

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 704A as follows:

6 (35 ILCS 5/704A)

7 Sec. 704A. Employer's return and payment of tax withheld.

8 (a) In general, every employer who deducts and withholds or
9 is required to deduct and withhold tax under this Act on or
10 after January 1, 2008 shall make those payments and returns as
11 provided in this Section.

12 (b) Returns. Every employer shall, in the form and manner
13 required by the Department, make returns with respect to taxes
14 withheld or required to be withheld under this Article 7 for
15 each quarter beginning on or after January 1, 2008, on or
16 before the last day of the first month following the close of
17 that quarter.

18 (c) Payments. With respect to amounts withheld or required
19 to be withheld on or after January 1, 2008:

20 (1) Semi-weekly payments. For each calendar year, each
21 employer who withheld or was required to withhold more than
22 \$12,000 during the one-year period ending on June 30 of the
23 immediately preceding calendar year, payment must be made:

1 (A) on or before each Friday of the calendar year,
2 for taxes withheld or required to be withheld on the
3 immediately preceding Saturday, Sunday, Monday, or
4 Tuesday;

5 (B) on or before each Wednesday of the calendar
6 year, for taxes withheld or required to be withheld on
7 the immediately preceding Wednesday, Thursday, or
8 Friday.

9 Beginning with calendar year 2011, payments made under
10 this paragraph (1) of subsection (c) must be made by
11 electronic funds transfer.

12 (2) Semi-weekly payments. Any employer who withholds
13 or is required to withhold more than \$12,000 in any quarter
14 of a calendar year is required to make payments on the
15 dates set forth under item (1) of this subsection (c) for
16 each remaining quarter of that calendar year and for the
17 subsequent calendar year.

18 (3) Monthly payments. Each employer, other than an
19 employer described in items (1) or (2) of this subsection,
20 shall pay to the Department, on or before the 15th day of
21 each month the taxes withheld or required to be withheld
22 during the immediately preceding month.

23 (4) Payments with returns. Each employer shall pay to
24 the Department, on or before the due date for each return
25 required to be filed under this Section, any tax withheld
26 or required to be withheld during the period for which the

1 return is due and not previously paid to the Department.

2 (d) Regulatory authority. The Department may, by rule:

3 (1) Permit employers, in lieu of the requirements of
4 subsections (b) and (c), to file annual returns due on or
5 before January 31 of the year for taxes withheld or
6 required to be withheld during the previous calendar year
7 and, if the aggregate amounts required to be withheld by
8 the employer under this Article 7 (other than amounts
9 required to be withheld under Section 709.5) do not exceed
10 \$1,000 for the previous calendar year, to pay the taxes
11 required to be shown on each such return no later than the
12 due date for such return.

13 (2) Provide that any payment required to be made under
14 subsection (c)(1) or (c)(2) is deemed to be timely to the
15 extent paid by electronic funds transfer on or before the
16 due date for deposit of federal income taxes withheld from,
17 or federal employment taxes due with respect to, the wages
18 from which the Illinois taxes were withheld.

19 (3) Designate one or more depositories to which payment
20 of taxes required to be withheld under this Article 7 must
21 be paid by some or all employers.

22 (4) Increase the threshold dollar amounts at which
23 employers are required to make semi-weekly payments under
24 subsection (c)(1) or (c)(2).

25 (e) Annual return and payment. Every employer who deducts
26 and withholds or is required to deduct and withhold tax from a

1 person engaged in domestic service employment, as that term is
2 defined in Section 3510 of the Internal Revenue Code, may
3 comply with the requirements of this Section with respect to
4 such employees by filing an annual return and paying the taxes
5 required to be deducted and withheld on or before the 15th day
6 of the fourth month following the close of the employer's
7 taxable year. The Department may allow the employer's return to
8 be submitted with the employer's individual income tax return
9 or to be submitted with a return due from the employer under
10 Section 1400.2 of the Unemployment Insurance Act.

11 (f) Magnetic media and electronic filing. Any W-2 Form
12 that, under the Internal Revenue Code and regulations
13 promulgated thereunder, is required to be submitted to the
14 Internal Revenue Service on magnetic media or electronically
15 must also be submitted to the Department on magnetic media or
16 electronically for Illinois purposes, if required by the
17 Department.

18 (g) For amounts deducted or withheld after December 31,
19 2009, a taxpayer who makes an election under subsection (f) of
20 Section 5-15 of the Economic Development for a Growing Economy
21 Tax Credit Act for a taxable year shall be allowed a credit
22 against payments due under this Section for amounts withheld
23 during the first calendar year beginning after the end of that
24 taxable year equal to the amount of the credit for the
25 incremental income tax attributable to full-time employees of
26 the taxpayer awarded to the taxpayer by the Department of

1 Commerce and Economic Opportunity under the Economic
2 Development for a Growing Economy Tax Credit Act for the
3 taxable year and credits not previously claimed and allowed to
4 be carried forward under Section 211(4) of this Act as provided
5 in subsection (f) of Section 5-15 of the Economic Development
6 for a Growing Economy Tax Credit Act. The credit or credits may
7 not reduce the taxpayer's obligation for any payment due under
8 this Section to less than zero. If the amount of the credit or
9 credits exceeds the total payments due under this Section with
10 respect to amounts withheld during the calendar year, the
11 excess may be carried forward and applied against the
12 taxpayer's liability under this Section in the succeeding
13 calendar years as allowed to be carried forward under paragraph
14 (4) of Section 211 of this Act. The credit or credits shall be
15 applied to the earliest year for which there is a tax
16 liability. If there are credits from more than one taxable year
17 that are available to offset a liability, the earlier credit
18 shall be applied first. Each employer who deducts and withholds
19 or is required to deduct and withhold tax under this Act and
20 who retains income tax withholdings under subsection (f) of
21 Section 5-15 of the Economic Development for a Growing Economy
22 Tax Credit Act must make a return with respect to such taxes
23 and retained amounts in the form and manner that the
24 Department, by rule, requires and pay to the Department or to a
25 depository designated by the Department those withheld taxes
26 not retained by the taxpayer. For purposes of this subsection

1 (g), the term taxpayer shall include taxpayer and members of
2 the taxpayer's unitary business group as defined under
3 paragraph (27) of subsection (a) of Section 1501 of this Act.
4 This Section is exempt from the provisions of Section 250 of
5 this Act. No credit awarded under the Economic Development for
6 a Growing Economy Tax Credit Act for agreements entered into on
7 or after January 1, 2015 may be credited against payments due
8 under this Section.

9 (h) An employer may claim a credit against payments due
10 under this Section for amounts withheld during the first
11 calendar year ending after the date on which a tax credit
12 certificate was issued under Section 35 of the Small Business
13 Job Creation Tax Credit Act. The credit shall be equal to the
14 amount shown on the certificate, but may not reduce the
15 taxpayer's obligation for any payment due under this Section to
16 less than zero. If the amount of the credit exceeds the total
17 payments due under this Section with respect to amounts
18 withheld during the calendar year, the excess may be carried
19 forward and applied against the taxpayer's liability under this
20 Section in the 5 succeeding calendar years. The credit shall be
21 applied to the earliest year for which there is a tax
22 liability. If there are credits from more than one calendar
23 year that are available to offset a liability, the earlier
24 credit shall be applied first. This Section is exempt from the
25 provisions of Section 250 of this Act.

26 (Source: P.A. 96-834, eff. 12-14-09; 96-888, eff. 4-13-10;

1 96-905, eff. 6-4-10; 96-1027, eff. 7-12-10; 97-333, eff.
2 8-12-11; 97-507, eff. 8-23-11.)

3 Section 10. The Economic Development for a Growing Economy
4 Tax Credit Act is amended by changing Sections 5-5, 5-15, 5-20,
5 5-25, 5-50, 5-65, 5-70 and 5-77 and by adding Section 5-57 as
6 follows:

7 (35 ILCS 10/5-5)

8 Sec. 5-5. Definitions. As used in this Act:

9 "Agreement" means the Agreement between a Taxpayer and the
10 Department under the provisions of Section 5-50 of this Act.

11 "Applicant" means a Taxpayer that is operating a business
12 located or that the Taxpayer plans to locate within the State
13 of Illinois and that is engaged in interstate or intrastate
14 commerce for the purpose of manufacturing, processing,
15 assembling, warehousing, or distributing products, conducting
16 research and development, providing tourism services, or
17 providing services in interstate commerce, office industries,
18 or agricultural processing, but excluding retail, retail food,
19 health, or professional services. "Applicant" does not include
20 a Taxpayer who closes or substantially reduces an operation at
21 one location in the State and relocates substantially the same
22 operation to another location in the State. This does not
23 prohibit a Taxpayer from expanding its operations at another
24 location in the State, provided that existing operations of a

1 similar nature located within the State are not closed or
2 substantially reduced. This also does not prohibit a Taxpayer
3 from moving its operations from one location in the State to
4 another location in the State for the purpose of expanding the
5 operation provided that the Department determines that
6 expansion cannot reasonably be accommodated within the
7 municipality in which the business is located, or in the case
8 of a business located in an incorporated area of the county,
9 within the county in which the business is located, after
10 conferring with the chief elected official of the municipality
11 or county and taking into consideration any evidence offered by
12 the municipality or county regarding the ability to accommodate
13 expansion within the municipality or county.

14 "Committee" means the Illinois Business Investment
15 Committee created under Section 5-25 of this Act within the
16 Illinois Economic Development Board.

17 "Credit" means the amount agreed to between the Department
18 and Applicant under this Act, but not to exceed the lesser of:
19 (1) the sum of (i) 50% of the Incremental Income Tax
20 attributable to New Employees at the Applicant's project and
21 (ii) 10% of the training costs of New Employees; or (2) 100% of
22 the Incremental Income Tax attributable to New Employees at the
23 Applicant's project. However, if the project is located in an
24 underserved area, then the amount of the Credit may not exceed
25 the lesser of: (1) the sum of (i) 75% of the Incremental Income
26 Tax attributable to New Employees at the Applicant's project

1 and (ii) 10% of the training costs of New Employees; or (2)
2 100% of the Incremental Income Tax attributable to New
3 Employees at the Applicant's project. If an Applicant agrees to
4 hire the required number of New Employees, then the maximum
5 amount of the Credit for that Applicant may be increased by an
6 amount not to exceed 25% of the Incremental Income Tax
7 attributable to retained employees at the Applicant's project;
8 provided that, in order to receive the increase for retained
9 employees, the Applicant must provide the additional evidence
10 required under paragraph (3) of subsection (b) of Section 5-25.

11 "Department" means the Department of Commerce and Economic
12 Opportunity.

13 "Director" means the Director of Commerce and Economic
14 Opportunity.

15 "Full-time Employee" means an individual who is employed
16 for consideration for at least 35 hours each week or who
17 renders any other standard of service generally accepted by
18 industry custom or practice as full-time employment. An
19 individual for whom a W-2 is issued by a Professional Employer
20 Organization (PEO) is a full-time employee if employed in the
21 service of the Applicant for consideration for at least 35
22 hours each week or who renders any other standard of service
23 generally accepted by industry custom or practice as full-time
24 employment to Applicant.

25 "Incremental Income Tax" means the total amount withheld
26 during the taxable year from the compensation of New Employees

1 and, if applicable, retained employees under Article 7 of the
2 Illinois Income Tax Act arising from employment at a project
3 that is the subject of an Agreement.

4 "New Employee" means:

5 (a) A Full-time Employee first employed by a Taxpayer
6 in the project that is the subject of an Agreement and who
7 is hired after the Taxpayer enters into the tax credit
8 Agreement.

9 (b) The term "New Employee" does not include:

10 (1) an employee of the Taxpayer who performs a job
11 that was previously performed by another employee, if
12 that job existed for at least 6 months before hiring
13 the employee;

14 (2) an employee of the Taxpayer who was previously
15 employed in Illinois by a Related Member of the
16 Taxpayer and whose employment was shifted to the
17 Taxpayer after the Taxpayer entered into the tax credit
18 Agreement; or

19 (3) a child, grandchild, parent, or spouse, other
20 than a spouse who is legally separated from the
21 individual, of any individual who has a direct or an
22 indirect ownership interest of at least 5% in the
23 profits, capital, or value of the Taxpayer.

24 (c) Notwithstanding paragraph (1) of subsection (b),
25 an employee may be considered a New Employee under the
26 Agreement if the employee performs a job that was

1 previously performed by an employee who was:

2 (1) treated under the Agreement as a New Employee;

3 and

4 (2) promoted by the Taxpayer to another job.

5 (d) Notwithstanding subsection (a), the Department may
6 award Credit to an Applicant with respect to an employee
7 hired prior to the date of the Agreement if:

8 (1) the Applicant is in receipt of a letter from
9 the Department stating an intent to enter into a credit
10 Agreement;

11 (2) the letter described in paragraph (1) is issued
12 by the Department not later than 15 days after the
13 effective date of this Act; and

14 (3) the employee was hired after the date the
15 letter described in paragraph (1) was issued.

16 "Noncompliance Date" means, in the case of a Taxpayer that
17 is not complying with the requirements of the Agreement or the
18 provisions of this Act, the day following the last date upon
19 which the Taxpayer was in compliance with the requirements of
20 the Agreement and the provisions of this Act, as determined by
21 the Director, pursuant to Section 5-65.

22 "Pass Through Entity" means an entity that is exempt from
23 the tax under subsection (b) or (c) of Section 205 of the
24 Illinois Income Tax Act.

25 "Professional Employer Organization" (PEO) means an
26 employee leasing company, as defined in Section 206.1(A)(2) of

1 the Illinois Unemployment Insurance Act.

2 "Related Member" means a person that, with respect to the
3 Taxpayer during any portion of the taxable year, is any one of
4 the following:

5 (1) An individual stockholder, if the stockholder and
6 the members of the stockholder's family (as defined in
7 Section 318 of the Internal Revenue Code) own directly,
8 indirectly, beneficially, or constructively, in the
9 aggregate, at least 50% of the value of the Taxpayer's
10 outstanding stock.

11 (2) A partnership, estate, or trust and any partner or
12 beneficiary, if the partnership, estate, or trust, and its
13 partners or beneficiaries own directly, indirectly,
14 beneficially, or constructively, in the aggregate, at
15 least 50% of the profits, capital, stock, or value of the
16 Taxpayer.

17 (3) A corporation, and any party related to the
18 corporation in a manner that would require an attribution
19 of stock from the corporation to the party or from the
20 party to the corporation under the attribution rules of
21 Section 318 of the Internal Revenue Code, if the Taxpayer
22 owns directly, indirectly, beneficially, or constructively
23 at least 50% of the value of the corporation's outstanding
24 stock.

25 (4) A corporation and any party related to that
26 corporation in a manner that would require an attribution

1 of stock from the corporation to the party or from the
2 party to the corporation under the attribution rules of
3 Section 318 of the Internal Revenue Code, if the
4 corporation and all such related parties own in the
5 aggregate at least 50% of the profits, capital, stock, or
6 value of the Taxpayer.

7 (5) A person to or from whom there is attribution of
8 stock ownership in accordance with Section 1563(e) of the
9 Internal Revenue Code, except, for purposes of determining
10 whether a person is a Related Member under this paragraph,
11 20% shall be substituted for 5% wherever 5% appears in
12 Section 1563(e) of the Internal Revenue Code.

13 "Taxpayer" means an individual, corporation, partnership,
14 or other entity that has any Illinois Income Tax liability.

15 "Underserved area" means a geographic area that meets one
16 or more of the following conditions:

17 (1) the area has a poverty rate of at least 20%
18 according to the latest federal decennial census;

19 (2) 75% or more of the children in the area participate
20 in the federal free lunch program according to reported
21 statistics from the State Board of Education;

22 (3) at least 20% of the households in the area receive
23 assistance under the Supplemental Nutrition Assistance
24 Program (SNAP); or

25 (4) the area has an average unemployment rate, as
26 determined by the Illinois Department of Employment

1 Security, that is more than 120% of the national
2 unemployment average, as determined by the U.S. Department
3 of Labor, for a period of at least 2 consecutive calendar
4 years preceding the date of the application.

5 (Source: P.A. 94-793, eff. 5-19-06; 95-375, eff. 8-23-07.)

6 (35 ILCS 10/5-15)

7 Sec. 5-15. Tax Credit Awards. Subject to the conditions set
8 forth in this Act, a Taxpayer is entitled to a Credit against
9 or, as described in subsection (g) of this Section, a payment
10 towards taxes imposed pursuant to subsections (a) and (b) of
11 Section 201 of the Illinois Income Tax Act that may be imposed
12 on the Taxpayer for a taxable year beginning on or after
13 January 1, 1999, if the Taxpayer is awarded a Credit by the
14 Department under this Act for that taxable year.

15 (a) The Department shall make Credit awards under this Act
16 to foster job creation and retention in Illinois.

17 (b) A person that proposes a project to create new jobs in
18 Illinois must enter into an Agreement with the Department for
19 the Credit under this Act.

20 (c) The Credit shall be claimed for the taxable years
21 specified in the Agreement.

22 (d) The Credit shall not exceed the Incremental Income Tax
23 attributable to the project that is the subject of the
24 Agreement.

25 (e) Nothing herein shall prohibit a Tax Credit Award to an

1 Applicant that uses a PEO if all other award criteria are
2 satisfied.

3 (f) In lieu of the Credit allowed under this Act against
4 the taxes imposed pursuant to subsections (a) and (b) of
5 Section 201 of the Illinois Income Tax Act for any taxable year
6 ending on or after December 31, 2009, for Taxpayers that
7 entered into Agreements prior to January 1, 2015 and otherwise
8 meet the criteria set forth in this subsection (f), the
9 Taxpayer may elect to claim the Credit against its obligation
10 to pay over withholding under Section 704A of the Illinois
11 Income Tax Act.

12 (1) The election under this subsection (f) may be made
13 only by a Taxpayer that (i) is primarily engaged in one of
14 the following business activities: water purification and
15 treatment, motor vehicle metal stamping, automobile
16 manufacturing, automobile and light duty motor vehicle
17 manufacturing, motor vehicle manufacturing, light truck
18 and utility vehicle manufacturing, heavy duty truck
19 manufacturing, motor vehicle body manufacturing, cable
20 television infrastructure design or manufacturing, or
21 wireless telecommunication or computing terminal device
22 design or manufacturing for use on public networks and (ii)
23 meets the following criteria:

24 (A) the Taxpayer (i) had an Illinois net loss or an
25 Illinois net loss deduction under Section 207 of the
26 Illinois Income Tax Act for the taxable year in which

1 the Credit is awarded, (ii) employed a minimum of 1,000
2 full-time employees in this State during the taxable
3 year in which the Credit is awarded, (iii) has an
4 Agreement under this Act on December 14, 2009 (the
5 effective date of Public Act 96-834), and (iv) is in
6 compliance with all provisions of that Agreement;

7 (B) the Taxpayer (i) had an Illinois net loss or an
8 Illinois net loss deduction under Section 207 of the
9 Illinois Income Tax Act for the taxable year in which
10 the Credit is awarded, (ii) employed a minimum of 1,000
11 full-time employees in this State during the taxable
12 year in which the Credit is awarded, and (iii) has
13 applied for an Agreement within 365 days after December
14 14, 2009 (the effective date of Public Act 96-834);

15 (C) the Taxpayer (i) had an Illinois net operating
16 loss carryforward under Section 207 of the Illinois
17 Income Tax Act in a taxable year ending during calendar
18 year 2008, (ii) has applied for an Agreement within 150
19 days after the effective date of this amendatory Act of
20 the 96th General Assembly, (iii) creates at least 400
21 new jobs in Illinois, (iv) retains at least 2,000 jobs
22 in Illinois that would have been at risk of relocation
23 out of Illinois over a 10-year period, and (v) makes a
24 capital investment of at least \$75,000,000;

25 (D) the Taxpayer (i) had an Illinois net operating
26 loss carryforward under Section 207 of the Illinois

1 Income Tax Act in a taxable year ending during calendar
2 year 2009, (ii) has applied for an Agreement within 150
3 days after the effective date of this amendatory Act of
4 the 96th General Assembly, (iii) creates at least 150
5 new jobs, (iv) retains at least 1,000 jobs in Illinois
6 that would have been at risk of relocation out of
7 Illinois over a 10-year period, and (v) makes a capital
8 investment of at least \$57,000,000; or

9 (E) the Taxpayer (i) employed at least 2,500
10 full-time employees in the State during the year in
11 which the Credit is awarded, (ii) commits to make at
12 least \$500,000,000 in combined capital improvements
13 and project costs under the Agreement, (iii) applies
14 for an Agreement between January 1, 2011 and June 30,
15 2011, (iv) executes an Agreement for the Credit during
16 calendar year 2011, and (v) was incorporated no more
17 than 5 years before the filing of an application for an
18 Agreement.

19 (1.5) The election under this subsection (f) may also
20 be made by a Taxpayer for any Credit awarded pursuant to an
21 agreement that was executed between January 1, 2011 and
22 June 30, 2011, if the Taxpayer (i) is primarily engaged in
23 the manufacture of inner tubes or tires, or both, from
24 natural and synthetic rubber, (ii) employs a minimum of
25 2,400 full-time employees in Illinois at the time of
26 application, (iii) creates at least 350 full-time jobs and

1 retains at least 250 full-time jobs in Illinois that would
2 have been at risk of being created or retained outside of
3 Illinois, and (iv) makes a capital investment of at least
4 \$200,000,000 at the project location.

5 (1.6) The election under this subsection (f) may also
6 be made by a Taxpayer for any Credit awarded pursuant to an
7 agreement that was executed within 150 days after the
8 effective date of this amendatory Act of the 97th General
9 Assembly, if the Taxpayer (i) is primarily engaged in the
10 operation of a discount department store, (ii) maintains
11 its corporate headquarters in Illinois, (iii) employs a
12 minimum of 4,250 full-time employees at its corporate
13 headquarters in Illinois at the time of application, (iv)
14 retains at least 4,250 full-time jobs in Illinois that
15 would have been at risk of being relocated outside of
16 Illinois, (v) had a minimum of \$40,000,000,000 in total
17 revenue in 2010, and (vi) makes a capital investment of at
18 least \$300,000,000 at the project location.

19 (1.7) Notwithstanding any other provision of law, the
20 election under this subsection (f) may also be made by a
21 Taxpayer for any Credit awarded pursuant to an agreement
22 that was executed or applied for on or after July 1, 2011
23 and on or before March 31, 2012, if the Taxpayer is
24 primarily engaged in the manufacture of original and
25 aftermarket filtration parts and products for automobiles,
26 motor vehicles, light duty motor vehicles, light trucks and

1 utility vehicles, and heavy duty trucks, (ii) employs a
2 minimum of 1,000 full-time employees in Illinois at the
3 time of application, (iii) creates at least 250 full-time
4 jobs in Illinois, (iv) relocates its corporate
5 headquarters to Illinois from another state, and (v) makes
6 a capital investment of at least \$4,000,000 at the project
7 location.

8 (2) An election under this subsection shall allow the
9 credit to be taken against payments otherwise due under
10 Section 704A of the Illinois Income Tax Act during the
11 first calendar year beginning after the end of the taxable
12 year in which the credit is awarded under this Act.

13 (3) The election shall be made in the form and manner
14 required by the Illinois Department of Revenue and, once
15 made, shall be irrevocable.

16 (4) If a Taxpayer who meets the requirements of
17 subparagraph (A) of paragraph (1) of this subsection (f)
18 elects to claim the Credit against its withholdings as
19 provided in this subsection (f), then, on and after the
20 date of the election, the terms of the Agreement between
21 the Taxpayer and the Department may not be further amended
22 during the term of the Agreement.

23 (g) A pass-through entity that has been awarded a credit
24 under this Act, its shareholders, or its partners may treat
25 some or all of the credit awarded pursuant to this Act as a tax
26 payment for purposes of the Illinois Income Tax Act. The term

1 "tax payment" means a payment as described in Article 6 or
2 Article 8 of the Illinois Income Tax Act or a composite payment
3 made by a pass-through entity on behalf of any of its
4 shareholders or partners to satisfy such shareholders' or
5 partners' taxes imposed pursuant to subsections (a) and (b) of
6 Section 201 of the Illinois Income Tax Act. In no event shall
7 the amount of the award credited pursuant to this Act exceed
8 the Illinois income tax liability of the pass-through entity or
9 its shareholders or partners for the taxable year.

10 (Source: P.A. 96-834, eff. 12-14-09; 96-836, eff. 12-16-09;
11 96-905, eff. 6-4-10; 96-1000, eff. 7-2-10; 96-1534, eff.
12 3-4-11; 97-2, eff. 5-6-11; 97-636, eff. 6-1-12.)

13 (35 ILCS 10/5-20)

14 Sec. 5-20. Application for a project to create and retain
15 new jobs.

16 (a) Any Taxpayer proposing a project located or planned to
17 be located in Illinois may request consideration for
18 designation of its project, by formal written letter of request
19 or by formal application to the Department, in which the
20 Applicant states its intent to make at least a specified level
21 of investment and intends to hire or retain a specified number
22 of full-time employees at a designated location in Illinois. As
23 circumstances require, the Department may require a formal
24 application from an Applicant and a formal letter of request
25 for assistance.

1 (b) In order to qualify for Credits under this Act, an
2 Applicant's project must:

3 (1) if the Applicant has more than 100 employees,
4 involve an investment of at least \$2,500,000 ~~\$5,000,000~~ in
5 capital improvements to be placed in service ~~and to employ~~
6 ~~at least 25 New Employees~~ within the State as a direct
7 result of the project; if the Applicant has 100 or fewer
8 employees, then there is no capital investment
9 requirement; and

10 (1.5) if the Applicant has more than 100 employees,
11 employ a number of new employees in the State equal to the
12 lesser of (A) 10% of the number of full-time employees
13 employed by the applicant world-wide on the date the
14 application is filed with the Department or (B) 50 New
15 Employees; and, if the Applicant has 100 or fewer
16 employees, employ a number of new employees in the State
17 equal to the lesser of (A) 5% of the number of full-time
18 employees employed by the applicant world-wide on the date
19 the application is filed with the Department or (B) 50 New
20 Employees;

21 (2) (blank); ~~involve an investment of at least an~~
22 ~~amount (to be expressly specified by the Department and the~~
23 ~~Committee) in capital improvements to be placed in service~~
24 ~~and will employ at least an amount (to be expressly~~
25 ~~specified by the Department and the Committee) of New~~
26 ~~Employees within the State, provided that the Department~~

1 ~~and the Committee have determined that the project will~~
2 ~~provide a substantial economic benefit to the State; or~~

3 (3) (blank). ~~if the applicant has 100 or fewer~~
4 ~~employees, involve an investment of at least \$1,000,000 in~~
5 ~~capital improvements to be placed in service and to employ~~
6 ~~at least 5 New Employees within the State as a direct~~
7 ~~result of the project.~~

8 (c) After receipt of an application, the Department may
9 enter into an Agreement with the Applicant if the application
10 is accepted in accordance with Section 5-25.

11 (Source: P.A. 93-882, eff. 1-1-05.)

12 (35 ILCS 10/5-25)

13 Sec. 5-25. Review of Application.

14 (a) In addition to those duties granted under the Illinois
15 Economic Development Board Act, the Illinois Economic
16 Development Board shall form a Business Investment Committee
17 for the purpose of making recommendations for applications. At
18 the request of the Board, the Director of Commerce and Economic
19 Opportunity or his or her designee, the Director of the
20 Governor's Office of Management and Budget or his or her
21 designee, the Director of Revenue or his or her designee, the
22 Director of Employment Security or his or her designee, and an
23 elected official of the affected locality, such as the chair of
24 the county board or the mayor, may serve as members of the
25 Committee to assist with its analysis and deliberations.

1 (b) At the Department's request, the Committee shall
2 convene, make inquiries, and conduct studies in the manner and
3 by the methods as it deems desirable, review information with
4 respect to Applicants, and make recommendations for projects to
5 benefit the State. In making its recommendation that an
6 Applicant's application for Credit should or should not be
7 accepted, which shall occur within a reasonable time frame as
8 determined by the nature of the application, the Committee
9 shall determine that all the following conditions exist:

10 (1) The Applicant's project intends, as required by
11 subsection (b) of Section 5-20 to make the required
12 investment in the State and intends to hire the required
13 number of New Employees in Illinois as a result of that
14 project.

15 (2) The Applicant's project is economically sound and
16 will benefit the people of the State of Illinois by
17 increasing opportunities for employment and strengthen the
18 economy of Illinois.

19 (3) That, if not for the Credit, the project would not
20 occur in Illinois, which may be demonstrated by evidence
21 that receipt of the Credit is essential to the Applicant's
22 decision to create new jobs in the State, such as the
23 magnitude of the cost differential between Illinois and a
24 competing State; in addition, if the Applicant is seeking
25 an increase in the maximum amount of the Credit for
26 retained employees, the Applicant must provide ~~any means~~

1 ~~including, but not limited to,~~ evidence the Applicant has
2 multi-state location options and could reasonably and
3 efficiently locate outside of the State, ~~or demonstrate~~
4 ~~demonstration~~ that at least one other state is being
5 considered for the project, ~~or evidence the receipt of the~~
6 ~~Credit is a major factor in the Applicant's decision and~~
7 ~~that without the Credit, the Applicant likely would not~~
8 ~~create new jobs in Illinois, or demonstration that~~
9 ~~receiving the Credit is essential to the Applicant's~~
10 ~~decision to create or retain new jobs in the State.~~

11 (4) A cost differential is identified, using best
12 available data, in the projected costs for the Applicant's
13 project compared to the costs in the competing state,
14 including the impact of the competing state's incentive
15 programs. The competing state's incentive programs shall
16 include state, local, private, and federal funds
17 available.

18 (5) The political subdivisions affected by the project
19 have committed local incentives with respect to the
20 project, considering local ability to assist.

21 (6) Awarding the Credit will result in an overall
22 positive fiscal impact to the State, as certified by the
23 Committee using the best available data.

24 (7) The Credit is not prohibited by Section 5-35 of
25 this Act.

26 (Source: P.A. 94-793, eff. 5-19-06.)

1 (35 ILCS 10/5-50)

2 Sec. 5-50. Contents of Agreements with Applicants. The
3 Department shall enter into an Agreement with an Applicant that
4 is awarded a Credit under this Act. The Agreement must include
5 all of the following:

6 (1) A detailed description of the project that is the
7 subject of the Agreement, including the location and amount
8 of the investment and jobs created or retained.

9 (2) The duration of the Credit and the first taxable
10 year for which the Credit may be claimed.

11 (3) The Credit amount that will be allowed for each
12 taxable year.

13 (4) A requirement that the Taxpayer shall maintain
14 operations at the project location that shall be stated as
15 a minimum number of years not to exceed 10.

16 (5) A specific method for determining the number of New
17 Employees employed during a taxable year.

18 (6) A requirement that the Taxpayer shall annually
19 report to the Department the number of New Employees, the
20 Incremental Income Tax withheld in connection with the New
21 Employees, and any other information the Director needs to
22 perform the Director's duties under this Act.

23 (7) A requirement that the Director is authorized to
24 verify with the appropriate State agencies the amounts
25 reported under paragraph (6), and after doing so shall

1 issue a certificate to the Taxpayer stating that the
2 amounts have been verified.

3 (8) A requirement that the Taxpayer shall provide
4 written notification to the Director not more than 30 days
5 after the Taxpayer makes or receives a proposal that would
6 transfer the Taxpayer's State tax liability obligations to
7 a successor Taxpayer.

8 (9) A detailed description of the number of New
9 Employees to be hired, and the occupation and payroll of
10 the full-time jobs to be created or retained as a result of
11 the project.

12 (10) The minimum investment the business enterprise
13 will make in capital improvements, the time period for
14 placing the property in service, and the designated
15 location in Illinois for the investment.

16 (11) A requirement that the Taxpayer shall provide
17 written notification to the Director and the Committee not
18 more than 30 days after the Taxpayer determines that the
19 minimum job creation or retention, employment payroll, or
20 investment no longer is being or will be achieved or
21 maintained as set forth in the terms and conditions of the
22 Agreement.

23 (12) A provision that, if the total number of New
24 Employees falls below a specified level, the allowance of
25 Credit shall be suspended until the number of New Employees
26 equals or exceeds the Agreement amount.

1 (13) A detailed description of the items for which the
2 costs incurred by the Taxpayer will be included in the
3 limitation on the Credit provided in Section 5-30.

4 (13.5) A provision that, if the Taxpayer never meets
5 either the investment or job creation and retention
6 requirements specified in the Agreement during the entire
7 5-year period beginning on the first day of the first
8 taxable year in which the Agreement is executed and ending
9 on the last day of the fifth taxable year after the
10 Agreement is executed, then the Agreement is automatically
11 terminated on the last day of the fifth taxable year after
12 the Agreement is executed and the Taxpayer is not entitled
13 to the award of any credits for any of that 5-year period.

14 (13.7) A provision specifying that, if the Taxpayer
15 ceases principal operations with the intent to shut down
16 the project in the State permanently during the term of the
17 Agreement, then the entire credit amount awarded to the
18 Taxpayer prior to the date the Taxpayer ceases principal
19 operations shall be returned to the Department and shall be
20 reallocated to the local workforce investment area in which
21 the project was located.

22 (14) Any other performance conditions or contract
23 provisions as the Department determines are appropriate.

24 The Department shall post on its website the terms of each
25 Agreement entered into under this Act on or after the effective
26 date of this amendatory Act of the 97th General Assembly. Such

1 information shall be posted within 10 days after entering into
2 the Agreement and must include the following:

3 (1) the name of the recipient business;

4 (2) the location of the project;

5 (3) the estimated value of the credit;

6 (4) the number of new jobs and, if applicable, retained
7 jobs pledged as a result of the project; and

8 (5) whether or not the project is located in an
9 underserved area.

10 (Source: P.A. 97-2, eff. 5-6-11; 97-749, eff. 7-6-12.)

11 (35 ILCS 10/5-57 new)

12 Sec. 5-57. Supplier diversity goals; reports. Each
13 taxpayer claiming a credit under this Act shall, no later than
14 April 15 of each taxable year for which the taxpayer claims a
15 credit under this Act, submit to the Department of Commerce and
16 Economic Opportunity an annual report containing the
17 information described in subsections (b), (c), (d), and (e) of
18 Section 5-117 of the Public Utilities Act. Those reports shall
19 be submitted in the form and manner required by the Department
20 of Commerce and Economic Opportunity.

21 (35 ILCS 10/5-65)

22 Sec. 5-65. Noncompliance; notice; assessment. If the
23 Director determines that a Taxpayer who has received a Credit
24 under this Act is not complying with the requirements of the

1 Agreement or all of the provisions of this Act, the Director
2 shall provide notice to the Taxpayer of the alleged
3 noncompliance, and allow the Taxpayer a hearing under the
4 provisions of the Illinois Administrative Procedure Act. If,
5 after such notice and any hearing, the Director determines that
6 a noncompliance exists, the Director shall issue to the
7 Department of Revenue notice to that effect, stating the
8 Noncompliance Date. If, during the term of an Agreement, the
9 Taxpayer ceases operations at a project location that is the
10 subject of that Agreement with the intent to terminate
11 operations in the State, the Department and the Department of
12 Revenue shall recapture from the Taxpayer the entire Credit
13 amount awarded under that Agreement prior to the date the
14 taxpayer ceases operations. The Department shall, subject to
15 appropriation, reallocate the recaptured amounts to the local
16 workforce investment area in which the project was located for
17 the purposes of workforce development, expanded opportunities
18 for unemployed persons, and expanded opportunities for women
19 and minorities in the workforce.

20 (Source: P.A. 91-476, eff. 8-11-99.)

21 (35 ILCS 10/5-70)

22 Sec. 5-70. Annual report. On or before July 1 each year,
23 the Committee shall submit a report to the Department on the
24 tax credit program under this Act to the Governor and the
25 General Assembly. The report shall include information on the

1 number of Agreements that were entered into under this Act
2 during the preceding calendar year, a description of the
3 project that is the subject of each Agreement, an update on the
4 status of projects under Agreements entered into before the
5 preceding calendar year, and the sum of the Credits awarded
6 under this Act. A copy of the report shall be delivered to the
7 Governor and to each member of the General Assembly.

8 The report must include, for each Agreement:

9 (1) the original estimates of the value of the Credit
10 and the number of new jobs to be created and, if
11 applicable, the number of retained jobs;

12 (2) any relevant modifications to existing Agreements;

13 (3) a statement of the progress made by each Taxpayer
14 in meeting the terms of the original Agreement;

15 (4) a statement of wages paid to New Employees and, if
16 applicable, retained employees in the State;

17 (5) any information reported under Section 5-57 of this
18 Act; and

19 (6) a copy of the original Agreement.

20 (Source: P.A. 91-476, eff. 8-11-99.)

21 (35 ILCS 10/5-77)

22 Sec. 5-77. Sunset of new Agreements. The Department shall
23 not enter into any new Agreements under the provisions of
24 Section 5-50 of this Act after June 30, 2022 ~~April 30, 2017~~.

25 (Source: P.A. 99-925, eff. 1-20-17.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.