



Senate

General Assembly

File No. 669

January Session, 2021

Substitute Senate Bill No. 1095

Senate, May 10, 2021

The Committee on Finance, Revenue and Bonding reported through SEN. FONFARA of the 1st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT EXPANDING THE ANGEL INVESTOR TAX CREDIT PROGRAM TO SOCIAL EQUITY APPLICANTS.

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

1 Section 1. Section 12-704d of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2021*):

3 (a) As used in this section:

4 (1) "Angel investor" means an accredited investor, as defined by the
5 Securities and Exchange Commission, or network of accredited
6 investors who review new or proposed businesses for potential
7 investment and who may seek active involvement, such as consulting
8 and mentoring, in a qualified Connecticut business or a qualified
9 cannabis business, but "angel investor" does not include (A) a person
10 controlling fifty per cent or more of the Connecticut business or cannabis
11 business invested in by the angel investor, (B) a venture capital
12 company, or (C) any bank, bank and trust company, insurance

13 company, trust company, national bank, savings association or building
14 and loan association for activities that are a part of its normal course of
15 business;

16 (2) "Cash investment" means the contribution of cash, at a risk of loss,
17 to a qualified Connecticut business or a qualified cannabis business in
18 exchange for qualified securities;

19 (3) "Connecticut business" means any business with its principal
20 place of business in Connecticut, excluding a cannabis business;

21 (4) "Bioscience" means manufacturing pharmaceuticals, medicines,
22 medical equipment or medical devices and analytical laboratory
23 instruments, operating medical or diagnostic testing laboratories, or
24 conducting pure research and development in life sciences;

25 (5) "Advanced materials" means developing, formulating or
26 manufacturing advanced alloys, coatings, lubricants, refrigerants,
27 surfactants, emulsifiers or substrates;

28 (6) "Photonics" means generation, emission, transmission,
29 modulation, signal processing, switching, amplification, detection and
30 sensing of light from ultraviolet to infrared and the manufacture,
31 research or development of opto-electronic devices, including, but not
32 limited to, lasers, masers, fiber optic devices, quantum devices,
33 holographic devices and related technologies;

34 (7) "Information technology" means software publishing, motion
35 picture and video production, teleproduction and postproduction
36 services, telecommunications, data processing, hosting and related
37 services, custom computer programming services, computer system
38 design, computer facilities management services, other computer
39 related services and computer training;

40 (8) "Clean technology" means the production, manufacture, design,
41 research or development of clean energy, green buildings, smart grid,
42 high-efficiency transportation vehicles and alternative fuels,
43 environmental products, environmental remediation and pollution

44 prevention;

45 (9) "Qualified securities" means any form of equity, including a
46 general or limited partnership interest, common stock, preferred stock,
47 with or without voting rights, without regard to seniority position that
48 must be convertible into common stock; [and]

49 (10) "Emerging technology business" means any business that is
50 engaged in bioscience, advanced materials, photonics, information
51 technology, clean technology or any other emerging technology as
52 determined by the Commissioner of Economic and Community
53 Development; [.]

54 (11) "Cannabis business" means a cannabis establishment for which a
55 social equity applicant has been granted a provisional license or a
56 license;

57 (12) "Social equity applicant" means a person that has applied for a
58 license for a cannabis establishment, where such establishment (A) is at
59 least fifty-one per cent owned by an individual or individuals whose
60 primary addresses for the five years immediately preceding the date of
61 such application are in this state and who meet at least one of the
62 following criteria, or (B) is under the day-to-day control of an individual
63 or individuals whose primary addresses for the five years immediately
64 preceding the date of such application are in this state and at least fifty-
65 one per cent of whom meet at least one of the following criteria:

66 (i) The individual was, as an adult or as a juvenile, arrested for or
67 convicted of, the sale, possession, use, manufacture or cultivation of
68 cannabis;

69 (ii) The individual has a parent, spouse or child who was, as an adult
70 or as a juvenile, arrested for or convicted of the sale, possession, use,
71 manufacture or cultivation of cannabis;

72 (iii) The individual has been a resident of a disproportionately
73 affected community for not less than five of the ten years immediately
74 preceding the date of such application; or

75 (iv) The individual is a resident of tribal land;

76 (13) "Cannabis" means marijuana, as defined in section 21a-240;

77 (14) "Cannabis establishment" has the same meaning as provided in
78 section 1 of substitute senate bill 888 of the current session; and

79 (15) "Disproportionately affected community" means any of the top
80 twenty communities on the most recent Public Investment Community
81 index prepared by the Office of Policy and Management in accordance
82 with the provisions of section 7-545 or a census tract in any municipality
83 in which the unemployment rate is greater than the state-wide
84 unemployment rate and the percentage of residents of such
85 municipality below the federal poverty level is greater than the state-
86 wide percentage of residents below the federal poverty level.

87 (b) There shall be allowed a credit against the tax imposed under this
88 chapter, other than the liability imposed by section 12-707, for a cash
89 investment by an angel investor of not less than twenty-five thousand
90 dollars in the qualified securities of a Connecticut business [by an angel
91 investor] or a cannabis business. The credit shall be in an amount equal
92 to (1) twenty-five per cent of such investor's cash investment in a
93 Connecticut business, or (2) forty per cent of such investor's cash
94 investment in a cannabis business, provided the total tax credits allowed
95 to any angel investor shall not exceed five hundred thousand dollars.
96 The credit shall be claimed in the taxable year in which such cash
97 investment is made by the angel investor. The credit may be sold,
98 assigned or otherwise transferred, in whole or in part.

99 (c) To qualify for a tax credit pursuant to this section, a cash
100 investment shall be in: [a]

101 (1) A Connecticut business that [(1)] (A) has been approved as a
102 qualified Connecticut business pursuant to subsection (d) of this section;
103 [(2)] (B) had annual gross revenues of less than one million dollars in the
104 most recent income year of such business; [(3)] (C) has fewer than
105 twenty-five employees, not less than seventy-five per cent of whom

106 reside in this state; [(4)] (D) has been operating in this state for less than
107 seven consecutive years; [(5)] (E) is primarily owned by the
108 management of the business and their families; and [(6)] (F) received
109 less than two million dollars in cash investments eligible for the tax
110 credits provided by this section; [.] or

111 (2) A cannabis business that (A) has been approved as a qualified
112 cannabis business pursuant to subsection (d) of this section; (B) had
113 annual gross revenues of less than one million dollars in the most recent
114 income year of such business; (C) has fewer than twenty-five employees,
115 not less than seventy-five per cent of whom reside in this state; (D) is
116 primarily owned by the management of the business and their families;
117 and (E) received less than two million dollars in cash investments
118 eligible for the tax credits provided by this section.

119 (d) (1) A Connecticut business or a cannabis business may apply to
120 Connecticut Innovations, Incorporated, for approval as a Connecticut
121 business or cannabis business, as applicable, qualified to receive cash
122 investments eligible for a tax credit pursuant to this section. The
123 application shall include (A) the name of the business and a copy of the
124 organizational documents of such business, (B) a business plan,
125 including a description of the business and the management, product,
126 market and financial plan of the business, (C) a description of the
127 business's innovative technology, product or service, (D) a statement of
128 the potential economic impact of the business, including the number,
129 location and types of jobs expected to be created, (E) a description of the
130 qualified securities to be issued and the amount of cash investment
131 sought by the [qualified Connecticut] business, (F) a statement of the
132 amount, timing and projected use of the proceeds to be raised from the
133 proposed sale of qualified securities, and (G) such other information as
134 the chief executive officer of Connecticut Innovations, Incorporated,
135 may require.

136 (2) Said chief executive officer shall, on a monthly basis, compile a list
137 of approved applications, categorized by the cash investments being
138 sought by the qualified Connecticut business or the qualified cannabis

139 business and type of qualified securities offered.

140 (e) (1) Any angel investor that intends to make a cash investment in
141 a business on such list may apply to Connecticut Innovations,
142 Incorporated, to reserve a tax credit in the amount indicated by such
143 investor. Connecticut Innovations, Incorporated, shall not reserve tax
144 credits under this section for any investment made on or after July 1,
145 2024.

146 (2) The aggregate amount of all tax credits under this section that may
147 be reserved by Connecticut Innovations, Incorporated, shall not exceed
148 (A) for cash investments made in Connecticut businesses, six million
149 dollars annually for the fiscal years commencing July 1, 2010, to July 1,
150 2012, inclusive, and [shall not exceed] five million dollars [in] for each
151 fiscal year thereafter, and (B) for cash investments made in qualified
152 cannabis businesses, fifteen million dollars annually for each fiscal year
153 commencing on or after July 1, 2021. [Each fiscal year,]

154 (3) With respect to the tax credits available under this section for
155 investments in Connecticut businesses, Connecticut Innovations,
156 Incorporated, shall not reserve more than seventy-five per cent of [the]
157 such tax credits [available under this section] each fiscal year for
158 investments in emerging technology businesses, except if any such
159 credits remain available for reservation after April first in any fiscal
160 year, such remaining credits may be reserved for (A) investments in
161 such businesses [,] and may be prioritized for veteran-owned, women-
162 owned or minority-owned businesses and businesses owned by
163 individuals with disabilities, and (B) investments in qualified cannabis
164 businesses. [Connecticut Innovations, Incorporated, shall not reserve
165 tax credits under this section for any investment made on or after July
166 1, 2024.]

167 [(2)] (4) The amount of the credit allowed to any investor pursuant to
168 this section shall not exceed the amount of tax due from such investor
169 under this chapter, other than section 12-707, with respect to such
170 taxable year. Any tax credit that is claimed by the angel investor but not
171 applied against the tax due under this chapter, other than the liability

172 imposed under section 12-707, may be carried forward for the five
173 immediately succeeding taxable years until the full credit has been
174 applied.

175 (f) If the angel investor is an S corporation or an entity treated as a
176 partnership for federal income tax purposes, the tax credit may be
177 claimed by the shareholders or partners of the angel investor. If the
178 angel investor is a single member limited liability company that is
179 disregarded as an entity separate from its owner, the tax credit may be
180 claimed by such limited liability company's owner, provided such
181 owner is a person subject to the tax imposed under this chapter.

182 (g) A review of the cumulative effectiveness of the credit under this
183 section shall be conducted by Connecticut Innovations, Incorporated, by
184 [July 1, 2014, and by] July first annually. [thereafter.] Such review shall
185 include, but need not be limited to, the number and type of Connecticut
186 businesses and cannabis businesses that received angel investments, the
187 number of angel investors and the aggregate amount of cash
188 investments, the current status of each Connecticut business and
189 cannabis business that received angel investments, the number of
190 employees employed in each year following the year in which such
191 Connecticut business or cannabis business received the angel
192 investment [,] and the economic impact in the state [,] of the Connecticut
193 business or cannabis business that received the angel investment. Such
194 review shall be submitted to the Office of Policy and Management and
195 to the joint standing committee of the General Assembly having
196 cognizance of matters relating to commerce, in accordance with the
197 provisions of section 11-4a.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2021	12-704d

Statement of Legislative Commissioners:
In Section 1(a)(14), "substitute" was added for accuracy.

FIN *Joint Favorable Subst. -LCO*

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:

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Revenue Serv., Dept.	GF - Revenue Loss	Up to 15 million	Up to 15 million

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill, which extends the angel investor tax credit program to eligible cannabis businesses, results in a General Fund revenue loss of up to \$15 million annually in FY 22, FY 23, and FY 24 only.

The Out Years

The annualized ongoing fiscal impact identified above would continue through FY 24, after which the program sunsets.

OLR Bill Analysis**SB 1095*****AN ACT EXPANDING THE ANGEL INVESTOR TAX CREDIT PROGRAM TO SOCIAL EQUITY APPLICANTS.*****SUMMARY**

The angel investor tax credit program provides personal income tax credits to angel investors (i.e., investors who the Securities and Exchange Commission considers “accredited investors”) who make qualifying cash investments in eligible Connecticut businesses. This bill extends the tax credit program to eligible cannabis establishments for which social equity applicants have been granted a license or provisional license (i.e., “cannabis businesses”). Under the bill, cannabis is marijuana as defined under existing law (see BACKGROUND).

Under the bill, eligible investors may receive income tax credits equal to 40% of their credit-eligible investments in qualifying cannabis businesses, subject to a \$15 million per fiscal year cap on the credits. The bill increases the total credits allowed under the program from \$5 million to \$20 million per fiscal year.

The bill makes numerous conforming changes to the program’s statutes. As under existing law, the angel investor tax credit program expires on June 30, 2024.

EFFECTIVE DATE: July 1, 2021

ELIGIBLE CANNABIS BUSINESSES

By law, a business must apply for and receive approval from Connecticut Innovations, Inc. (CI) in order to receive credit-eligible investments. The bill extends this requirement to “cannabis businesses,” which the bill defines as a “cannabis establishment” for which a “social equity applicant” has been granted a license or provisional license. It

also establishes specific criteria these businesses must meet in order to qualify for the tax credit program, as described below.

Cannabis Establishments

Under the bill, a “cannabis establishment” has the same meaning as in sSB 888 of the current session. Specifically, it is a producer, dispensary facility, cultivator, micro-cultivator, retailer, hybrid retailer (i.e., licensed to sell both recreational cannabis and medical marijuana), food and beverage manufacturer, product manufacturer, product packager, or delivery service, as those terms are defined in sSB 888.

Social Equity Applicants

The bill defines a “social equity applicant” as an applicant for a cannabis establishment license, provided the establishment is either at least 51% owned by, or under the day-to-day control of, an individual or individuals who:

1. have a prior arrest or conviction, as an adult or juvenile, for the sale, possession, use, manufacture, or cultivation of cannabis;
2. have a parent, spouse, or child who has such an arrest or conviction;
3. have been a resident of a disproportionately affected community for at least five of the 10 years immediately before applying for the license; or
4. reside on tribal land.

In addition, these individuals’ primary addresses must have been in Connecticut for at least five years immediately before applying for the license.

A “disproportionately affected community” is either of the following:

1. one of the top 20 communities on the most recent Public Investment Community index prepared by the Office of Policy and Management (OPM) (this index ranks municipalities in

descending order based on their relative wealth and need, according to specified criteria); or

2. a census tract in any municipality whose unemployment rate, and percentage of town residents below the federal poverty level, is greater than the statewide rate and percentage, respectively.

Eligibility Criteria

Under the bill, a cannabis business must generally meet the same criteria that existing law specifies for other eligible businesses. Specifically, the cannabis business must be primarily owned by the managers of the business and their families and have:

1. gross revenues of less than \$1 million in the most recent income year;
2. fewer than 25 employees, more than 75% of whom are Connecticut residents; and
3. received less than \$2 million in investments from credit-eligible angel investors.

Businesses eligible under current law must meet these same criteria, as well as having (1) their principal place of business in Connecticut and (2) operated in Connecticut for less than seven consecutive years.

CREDIT AMOUNT

Under the bill, angel investors who invest at least \$25,000 in approved cannabis businesses are eligible for a personal income tax credit equal to 40% of their investment, up to \$500,000. As under current law, investments in other approved businesses continue to qualify for a 25% credit, subject to the same minimum investment and maximum credit requirements.

CREDIT CAP

The bill establishes a \$15 million per fiscal year cap on the amount of tax credits CI may reserve for cash investments made in qualified cannabis businesses. As under existing law, CI may reserve up to \$5

million in credits each fiscal year for investments in other qualified businesses. Thus, the bill increases, from \$5 million to \$20 million, the aggregate amount of angel investor credits CI may reserve each fiscal year, beginning with FY 22.

UNRESERVED CREDITS

Under current law, the amount of credits that CI may reserve each year for investments in emerging technology businesses is generally capped at 75% of the total amount of credits available that year. The bill specifies that this limitation applies only to credits available for investments under the current program (i.e., not to cannabis businesses).

By law, CI may exceed this 75% cap if any unreserved credits remain after April 1 in each year and it may prioritize the unreserved credits for veteran-owned, women-owned, or minority-owned businesses and businesses owned by individuals with disabilities. The bill additionally allows CI to reserve these unreserved credits for investments in qualified cannabis businesses. (It is unclear whether these credits would apply against the \$15 million cap for cannabis businesses or \$5 million cap for other businesses.)

BACKGROUND

Definition of Marijuana Under Existing Law

The law defines “marijuana” to include parts of a plant or species of the genus *cannabis*, whether or not it is growing, and including its seeds and resin; its compounds, manufactures, salts, derivatives, mixtures, and preparations; and cannabimon, cannabimol, cannabidiol (CBD), and similar compounds unless derived from hemp as defined in federal law. Among other things, the definition excludes a plant’s mature stalks; fiber made from the stalks; oil or cake made from the seeds; a compound, manufacture, salt, derivative, mixture, or preparation made from the stalks, except the extracted resin; and hemp (CGS § 21a-240(29)).

Related Bill

sSB 888 (File 569), favorably reported by the Judiciary Committee, contains identical provisions (§ 133).

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 35 Nay 11 (04/22/2021)