



Substitute House Bill No. 5465

Public Act No. 14-2

AN ACT CONCERNING THE CONNECTICUT AEROSPACE REINVESTMENT ACT.

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

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

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

(2) "Base level" means the level identified in the reinvestment contract entered into pursuant to subsection (c) of this section, for each factor listed in subparagraph (A) of subdivision (6) of subsection (c) of this section, for the most recently completed calendar year prior to the designation as a state-certified industrial reinvestment project.

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

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

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

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

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

(8) "Industrial reinvestment project" means one or more projects in this state that, if certified by the commissioner as provided in subsection (b) of this section, will entail aggregate eligible

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expenditures in the state of not less than one hundred million dollars over a period of not more than five exchange years by an eligible taxpayer in furtherance of the industrial reinvestment project. If an industrial reinvestment project is comprised of more than one project, each such project shall be referred to as a segment. Such segments shall be specifically set forth in the reinvestment contract.

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

(10) "Payment year" means the twelve-month period beginning on the date payments commence under the reinvestment contract and each twelve-month period thereafter. The first payment year shall begin on or after July 1, 2015.

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

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

(b) (1) Any eligible taxpayer that intends to undertake an industrial reinvestment project may apply to the commissioner for certification of such project as a state-certified industrial reinvestment project. In order to receive such certification, an eligible taxpayer shall apply to the commissioner, in a form acceptable to the commissioner and containing such information as prescribed by the commissioner, including, but not limited to, (A) a detailed plan outlining the industrial reinvestment project, (B) the term of such project, (C) the

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estimated costs of such project, and (D) the amount of accumulated credits the eligible taxpayer proposes it be allowed to exchange in connection with such project. The commissioner may require the eligible taxpayer to submit such additional information as may be necessary to evaluate the application.

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

(c) (1) Upon certification by the commissioner of an application as provided in subsection (b) of this section, the commissioner may enter into a reinvestment contract with an eligible taxpayer pursuant to which the commissioner may, in consideration of the eligible taxpayer's agreement to make the eligible expenditures in connection with the state-certified industrial reinvestment project, agree to exchange certain of the eligible taxpayer's accumulated credits up to a specified amount. Such reinvestment contract shall specify: (A) Each segment of a state-certified industrial reinvestment project; (B) the length of time the state-certified industrial reinvestment project will take to complete; (C) the aggregate amount of eligible expenditures the eligible taxpayer agrees to make; (D) the base levels, if applicable; (E) the amounts, as determined in accordance with the provisions of subdivision (6) of this subsection, that the eligible taxpayer is eligible to receive during the term of such reinvestment contract with respect to such eligible expenditures, and the terms and conditions the eligible taxpayer must satisfy in order to receive such amounts, including, but not limited to, information required to be submitted by the eligible taxpayer and provisions for the commissioner to access relevant records and to verify their accuracy; (F) the terms and conditions of the

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repayment of any such amounts paid to the eligible taxpayer in exchange for the accumulated credits in the event of any failure on the part of the eligible taxpayer to comply with the terms of the reinvestment contract; (G) the manner and method for the eligible taxpayer to provide notice of any disputed claim under the reinvestment contract; and (H) any other terms and conditions the commissioner may require. Any eligible taxpayer that enters into a reinvestment contract with the commissioner under this subsection may, in the event of any disputed claims under such reinvestment contract, bring an action against the state to the superior court for the judicial district of Hartford for the purpose of having such claim determined, provided notice of any such disputed claim is first given to the commissioner in the manner and method described in the reinvestment contract. No action shall be allowed unless it is brought not later than two years after the date on which the eligible taxpayer gave proper notice to the commissioner under such reinvestment contract. All legal defenses under such reinvestment contract, except sovereign immunity, are reserved to the state.

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

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

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contract to the extent such provisions are inconsistent with such reinvestment contract.

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

(5) The aggregate amount of all payments made by the state under this section for the exchange of accumulated credits shall not exceed four hundred million dollars, provided (A) the amount of all payments made by the state during any of the first five payment years shall not exceed twenty million dollars per year, and (B) the amount of all payments made by the state during any of the sixth or subsequent payment years shall not exceed the sum of thirty-three million three hundred thirty-four thousand dollars per year.

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

(A) (i) If, in connection with a state-certified industrial reinvestment project, or segment thereof, an eligible taxpayer may qualify to receive more than two hundred million dollars upon compliance with the terms of the reinvestment contract, the amount the eligible taxpayer is eligible to receive with respect to such project or segment shall be

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determined by multiplying the actual amount of eligible expenditures made in each of the first five exchange years by the total of the four applicable weighting factors as determined in accordance with subclauses (I) to (IV), inclusive, of this clause.

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

Employment Levels of Engineers (Individuals Employed)	Weighting Factors
Below 4,350	0%
4,350	7%
4,400	8%
4,450	9%
4,500	10%
4,550	11%
4,600	12%
4,650	13%
4,700	14%
4,750	15%
4,800	16%
4,850	17%
4,900	18%
4,950	19%
5,000	20%

The actual percentage for such factor shall be interpolated in accordance with this table.

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

Overall Employment Levels (Individuals Employed)	Weighting Factors
Below 12,450	0%

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12,450	10.5%
12,600	12%
12,750	13.5%
12,900	15%
13,050	16.5%
13,200	18%
13,350	19.5%
13,500	21%
13,650	22.5%
13,800	24%
13,950	25.5%
14,100	27%
14,250	28.5%
14,400	30%

The actual percentage for this factor shall be interpolated in accordance with this table.

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

Payroll Levels	Weighting Factors
Below \$1,370,000,000	0%
1,370,000,000	10.5%
1,385,000,000	12%
1,400,000,000	13.5%
1,415,000,000	15%
1,430,000,000	16.5%
1,445,000,000	18%
1,460,000,000	19.5%
1,475,000,000	21%
1,490,000,000	22.5%
1,505,000,000	24%
1,520,000,000	25.5%
1,535,000,000	27%
1,550,000,000	28.5%
1,565,000,000	30%

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The actual percentage for this factor shall be interpolated in accordance with this table.

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

Investment Amount	Weighting Factors
Below \$680,000,000	0%
680,000,000	7%
690,000,000	8%
700,000,000	9%
710,000,000	10%
720,000,000	11%
730,000,000	12%
740,000,000	13%
750,000,000	14%
760,000,000	15%
770,000,000	16%
780,000,000	17%
790,000,000	18%
800,000,000	19%
810,000,000	20%

The actual percentage for this factor shall be interpolated in accordance with this table.

(ii) The eligible taxpayer shall certify the base levels for the factors set forth in subclauses (I) to (IV), inclusive, of this clause to the commissioner not later than one hundred twenty days after entering into a reinvestment contract with the commissioner. In the event any of the base levels certified to the commissioner differ from those set forth in the reinvestment contract, the commissioner is authorized to adjust the tables for the weighting factors consistent with subclauses (I) to

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(IV), inclusive, of this clause.

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

(B) If, in connection with a state-certified industrial reinvestment project, or segment thereof, an eligible taxpayer may qualify to receive fifty million dollars or less upon compliance with the terms of the reinvestment contract, the amount the eligible taxpayer is eligible to receive as an exchange of accumulated credits with respect to such project or segment shall be determined with reference to the performance of the eligible taxpayer during the first five exchange years and shall be calculated as follows: (i) To the extent that expenditures made by the eligible taxpayer with respect to one or more research and development components of such project or segment involve the retention of one hundred or more employees and the investment of over ten million dollars in research and development, the eligible taxpayer is eligible to receive one million dollars with respect to each such component; and (ii) to the extent that expenditures by the eligible taxpayer with respect to one or more capital components of such project or segment involve over one million dollars in capital expenditures, the eligible taxpayer is eligible to receive forty per cent of such expenditures with respect to each such component. The aggregate amount of all payments made by the state under this subparagraph for the exchange of accumulated credits shall not exceed fifty million dollars.

(d) Notwithstanding any provision of the general statutes, an eligible taxpayer that enters into a reinvestment contract with the commissioner under the provisions of this section and is authorized to exchange accumulated credits in connection with a state-certified industrial reinvestment project shall not be allowed any credit pursuant to section 12-217j or 12-217n of the general statutes, during

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the exclusion period under such reinvestment contract, or be eligible to exchange credits under the provisions of section 12-217ee of the general statutes, during such exclusion period. For purposes of this subsection, the exclusion period means those income years of the eligible taxpayer specified by the commissioner in the reinvestment contract as comprising the exclusion period. This subsection shall not preclude an eligible taxpayer (1) from taking accumulated credits that are not otherwise subject to exchange pursuant to such reinvestment contract during such exclusion period as otherwise allowed by law, or (2) from taking credits allowed under section 12-217j of the general statutes during the exclusion period as otherwise allowed by law. Except as provided herein, this subsection shall not impact an eligible taxpayer's ability to claim those tax credits it has already been allowed or otherwise affect such taxpayer's eligibility for credits under the provisions of the general statutes.

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

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

(g) On and after June 30, 2015, the commissioner shall not enter into any reinvestment contracts under subsection (c) of this section.

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Approved May 8, 2014