



House of Representatives

General Assembly

File No. 362

February Session, 2024

Substitute House Bill No. 5300

House of Representatives, April 9, 2024

The Committee on Commerce reported through REP. MESKERS of the 150th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE INVEST CT FUND PROGRAM.

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

1 Section 1. Subsection (c) of section 38a-88a of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective October*
3 *1, 2024*):

4 (c) (1) As used in this subsection:

5 (A) "Allocation date" means the date an invest CT fund receives an
6 investment of eligible capital equaling the amount of credits against the
7 tax imposed under chapter 207 and section 38a-743 allocated to
8 taxpayers who invest in such invest CT fund;

9 (B) "Cybersecurity business" means an eligible business primarily
10 engaged in providing information technology products, goods or
11 services intended to detect, prevent or respond to activity intended to
12 result in unauthorized access to, exfiltration of, manipulation of, or
13 impairment to the integrity, confidentiality or availability of an

14 information technology system or information stored on, or transiting,
15 an information technology system;

16 (C) "Eligible business" means a business that has its principal
17 business operations in Connecticut, has fewer than two hundred fifty
18 employees at the time of investment and not more than ten million
19 dollars in net income in the previous year;

20 (D) "Eligible capital" means an investment of cash by a taxpayer in an
21 invest CT fund that fully funds the purchase price of an equity interest
22 in the invest CT fund or an eligible debt instrument issued by an invest
23 CT fund, at par value or a premium, that (i) has an original maturity
24 date of at least five years after the date of issuance, (ii) has a repayment
25 schedule that is not faster than a level principal amortization over five
26 years, and (iii) has no interest, distribution or payment features tied to
27 the invest CT fund's profitability or the success of the investments;

28 (E) "Green technology business" means an eligible business with not
29 less than twenty-five per cent of its employment positions being
30 positions in which green technology is employed or developed and may
31 include the occupation codes identified as green jobs by the Department
32 of Economic and Community Development and the Labor Department
33 for such purposes;

34 (F) "Income year" means the income year as determined in chapter
35 207 for the taxpayer;

36 (G) "Invest CT fund" means a Connecticut partnership, corporation,
37 trust or limited liability company, whether organized on a profit or not-
38 for-profit basis, that (i) is managed by at least two principals or persons
39 that have at least four years of experience each in managing venture
40 capital or private equity funds, with at least fifty million dollars of such
41 funds from people unaffiliated with the manager, (ii) has received an
42 equity investment of capital other than eligible capital equal to no less
43 than five per cent of the total amount of the eligible capital to be invested
44 in such invest CT fund on or before June 30, 2015, and equal to not less
45 than ten per cent of the total amount of eligible capital to be invested in

46 such invest CT fund on or after September 1, 2015, and (iii) is not, or will
47 not be after the receipt of eligible capital, controlled by or under
48 common control with, one or more insurance companies. An investment
49 of eligible capital shall not result in insurance company control unless
50 such investment exceeds forty million dollars per taxpayer and results
51 in insurance companies having the right to vote more than fifty per cent
52 of the equity interests of the invest CT fund cash invested in such invest
53 CT fund, provided this provision shall not prohibit the interim control
54 of an invest CT fund by one or more insurance companies upon a breach
55 of any payment obligation of the invest CT fund or contractual or other
56 agreement by the invest CT fund that is designed to ensure compliance
57 with this section; and

58 (H) "Principal business operations" means at least eighty per cent of
59 the business organization's employees reside in the state or eighty per
60 cent of the business payroll is paid to individuals living in this state.

61 (2) A taxpayer that makes an investment of eligible capital shall, in
62 the year of investment, earn a vested credit against the premium tax
63 imposed pursuant to chapter 207 and section 38a-743. Such credit shall
64 be available as follows: (A) With respect to investments of eligible
65 capital made on or before June 30, 2015, (i) commencing with the tax
66 return due for the first to third, inclusive, tax years, zero per cent; (ii)
67 commencing with the tax return due for the fourth to seventh, inclusive,
68 tax years, not more than ten per cent; and (iii) commencing with the tax
69 return due for the eighth to tenth, inclusive, tax years, not more than
70 twenty per cent; and (B) with respect to investments of eligible capital
71 made on or after September 1, 2015, (i) commencing with the tax return
72 due for the first to fifth, inclusive, tax years, zero per cent; and (ii)
73 commencing with the tax return due for the sixth to tenth, inclusive, tax
74 years, not more than twenty per cent. The maximum amount of eligible
75 capital for which credits may be allowed under this subsection shall not
76 result in more than forty million dollars of tax credits being used in any
77 one year exclusive of any carried forward credits and no fund shall
78 apply for more than the total amount of credits available under this
79 section.

80 (3) (A) On or before July 1, 2010, the Commissioner of Economic and
81 Community Development shall begin to accept applications for
82 certification as an invest CT fund and for allocations of tax credits under
83 this subsection with allocation dates of June 30, 2015, or earlier. On and
84 after September 1, 2015, the commissioner shall accept applications for
85 certification as an invest CT fund and for allocations of tax credits under
86 this subsection with allocation dates of September 1, 2015, or later.
87 Applications shall include: [(A)] (i) The amount of eligible capital the
88 applicant will raise; [(B)] (ii) a nonrefundable application fee of seven
89 thousand five hundred dollars; [(C)] (iii) evidence of satisfaction of the
90 requirements of the definition of "invest CT fund" pursuant to
91 subparagraph (G) of subdivision (1) of this subsection; [(D)] (iv) an
92 affidavit by each taxpayer committing an investment of eligible capital;
93 [(E)] (v) a business plan detailing [(i)] (I) the approximate percentage of
94 eligible capital the applicant will invest in eligible businesses by the
95 third, fifth, seventh and ninth anniversaries of its allocation date, [(ii)]
96 (II) the industry segments listed by the North American Industrial
97 Classification System code and percentage of eligible capital in which
98 the applicant will invest, [(iii)] (III) the number of jobs that will be
99 created or retained as a result of the applicant's investments once all
100 eligible capital has been invested, [(iv)] (IV) the percentage of eligible
101 capital to be invested in eligible businesses primarily engaged in
102 conducting research and development or manufacturing, processing or
103 assembling technology-based products, and [(v)] (V) a revenue impact
104 assessment demonstrating that the applicant's business plan has a
105 revenue neutral or positive impact on the state; [(F)] (vi) a commitment
106 to invest at least twenty-five per cent of its eligible capital in green
107 technology businesses; [(G)] (vii) with respect to applications submitted
108 on or before June 30, 2015, a commitment to invest, by the third
109 anniversary of its allocation date, three per cent of its eligible capital in
110 preseed investments, and with respect to applications submitted on or
111 after September 1, 2015, a commitment to invest, by the fourth
112 anniversary of the allocation date, seven per cent of its eligible capital in
113 preseed investments, in consultation with Connecticut Innovations,
114 Incorporated, pursuant to the corporation's program for preseed

115 financing established pursuant to section 32-41x; and [(H)] (viii) with
116 respect to applications submitted on or after September 1, 2015, a
117 commitment to invest at least three per cent of its eligible capital in
118 cybersecurity businesses and at least twenty-five per cent of its eligible
119 capital in eligible businesses located in municipalities with a population
120 greater than eighty thousand. The commissioner may require the
121 applicant to obtain a revenue impact assessment conducted by an
122 independent third party.

123 (B) (i) From October 1, 2024, to September 30, 2026, inclusive, an
124 applicant may submit to the commissioner a request, in such form and
125 manner prescribed by the commissioner, to consider as an eligible
126 business a business that does not have its principal business operations
127 in Connecticut. The commissioner may approve such a request if the
128 commissioner determines that such an approval would significantly
129 advance the objectives of the invest CT fund program, provided such
130 business complies with all other requirements under subparagraph (A)
131 of this subdivision.

132 (ii) Not later than January 1, 2026, the commissioner shall submit a
133 report, in accordance with the provisions of section 11-4a, on any
134 requests approved by the commissioner pursuant to subparagraph
135 (B)(i) of this subdivision during the period of October 1, 2024, to
136 September 30, 2025, inclusive, to the joint standing committee of the
137 General Assembly having cognizance of matters relating to commerce.
138 Not later than January 1, 2027, the commissioner shall submit a report,
139 in accordance with the provisions of section 11-4a, on any requests
140 approved by the commissioner pursuant to subparagraph (B)(i) of this
141 subdivision during the period of October 1, 2025, to September 30, 2026,
142 inclusive, to the joint standing committee of the General Assembly
143 having cognizance of matters relating to commerce. Such reports shall
144 include, but need not be limited to, a list of the applicants whose
145 requests were approved by the commissioner and an analysis of the
146 benefit to and impact on the state resulting from such approvals.

147 (4) Applications for tax credits pursuant to this subsection shall be

148 accepted and approved on a first-come, first-served basis with all
149 applications received on the same date deemed to be received
150 simultaneously and approvals being made on a pro rata basis if such
151 applications exceed the amount of remaining credits.

152 (5) The commissioner shall issue an allocation of credits subject to
153 confirmation by the fund on a form prescribed by the commissioner that
154 an investment of eligible capital was received within five business days.
155 If an invest CT fund does not receive an investment of eligible capital
156 equaling the amount of credits against the tax imposed under chapter
157 207 and section 38a-743 allocated to a taxpayer, for which it filed an
158 affidavit with its application prior to the fifth business day after receipt
159 of certification, the invest CT fund shall notify the commissioner by
160 overnight common carrier delivery service and that portion of eligible
161 capital allocated to the insurance company shall be forfeited. Such invest
162 CT fund and forfeiting taxpayer shall each be assessed a twenty-five-
163 thousand-dollar administrative penalty. The commissioner shall
164 reallocate the forfeited eligible capital among all other remaining
165 taxpayers that invested eligible capital.

166 (6) To continue to be certified, an invest CT fund shall (A) be in
167 compliance with the investment parameters set forth in its business
168 plan, provided an invest CT fund may apply to the commissioner to
169 amend its business plan based on unavoidable or reasonably
170 unanticipated changes to various conditions, including, but not limited
171 to, the general economic climate of the state or particular sectors of the
172 economy, technological advances and high employment and revenue
173 growth opportunities, with approval for such changes not to be
174 unreasonably withheld by the commissioner; (B) be in compliance with
175 the revenue impact assessment provided in the application
176 demonstrating that the fund's business plan continues to have a revenue
177 neutral or positive impact on the state; (C) have invested one hundred
178 per cent of its eligible capital in eligible businesses by the tenth
179 anniversary of its allocation date, with a minimum of twenty-five per
180 cent of eligible capital invested in green technology businesses; (D) for
181 allocation dates of June 30, 2015, or earlier: (i) Have invested sixty per

182 cent of its eligible capital in eligible businesses by the fourth anniversary
183 of such allocation date, and (ii) have invested a minimum of three per
184 cent of such eligible capital in preseed investments, as described in
185 subparagraph (A) of subdivision (3) of this subsection, by the third
186 anniversary of such allocation date; and (E) for allocation dates of
187 September 1, 2015, or later: (i) Have invested sixty per cent of its eligible
188 capital in eligible businesses by the sixth anniversary of such allocation
189 date, (ii) have invested a minimum of seven per cent of its eligible capital
190 in preseed investments, as described in subparagraph (A) of subdivision
191 (3) of this subsection, by the fourth anniversary of such allocation date,
192 (iii) have invested a minimum of three per cent of its eligible capital in
193 cybersecurity businesses, and (iv) have invested a minimum of twenty-
194 five per cent of its eligible capital in eligible businesses located in
195 municipalities with a population greater than eighty thousand. An
196 invest CT fund shall only invest eligible capital in eligible businesses,
197 bank deposits, certificates of deposit or other fixed income securities and
198 may not invest more than fifteen per cent of its eligible capital in any
199 one eligible business without prior approval of the commissioner.

200 (7) Not later than January thirty-first annually, each invest CT fund
201 shall report to the commissioner: (A) The amount of eligible capital
202 remaining at the end of the preceding year; (B) each investment in an
203 eligible business during the preceding year and, with respect to each
204 eligible business, its location and North American Industrial
205 Classification System code; (C) the percentage of eligible capital
206 invested in green technology businesses, preseed investments,
207 cybersecurity businesses and eligible businesses located in
208 municipalities with a population greater than eighty thousand; and (D)
209 distributions made by the invest CT fund in the preceding year. In the
210 annual report due in the third, fifth, seventh and ninth years after its
211 allocation date, each invest CT fund shall also report to the
212 commissioner its compliance with the investment parameters set forth
213 in its business plan and the revenue impact assessment provided in the
214 application demonstrating that the fund's business plan continues to
215 have a revenue neutral or positive impact on the state. Each invest CT
216 fund shall provide to the commissioner annual audited financial

217 statements.

218 (8) To make a distribution or payment, an invest CT fund certified by
219 the commissioner on or before June 30, 2015, must have invested one
220 hundred per cent of its eligible capital in eligible businesses, with a
221 minimum of twenty-five per cent of eligible capital invested in green
222 technology businesses and a minimum of three per cent of eligible
223 capital invested in preseed investment, as described in subparagraph
224 (A) of subdivision (3) of this subsection, with principal business
225 operations in this state at the time of such determination except: (A)
226 Distributions related to the payment of any projected increase in federal
227 or state taxes, including penalties and interest related to state and
228 federal income taxes, of the equity owners of the invest CT fund
229 resulting from the earnings or other tax liability of the invest CT fund to
230 the extent that the increase is related to the ownership, management or
231 operation of the invest CT fund; (B) payments of interest and principal
232 on the debt of the invest CT fund, provided after such payment, the
233 invest CT fund still has cash and other marketable securities in an
234 amount that, when added to the cumulative investments it has made in
235 eligible recipients, equals not less than sixty per cent of the eligible
236 capital invested in such reinvestment fund; or (C) payments related to
237 the reasonable costs and expenses of forming, syndicating, managing
238 and operating the fund, provided the distribution or payment is not
239 made directly or indirectly to an insurance company that has invested
240 eligible capital in the invest CT fund, including: (i) Reasonable and
241 necessary fees paid for professional services, including legal and
242 accounting services, related to the formation and operation of the invest
243 CT fund; and (ii) an annual management fee in an amount that does not
244 exceed two and one-half per cent of the eligible capital of the invest CT
245 fund. The state shall receive a share of any distribution, except as set
246 forth in subparagraphs (A), (B) and (C) of this subdivision and
247 distributions made to return any equity capital invested in the invest CT
248 fund that is not eligible capital, in the following percentages: (I) Ten per
249 cent when less than eighty per cent but more than sixty per cent of the
250 jobs set forth in the invest CT fund's business plan are created or
251 retained, and (II) twenty per cent when sixty per cent or less of the jobs

252 set forth in the invest CT fund's business plan are created or retained.

253 (9) To make a distribution or payment, an invest CT fund certified by
254 the commissioner on or after September 1, 2015, must have invested one
255 hundred per cent of its eligible capital in eligible businesses, with a
256 minimum of twenty-five per cent of eligible capital invested in green
257 technology businesses, a minimum of seven per cent of eligible capital
258 invested in preseed investments, as described in subparagraph (A) of
259 subdivision (3) of this subsection, a minimum of three per cent of eligible
260 capital invested in cybersecurity businesses, and a minimum of twenty-
261 five per cent of eligible capital invested in businesses located in
262 municipalities with a population greater than eighty thousand, with
263 principal business operations in this state at the time of such
264 determination, except: (A) Distributions related to the payment of any
265 projected increase in federal or state taxes, including penalties and
266 interest related to state and federal income taxes, of the equity owners
267 of the invest CT fund resulting from the earnings or other tax liability of
268 the invest CT fund to the extent that the increase is related to the
269 ownership, management or operation of the invest CT fund; (B)
270 payments of interest and principal on the debt of the invest CT fund,
271 provided after such payment, the invest CT fund still has cash and other
272 marketable securities in an amount that, when added to the cumulative
273 investments it has made in eligible recipients, equals not less than sixty
274 per cent of the eligible capital invested in such reinvestment fund; or (C)
275 payments related to the reasonable costs and expenses of forming,
276 syndicating, managing and operating the fund, provided the
277 distribution or payment is not made directly or indirectly to an
278 insurance company that has invested eligible capital in the invest CT
279 fund, including: (i) Reasonable and necessary fees paid for professional
280 services, including legal and accounting services, related to the
281 formation and operation of the invest CT fund; and (ii) an annual
282 management fee in an amount that does not exceed two and one-half
283 per cent of the eligible capital of the invest CT fund. The state shall
284 receive a share of any distribution, except as set forth in subparagraphs
285 (A), (B) and (C) of this subdivision and distributions made to return any
286 equity capital invested in the invest CT fund that is not eligible capital,

287 in the following percentages: (I) Ten per cent when less than eighty per
 288 cent but more than sixty per cent of the jobs set forth in the invest CT
 289 fund's business plan are created or retained, and (II) twenty per cent
 290 when sixty per cent or less of the jobs set forth in the invest CT fund's
 291 business plan are created or retained.

292 (10) The commissioner shall review each annual report to ensure
 293 compliance with subdivisions (6), (7), (8) and (9) of this subsection. A
 294 material variation from subdivision (6), (7), (8) or (9) of this subsection
 295 is grounds for decertification of the invest CT fund. If the commissioner
 296 determines that an invest CT fund is not in compliance with subdivision
 297 (6), (7), (8) or (9) of this subsection or the investment parameters of its
 298 business plan, the commissioner shall notify the officers of the invest CT
 299 fund, in writing, that the invest CT fund may be subject to
 300 decertification after the one hundred twentieth day after the date of
 301 mailing the notice, unless the deficiencies are waived by the
 302 commissioner or are corrected and the invest CT fund returns to
 303 compliance with subdivisions (6), (7), (8) and (9) of this subsection.

304 (11) Decertification of an invest CT fund shall cause the forfeiture of
 305 future credits against the tax imposed by chapter 207 and section 38a-
 306 743 to be claimed with respect to an invest CT fund when (A) such
 307 decertification occurs on or before the fourth anniversary of an
 308 allocation date of June 30, 2015, or earlier, or on or before the sixth
 309 anniversary of an allocation date of September 1, 2015, or later, and (B)
 310 such fund has invested less than sixty per cent of its eligible capital in
 311 eligible businesses by said anniversary. The commissioner shall send
 312 written notice to the last-known address of each taxpayer whose credit
 313 against the tax imposed by chapter 207 is subject to recapture or
 314 forfeiture.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2024	38a-88a(c)

Statement of Legislative Commissioners:

Throughout Subdiv. (3)(B)(ii), "section 11-4a of the general statutes," was changed to "section 11-4a," for consistency with standard drafting conventions.

CE *Joint Favorable Subst.*

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: None

Municipal Impact: None

Explanation

The bill, which, expands applicant eligibility under the Invest CT tax credit program, does not result in any fiscal impact to the state or municipalities. It does not alter the aggregate \$40 million cap on the amount of credits allowed annually, and current projections (January 16, 2024, Consensus Revenue) assume full credit utilization each fiscal year.

Additionally, the requirement that the Department of Economic and Community Development (DECD) report to the Commerce Committee an analysis of the benefit to and an impact on the state from applicants approved under the bill can be accomplished at no cost. DECD has the expertise and resources needed to meet these reporting requirements.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5300*****AN ACT CONCERNING THE INVEST CT FUND PROGRAM.*****SUMMARY**

This bill allows applicants for the Invest CT tax credit, from October 1, 2024, to September 30, 2026, to request that the Department of Economic and Community Development (DECD) commissioner consider a business without principal operations in Connecticut as an eligible business for investments under the program. The commissioner may approve the request if he determines that it would significantly advance the program's objectives. An applicant must apply to the commissioner as he prescribes, and the business must meet other program requirements (e.g., program applicants must submit a business plan describing the amount of capital to be invested in an eligible business and the number of jobs expected to be created or retained).

The bill requires the DECD commissioner to report to the Commerce Committee by January 1, 2026 (covering October 1, 2024, to September 30, 2025), and January 1, 2027 (covering October 1, 2025, to September 30, 2026). The reports must include a list of applicants whose requests were approved by the commissioner under the bill's authority and an analysis of the benefit to and impact on the state from these approvals.

The bill also makes conforming changes.

By law, the Invest CT credits apply to the insurance premiums and surplus lines brokers tax, and investors qualify for them by investing in eligible businesses through state-certified Invest CT funds. Under existing law, an eligible business has the following:

1. its principal business operations in Connecticut (i.e., at least 80%

of its employees reside in the state or at least 80% of its payroll is paid to people living in the state);

2. fewer than 250 employees at the time of the investment, and
3. no more than \$10 million in net income in the previous year.

EFFECTIVE DATE: October 1, 2024

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute

Yea 24 Nay 0 (03/22/2024)