



General Assembly

Substitute Bill No. 5465

February Session, 2014



**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) "Base level" means the level set forth for each factor listed in
11 subparagraph (A) of subdivision (6) of subsection (c) of this section, in
12 the reinvestment contract for the most recently completed calendar
13 year prior to the designation as a state-certified industrial reinvestment
14 project.

15 (3) "Commissioner" means the Commissioner of Economic and
16 Community Development.

17 (4) "Eligible expenditures" means those expenditures made or

18 incurred in this state by an eligible taxpayer in furtherance of a state-
19 certified industrial reinvestment project, including, but not limited to,
20 (A) expenditures with respect to buildings, improvements, property,
21 plants and equipment, and expenses directly related to such
22 expenditures, such as design work, professional fees, surveys and site
23 preparation, remediation and clean-up, demolition, moving and
24 renovation expenses, (B) expenditures with respect to personal
25 property, (C) research and development expenses, as defined in
26 section 12-217n of the general statutes, and (D) the hiring and training
27 of employees.

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

38 (6) "Exchange year" means the period beginning on the date set
39 forth in the reinvestment contract and ending on June 30, 2015, and
40 each successive period ending on June thirtieth thereafter.

41 (7) "Income year" means the income year of an eligible taxpayer as
42 determined under subsection (a) of section 12-213 of the general
43 statutes.

44 (8) "Industrial reinvestment project" means one or more projects in
45 this state that, if certified by the commissioner as provided in
46 subsection (b) of this section, will entail aggregate eligible
47 expenditures in the state of not less than one hundred million dollars
48 over a period of not more than five exchange years by an eligible
49 taxpayer in furtherance of the industrial reinvestment project. If an

50 industrial reinvestment project is comprised of more than one project,
51 each such project shall be referred to as a segment. Such segments shall
52 be specifically set forth in the reinvestment contract.

53 (9) "Industrial sector" means all activities that, in accordance with
54 the North American Industrial Classification System, United States
55 Manual, United States Office of Management and Budget, 2012 edition,
56 are included in Section 31, 32 or 33, including all operations in support
57 of such activities.

58 (10) "Payment year" means the twelve-month period beginning on
59 the date payments commence under the reinvestment contract and
60 each twelve-month period thereafter.

61 (11) "Reinvestment contract" means a contract entered into between
62 the commissioner and an eligible taxpayer in accordance with
63 subsection (c) of this section.

64 (12) "State-certified industrial reinvestment project" means an
65 industrial reinvestment project certified by the commissioner as
66 provided in subsection (b) of this section.

67 (b) (1) Any eligible taxpayer that intends to undertake an industrial
68 reinvestment project may apply to the commissioner for certification of
69 such project as a state-certified industrial reinvestment project. In
70 order to receive such certification, an eligible taxpayer shall apply to
71 the commissioner, in a form acceptable to the commissioner and
72 containing such information as prescribed by the commissioner,
73 including, but not limited to, a detailed plan outlining the industrial
74 reinvestment project, the term of such project, the estimated costs of
75 such project and the amount of accumulated credits the eligible
76 taxpayer proposes it be allowed to exchange in connection with such
77 project. The commissioner may require the eligible taxpayer to submit
78 such additional information as may be necessary to evaluate the
79 application.

80 (2) All decisions of the commissioner with respect to applications

81 received under the provisions of subdivision (1) of this subsection shall
82 be at the commissioner's sole discretion. The provisions of this
83 subsection shall not be construed as authorizing suit against the state
84 by any taxpayer that is denied certification by the commissioner and
85 shall not be construed as a waiver of sovereign immunity.

86 (c) (1) Upon certification by the commissioner of an application as
87 provided in subsection (b) of this section, the commissioner may enter
88 into a reinvestment contract with an eligible taxpayer pursuant to
89 which the commissioner may, in consideration of the eligible
90 taxpayer's agreement to make the eligible expenditures in connection
91 with the state-certified industrial reinvestment project, agree to
92 exchange certain of the eligible taxpayer's accumulated credits up to a
93 specified amount. Such reinvestment contract shall specify (A) the
94 length of time the state-certified industrial reinvestment project will
95 take to complete, (B) the aggregate amount of eligible expenditures the
96 eligible taxpayer agrees to make, (C) the amounts, as determined in
97 accordance with the provisions of subdivision (6) of this subsection,
98 that the eligible taxpayer is entitled to receive during the term of such
99 reinvestment contract with respect to such eligible expenditures, and
100 the terms and conditions the eligible taxpayer must satisfy in order to
101 receive such amounts, (D) the terms and conditions of the repayment
102 of any such amounts paid to the eligible taxpayer in exchange for the
103 accumulated credits in the event of any failure on the part of the
104 eligible taxpayer to comply with the terms of the reinvestment
105 contract, and (E) any other terms and conditions the commissioner
106 may require. Any eligible taxpayer that enters into a reinvestment
107 contract with the commissioner under this subsection may, in the
108 event of any disputed claims under such reinvestment contract, bring
109 an action against the state to the superior court for the judicial district
110 of Hartford for the purpose of having such claim determined,
111 provided notice of any such disputed claim is first given to the
112 commissioner in the method and manner prescribed by such
113 reinvestment contract. No action shall be allowed unless it is brought
114 not later than two years after the date on which the eligible taxpayer

115 gave proper notice to the commissioner under such reinvestment
116 contract. All legal defenses, except sovereign immunity, are reserved
117 to the state.

118 (2) The payment by the state of amounts directly attributable to the
119 exchange of accumulated credits in connection with a state-certified
120 industrial reinvestment project may be made in the form, timing and
121 manner determined by the commissioner, including as an offset or
122 refund of state taxes otherwise payable by the eligible taxpayer under
123 the provisions of chapters 208 and 219 of the general statutes. To the
124 extent that such payments involve the offset or refund of state taxes,
125 such payments shall be made in consultation with the Commissioner
126 of Revenue Services.

127 (3) The provisions of subsection (d) of section 12-217n of the general
128 statutes, sections 12-217aa and 12-217zz of the general statutes,
129 subsections (c) and (e) of section 32-223 of the general statutes, and
130 section 32-462 of the general statutes, shall not apply to a reinvestment
131 contract to the extent such provisions are inconsistent with such
132 reinvestment contract.

133 (4) Subject to the provisions of subdivision (5) of this subsection, the
134 amount of accumulated credits that an eligible taxpayer is allowed to
135 exchange with respect to any state-certified industrial reinvestment
136 project shall not exceed the eligible expenditures made by such
137 taxpayer with respect to such project. No eligible taxpayer shall make
138 any further claims with respect to any accumulated credits exchanged
139 in connection with a state-certified industrial reinvestment project. The
140 commissioner shall notify the Commissioner of Revenue Services of all
141 accumulated credits, and the amounts thereof, exchanged in
142 connection with such project.

143 (5) The aggregate amount of all payments made by the state under
144 this section for the exchange of accumulated credits shall not exceed
145 four hundred million dollars, provided (A) the amount of all payments
146 made by the state during any of the first five payment years shall not

147 exceed twenty million dollars per year, and (B) the amount of all
148 payments made by the state during any of the sixth or subsequent
149 payment years shall not exceed the sum of thirty-three million three
150 hundred thirty-four thousand dollars per year.

151 (6) Subject to the provisions of subdivisions (4) and (5) of this
152 subsection, the amounts an eligible taxpayer is entitled to receive
153 under a reinvestment contract with respect to eligible expenditures
154 made by such taxpayer shall be determined in accordance with
155 subparagraph (A) or (B) of this subdivision.

156 (A) (i) If, in connection with a state-certified industrial reinvestment
157 project, or segment thereof, an eligible taxpayer may qualify to receive
158 more than two hundred million dollars upon compliance with the
159 terms of the reinvestment contract, the amount the eligible taxpayer is
160 eligible to receive with respect to such project or segment shall be
161 determined by multiplying the actual amount of eligible expenditures
162 made in each of the first five exchange years by the total of the four
163 applicable weighting factors as determined in accordance with
164 subparagraphs (A)(i)(I) to (A)(i)(IV), inclusive, of this subdivision.

165 (I) The weighting factor for the maintenance or increase of
166 employment levels of engineers located in this state shall be calculated
167 in accordance with the following table:

T1	Employment Levels of Engineers	Weighting Factors
T2	(Individuals Employed)	
T3	Below 4,350	0%
T4	4,350	7%
T5	4,400	8%
T6	4,450	9%
T7	4,500	10%
T8	4,550	11%
T9	4,600	12%
T10	4,650	13%
T11	4,700	14%
T12	4,750	15%
T13	4,800	16%

T14	4,850	17%
T15	4,900 (Base Level)	18%
T16	4,950	19%
T17	5,000	20%

168 The base level for the weighting factor for employment levels of
169 engineers located in this state is four thousand nine hundred
170 employees. The actual percentage for such factor shall be interpolated
171 in accordance with this table.

172 (II) The weighting factor for the maintenance or increase of overall
173 employment levels in this state shall be calculated in accordance with
174 the following table:

T18	Overall Employment Levels	Weighting Factors
T19	(Individuals Employed)	
T20	Below 12,450	0%
T21	12,450	10.5%
T22	12,600	12%
T23	12,750	13.5%
T24	12,900	15%
T25	13,050	16.5%
T26	13,200	18%
T27	13,350	19.5%
T28	13,500	21%
T29	13,650	22.5%
T30	13,800	24%
T31	13,950	25.5%
T32	14,100 (Base Level)	27%
T33	14,250	28.5%
T34	14,400	30%

175 The base level for the weighting factor for overall employment levels
176 in this state is fourteen thousand one hundred employees. The actual
177 percentage for this factor shall be interpolated in accordance with this
178 table.

179 (III) The weighting factor for the maintenance or increase of payroll
180 levels in this state shall be calculated in accordance with the following

181 table:

T35	Payroll Levels	Weighting Factors
T36	Below \$1,370,000,000	0%
T37	1,370,000,000	0.5%
T38	1,385,000,000	12%
T39	1,400,000,000	13.5%
T40	1,415,000,000	15%
T41	1,430,000,000	16.5%
T42	1,445,000,000	18%
T43	1,460,000,000	19.5%
T44	1,475,000,000	21%
T45	1,490,000,000	22.5%
T46	1,505,000,000	24%
T47	1,520,000,000	25.5%
T48	1,535,000,000 (Base Level)	27%
T49	1,550,000,000	28.5%
T50	1,565,000,000	30%

182 The base level for the weighting factor for the payroll levels in this
 183 state is one billion five hundred thirty-five million dollars. The actual
 184 percentage for this factor shall be interpolated in accordance with this
 185 table.

186 (IV) The weighting factor for research and development expenses
 187 and capital expenditures, exclusive of those eligible expenditures made
 188 in accordance with a contract entered into with the commissioner
 189 under the provisions of this subsection, shall be calculated in
 190 accordance with the following table:

T51	Investment Amount	Weighting Factors
T52	Below \$680,000,000	0%
T53	680,000,000	7%
T54	690,000,000	8%
T55	700,000,000	9%
T56	710,000,000	10%
T57	720,000,000	11%
T58	730,000,000	12%
T59	740,000,000	13%
T60	750,000,000	14%

T61	760,000,000	15%
T62	770,000,000	16%
T63	780,000,000	17%
T64	790,000,000 (Base Level)	18%
T65	800,000,000	19%
T66	810,000,000	20%

191 The base level for the weighting factor for research and development
192 expenses and capital expenditures in this state, exclusive of such
193 eligible expenditures made in connection with the reinvestment
194 contract, is seven hundred ninety million dollars. The actual
195 percentage for this factor shall be interpolated in accordance with this
196 table.

197 (ii) The eligible taxpayer shall certify the base levels set forth in
198 subparagraphs (A)(i)(I) to (A)(i)(IV), inclusive, of this subdivision to
199 the commissioner, and shall do so not later than one hundred twenty
200 days after entering into a reinvestment contract with the
201 commissioner. In the event any of the base levels certified to the
202 commissioner differ from those set forth in said subparagraphs, the
203 commissioner is authorized to adjust the base levels and recalculate
204 the tables for the weighting factors consistent with subparagraphs
205 (A)(i)(I) to (A)(i)(IV), inclusive, of this subdivision.

206 (iii) The aggregate amount of all payments made by the state under
207 this subparagraph for the exchange of accumulated credits shall not
208 exceed three hundred seventy-five million dollars.

209 (B) If, in connection with a state-certified industrial reinvestment
210 project, or segment thereof, an eligible taxpayer may receive fifty
211 million dollars or less upon compliance with the terms of the
212 reinvestment contract, the amount the eligible taxpayer is eligible to
213 receive with respect to such project or segment shall be determined
214 with reference to the performance of the eligible taxpayer during the
215 first five exchange years and shall be calculated as follows: (i) To the
216 extent that expenditures by the eligible taxpayer with respect to one or
217 more research and development components of such project or

218 segment involve over ten million dollars in research and development
219 expenses and involve the retention of one hundred or more employees,
220 the eligible taxpayer is eligible to receive one million dollars with
221 respect to each such component; and (ii) to the extent that expenditures
222 by the eligible taxpayer with respect to one or more capital
223 components of such project or segment involve over one million
224 dollars in capital expenditures, the eligible taxpayer is eligible to
225 receive forty per cent of such expenditures with respect to each such
226 component. The aggregate amount of all payments made by the state
227 under this subparagraph for the exchange of accumulated credits shall
228 not exceed fifty million dollars.

229 (d) Notwithstanding any provision of the general statutes, an
230 eligible taxpayer that enters into a reinvestment contract with the
231 commissioner under the provisions of this section and is authorized to
232 exchange accumulated credits in connection with a state-certified
233 industrial reinvestment project shall not be allowed any credit
234 pursuant to section 12-217j or 12-217n of the general statutes, during
235 the exclusion period under such reinvestment contract, or be eligible to
236 exchange credits under the provisions of section 12-217ee of the
237 general statutes, during such exclusion period. For purposes of this
238 subsection, the exclusion period means those income years of the
239 eligible taxpayer specified by the commissioner in the reinvestment
240 contract as comprising the exclusion period. This subsection shall not
241 preclude an eligible taxpayer (1) from taking accumulated credits that
242 are not otherwise subject to exchange pursuant to such reinvestment
243 contract during such exclusion period as otherwise allowed by law, or
244 (2) from taking credits allowed under section 12-217j of the general
245 statutes during the exclusion period as otherwise allowed by law.
246 Except as provided herein, this subsection shall not impact an eligible
247 taxpayer's ability to claim those tax credits it has already been allowed
248 or otherwise affect such taxpayer's eligibility for credits under the
249 provisions of the general statutes.

250 (e) To provide incentives for the retention and creation of jobs and

251 business growth in the state, the commissioner shall analyze and, as
252 appropriate, seek additional legislative approval for programs
253 permitting eligible taxpayers to exchange any accumulated credits in
254 manners not otherwise provided for under this section.

255 (f) The commissioner shall include in the report required pursuant
256 to section 32-1m of the general statutes an annual report that shall
257 include information on the number of projects certified under this
258 section, the number of reinvestment contracts entered into in
259 connection with such projects, the status of the certified projects, the
260 amount of accumulated credits that have been exchanged in
261 connection with such projects, and the specific levels achieved by each
262 eligible taxpayer under subparagraphs (A) and (B) of subdivision (6) of
263 subsection (c) of this section.

264 (g) On and after December 31, 2019, the commissioner shall not
265 certify any industrial reinvestment projects under subsection (b) of this
266 section or enter into any reinvestment contracts under subsection (c) of
267 this section.

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

FIN Joint Favorable Subst.