



General Assembly

Amendment

February Session, 2014

LCO No. 3765

HB0546503765HDO

Offered by:

REP. WIDLITZ, 98th Dist.

SEN. FONFARA, 1st Dist.

To: House Bill No. 5465

File No. 496

Cal. No. 289

"AN ACT CONCERNING THE CONNECTICUT AEROSPACE REINVESTMENT ACT."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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

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

12 (2) "Base level" means the level identified in the reinvestment
13 contract entered into pursuant to subsection (c) of this section, for each

14 factor listed in subparagraph (A) of subdivision (6) of subsection (c) of
15 this section, for the most recently completed calendar year prior to the
16 designation as a state-certified industrial reinvestment project.

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

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

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

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

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

45 statutes.

46 (8) "Industrial reinvestment project" means one or more projects in
47 this state that, if certified by the commissioner as provided in
48 subsection (b) of this section, will entail aggregate eligible
49 expenditures in the state of not less than one hundred million dollars
50 over a period of not more than five exchange years by an eligible
51 taxpayer in furtherance of the industrial reinvestment project. If an
52 industrial reinvestment project is comprised of more than one project,
53 each such project shall be referred to as a segment. Such segments shall
54 be specifically set forth in the reinvestment contract.

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

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

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

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

70 (b) (1) Any eligible taxpayer that intends to undertake an industrial
71 reinvestment project may apply to the commissioner for certification of
72 such project as a state-certified industrial reinvestment project. In
73 order to receive such certification, an eligible taxpayer shall apply to
74 the commissioner, in a form acceptable to the commissioner and
75 containing such information as prescribed by the commissioner,

76 including, but not limited to, (A) a detailed plan outlining the
77 industrial reinvestment project, (B) the term of such project, (C) the
78 estimated costs of such project, and (D) the amount of accumulated
79 credits the eligible taxpayer proposes it be allowed to exchange in
80 connection with such project. The commissioner may require the
81 eligible taxpayer to submit such additional information as may be
82 necessary to evaluate the application.

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

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

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

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

136 (3) The provisions of subsection (d) of section 12-217n of the general
137 statutes, sections 12-217aa and 12-217zz of the general statutes,
138 subsections (c) and (e) of section 32-223 of the general statutes, and
139 section 32-462 of the general statutes, shall not apply to a reinvestment
140 contract to the extent such provisions are inconsistent with such
141 reinvestment contract.

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

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

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

165 (A) (i) If, in connection with a state-certified industrial reinvestment
166 project, or segment thereof, an eligible taxpayer may qualify to receive
167 more than two hundred million dollars upon compliance with the
168 terms of the reinvestment contract, the amount the eligible taxpayer is
169 eligible to receive with respect to such project or segment shall be
170 determined by multiplying the actual amount of eligible expenditures
171 made in each of the first five exchange years by the total of the four
172 applicable weighting factors as determined in accordance with
173 subclauses (I) to (IV), inclusive, of this clause.

174 (I) The weighting factor for the maintenance or increase of
 175 employment levels of engineers located in this state shall be calculated
 176 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	18%
T16	4,950	19%
T17	5,000	20%

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

179 (II) The weighting factor for the maintenance or increase of overall
 180 employment levels in this state shall be calculated in accordance with
 181 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	27%
T33	14,250	28.5%
T34	14,400	30%

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

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

T35	Payroll Levels	Weighting Factors
T36	Below \$1,370,000,000	0%
T37	1,370,000,000	10.5%
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	27%
T49	1,550,000,000	28.5%
T50	1,565,000,000	30%

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

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

	Investment Amount	Weighting Factors
T51		
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	18%
T65	800,000,000	19%
T66	810,000,000	20%

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

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

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

207 (B) If, in connection with a state-certified industrial reinvestment
 208 project, or segment thereof, an eligible taxpayer may qualify to receive
 209 fifty million dollars or less upon compliance with the terms of the
 210 reinvestment contract, the amount the eligible taxpayer is eligible to
 211 receive as an exchange of accumulated credits with respect to such

212 project or segment shall be determined with reference to the
213 performance of the eligible taxpayer during the first five exchange
214 years and shall be calculated as follows: (i) To the extent that
215 expenditures made by the eligible taxpayer with respect to one or
216 more research and development components of such project or
217 segment involve the retention of one hundred or more employees and
218 the investment of over ten million dollars in research and
219 development, the eligible taxpayer is eligible to receive one million
220 dollars with respect to each such component; and (ii) to the extent that
221 expenditures by the eligible taxpayer with respect to one or more
222 capital components of such project or segment involve over one
223 million dollars in capital expenditures, the eligible taxpayer is eligible
224 to receive forty per cent of such expenditures with respect to each such
225 component. The aggregate amount of all payments made by the state
226 under this subparagraph for the exchange of accumulated credits shall
227 not exceed fifty million dollars.

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

246 taxpayer's ability to claim those tax credits it has already been allowed
247 or otherwise affect such taxpayer's eligibility for credits under the
248 provisions of the general statutes.

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

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

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

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