclusion period. This subsection shall not preclude an
132 eligible taxpayer from taking accumulated credits that are not
133 otherwise subject to exchange pursuant to such contract during such
134 exclusion period as otherwise allowed by law.

135 (e) To provide incentives for the retention and creation of jobs and
136 business growth in the state, the commissioner shall also analyze and,
137 as appropriate, seek additional legislative approval for programs
138 permitting eligible taxpayers to exchange any remaining accumulated
139 credits in manners not otherwise currently provided for under this
140 section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section

Statement of Purpose:

To allow the Commissioner of Economic and Community Development to enter into a contract for an incentive program designed to bolster the state's aerospace industry, foster the retention and creation of jobs, and encourage business growth in the state of Connecticut, consistent with the strategic economic development priorities of the state.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]