



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB0351

Introduced 1/27/2009, by Rep. Susana A Mendoza

#### SYNOPSIS AS INTRODUCED:

New Act

30 ILCS 105/5.719 new

35 ILCS 5/218 new

Creates the Emerging Technology Industries Act. Requires the Department of Commerce and Economic Opportunity to establish and maintain a program to award grants to emerging-technology enterprises in the State. Sets forth eligibility requirements and funding priorities for awarding the grants, and sets forth procedures for awarding the grants. Requires written contracts in which the emerging-technology enterprise guarantees that it will perform the actions expected to be performed. Sets dollar limits on matching funds for federal Small Business Innovative Research (SBIR) grants and total grant matching funds per year. Limits total credits to \$15,000,000 in any one State fiscal year. Amends the State Finance Act to create the Emerging Technology Grant Fund. Amends the Illinois Income Tax Act. Creates an income tax credit for qualified investors who make an investment in an emerging technology enterprise in the State. Provides that the Department of Commerce and Economic Opportunity must certify the amount of the credit and sets forth the procedures for the application and certification of the credit. Sets forth provisions for the revocation and recapture of the tax credit. Contains other provisions. Effective immediately.

LRB096 03384 RCE 14880 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 1. Short title. This Act may be cited as the  
5 Emerging Technology Industries Act.

6 Section 5. Purpose. It is the purpose of this Act to  
7 develop and diversify the economy of the State of Illinois by:

8 (1) expediting the innovation and commercialization of  
9 research;

10 (2) attracting, creating, or expanding private-sector  
11 entities that will promote a substantial increase in  
12 high-quality jobs; and

13 (3) increasing higher education applied technology  
14 research capabilities.

15 Section 10. Definitions. As used in this Act:

16 "Department" means the Department of Commerce and Economic  
17 Opportunity.

18 "Emerging technology enterprise" means a business concern  
19 that is primarily engaged in an emerging technology industry.

20 "Emerging technology industry" includes, without  
21 limitation, any industry related to:

22 (1) agricultural science;

- 1 (2) computer and software technology;
- 2 (3) biotechnology;
- 3 (4) medicine;
- 4 (5) life sciences;
- 5 (6) nanotechnology;
- 6 (7) energy;
- 7 (8) manufactured energy systems;
- 8 (9) aerospace;
- 9 (10) petroleum;
- 10 (11) micro-electromechanical systems;
- 11 (12) defense;
- 12 (13) semiconductors; or
- 13 (14) any other pursuit that is determined by the
- 14 Department to be an emerging technology industry.

15 "Fund" means the Emerging Technology Grant Fund  
16 established under Section 20 of this Act.

17 "Investment" means the contribution of property, at a risk  
18 of loss, to a qualified Illinois emerging technology enterprise  
19 in exchange for stock, a partnership interest, or other  
20 ownership interest in the qualified company. For the purposes  
21 of this definition, an investment is at risk of loss if its  
22 repayment depends entirely upon the success of the business  
23 operations of the qualified Illinois emerging technology  
24 enterprise.

25 "Qualified investor" means an investor who is:

- 26 (1) an individual who invests at least \$25,000 in a

1 qualified Illinois emerging technology enterprise;

2 (2) an Illinois corporation that invests at least  
3 \$250,000 in a qualified Illinois emerging technology  
4 enterprise; or

5 (3) a qualified Illinois venture capital firm.

6 "Qualified Illinois emerging technology enterprise" means  
7 a company that has:

8 (1) its headquarters and base of operations in  
9 Illinois;

10 (2) fewer than 50 full-time employees;

11 (3) been in active business no longer than 10 years;  
12 and

13 (4) been certified in writing as an emerging technology  
14 enterprise by the Department.

15 "Qualified Illinois venture capital firm" means an entity  
16 that:

17 (1) is organized for the purpose of investing funds in  
18 privately-held companies engaged in the research,  
19 development, or commercialization of innovative and  
20 propriety technology;

21 (2) has at least 2 principals who each have at least 5  
22 years of venture capital experience;

23 (3) has at least one year of experience investing in  
24 emerging technology industries; and

25 (4) has its headquarters and principal place of  
26 operations in Illinois.

1           Section 15. Eligibility. An emerging-technology enterprise  
2 is eligible to receive a grant under this Act if the activity  
3 to be funded: (i) will result in the creation of new jobs in  
4 this State; and (ii) has the potential to result in the  
5 advancement of medicine or science.

6           Section 20. The Emerging Technology Grant Fund. The  
7 Emerging Technology Grant Fund is created as a special fund in  
8 the State treasury. From appropriations to the Department from  
9 the Fund, the Department shall make grants to  
10 emerging-technology enterprises in the State as set forth under  
11 this Act. Moneys received for the purposes of this Section,  
12 including, without limitation, appropriations, repayments of  
13 grant moneys, and gifts, grants, and awards from any public or  
14 private entity, must be deposited into the Fund. Any interest  
15 earnings that are attributable to moneys in the Fund must be  
16 deposited into the Fund.

17           Section 25. Grant contracts.

18           (a) Before awarding a grant under this Act, the Department  
19 shall enter into a written contract with the  
20 emerging-technology enterprise to be awarded the grant money.  
21 In the contract, the emerging-technology enterprise shall  
22 guarantee that it will perform the actions expected to be  
23 performed. The contract may specify that:

1           (1) If all or any portion of the amount of the grant is  
2 used to build a capital improvement:

3           (A) the State retains a lien or other interest in  
4 the capital improvement in proportion to the  
5 percentage of the grant amount used to pay for the  
6 capital improvement; and

7           (B) the recipient of the grant shall, if the  
8 capital improvement is sold, (i) repay to the State the  
9 grant money used to pay for the capital improvement,  
10 with interest at the rate and according to the other  
11 terms provided by the agreement, and (ii) share with  
12 the State a proportionate amount of any profit realized  
13 from the sale; and

14           (2) If, as of the date certain provided in the  
15 contract, the grant recipient has not used grant money  
16 awarded under this Act for the purposes for which the grant  
17 was intended, then the recipient shall repay that amount  
18 and any related interest applicable under the agreement to  
19 the State at the agreed rate and on the agreed terms.

20           (b) If an emerging-technology enterprise fails to perform  
21 an action guaranteed by contract before a time specified by  
22 contract, then the enterprise shall return all moneys received  
23 from the Fund.

24           (c) The provisions of this Section take precedence over any  
25 conflicting requirements of the Illinois Grant Funds Recovery  
26 Act.

1           Section 30. Funding priority. In awarding money from the  
2 Fund under this Act, priority shall be given to proposals that:

3           (1) involve emerging scientific or technology fields  
4 that have a reasonable probability of enhancing the State's  
5 national and global economic competitiveness;

6           (2) may result in a medical or scientific advancement;

7           (3) are collaborative between any combination of  
8 private or nonprofit entities and public or private  
9 agencies or institutions in the State;

10          (4) are matched with other available funds, including  
11 funds from the private or nonprofit entity or institution  
12 of higher education collaborating on the project; or

13          (5) have an economic development benefit to the State.

14          Section 35. Research grant matching. Amounts allocated  
15 from the Fund for use as provided by this Act must be reserved  
16 to match funding from research sponsors other than this State,  
17 including federal research sponsors. The Department shall  
18 determine proposals eligible for funding under this Act. If  
19 amounts allocated from the Fund are used to match a federal  
20 Small Business Innovative Research (SBIR) grant, then the State  
21 matching funds from the Fund for all phases of that SBIR grant  
22 shall not exceed \$600,000. Not more than \$10,000,000 of moneys  
23 from the Fund shall be used by the Department in any one fiscal  
24 year as grant matching funds under this Act.

1 Section 40. Documentation of benefits.

2 (a) An emerging-technology enterprise that receives a  
3 grant under this Act must document specific benefits that the  
4 State may expect to gain as a result of the grant award. This  
5 documentation must be completed and provided to the Department  
6 before the emerging-technology enterprise may enter into a  
7 contract to receive funding under Section 25.

8 (b) The Department may terminate funding to an  
9 emerging-technology enterprise if the enterprise fails to  
10 realize a benefit specified in the contract, as determined by a  
11 periodic review conducted by the Department.

12 Section 45. Income tax credit. A qualified investor may  
13 claim a credit against the tax imposed under subsections (a)  
14 and (b) of Section 201 of the Illinois Income Tax Act, as  
15 provided in this Act and Section 218 of the Illinois Income Tax  
16 Act. The amount of the credit is an amount equal to the final  
17 credit certificate approved by the Department for an investment  
18 in a qualified emerging technology enterprise, as provided  
19 under Sections 50 and 55 of this Act.

20 This credit is exempt from the provisions of Section 250 of  
21 the Illinois Income Tax Act.

22 Section 50. Tax credit application; certification.

23 (a) In order to receive the tax credit under this Act, the



1 qualified investor must submit an application to the Department  
2 on forms provided by the Department at least 30 days prior to  
3 making an investment in a qualified Illinois emerging  
4 technology enterprise for which the qualified investor is  
5 eligible for an initial tax credit certificate.

6 (b) The Department shall approve all applications that  
7 qualify for credits under this Act on a first-come first-served  
8 basis. Within 30 days after its receipt of an application, the  
9 Department must certify the amount of any approved tax credits  
10 to a qualified investor.

11 (c) The qualified investor must make an investment in a  
12 qualified Illinois emerging technology enterprise within 30  
13 days after the Department has issued a tax credit certificate  
14 under subsection (b). Within 10 days after making the  
15 investment, the qualified investor must provide written notice  
16 to the Department. If the qualified investor fails to provide  
17 this written notice within 40 days after the issuance of the  
18 tax credit certificate, then the Department shall rescind the  
19 certificate.

20 Section 55. Amount of the tax credit. The tax credit  
21 allowed in a tax credit certificate issued under this Act is  
22 25% of the investment in a qualified Illinois emerging  
23 technology enterprise, but not to exceed:

24 (1) \$50,000 for a qualified investor that is an  
25 individual; or

1           (2) \$250,000 for a qualified investor that is a  
2           corporation or a qualified Illinois venture capital firm.

3           Section 57. Limit on total tax credits. Total tax credits  
4           allowed under this Act shall not exceed \$15,000,000 in any one  
5           State fiscal year.

6           Section 60. Recapture of the tax credit.

7           (a) If, within 2 taxable years after the close of the  
8           taxable year in which a credit under Section 45 of this Act is  
9           approved, the qualified investor sells, transfers, or  
10          otherwise disposes of the ownership interest in the qualified  
11          Illinois emerging technology enterprise that gave rise to the  
12          credit, then the credit must be recaptured.

13          (b) The amount required to be recaptured under this Section  
14          is:

15                 (1) 100% of the amount of the credit if the disposition  
16                 occurs during the taxable year in which the tax credit is  
17                 approved;

18                 (2) 67% of the amount of the credit if the disposition  
19                 occurs during the first taxable year after the close of the  
20                 taxable year for which the tax is approved; or

21                 (3) 33% of the amount of the credit if the disposition  
22                 occurs more than one taxable year but not more than 2  
23                 taxable years after the close of the taxable year for which  
24                 the tax credit is approved.

1           (c) The qualified investor who claimed the credit shall pay  
2 the recaptured amount as taxes payable to the State for the  
3 taxable year in which the disposition occurred.

4           Section 65. Revocation of the credit.

5           (a) The Department may revoke its certification of an  
6 approved credit under this Act if any representation in  
7 connection with the application for the certification proves to  
8 have been false when made.

9           (b) The revocation may be in full or in part as the  
10 Department determines and, subject to subsection (c), must be  
11 communicated in writing to the qualified investor and the  
12 Department of Revenue.

13           (c) The Department of Revenue may make an assessment  
14 against the qualified investor to recapture any amount of the  
15 tax credit that the qualified investor has already claimed.

16           Section 70. Annual report.

17           (a) On or before January 10 of each year, the Department  
18 shall report to the Governor and to the General Assembly on the  
19 tax credit certificates awarded under this Act for the prior  
20 calendar year.

21           (b) This report must include, for each tax credit  
22 certificate awarded:

23                 (1) the name of the qualified investor and the amount  
24                 of credit awarded or allocated to that investor;

1           (2) the name and address of the qualified Illinois  
2           emerging technology enterprise that received the  
3           investment giving rise to the credit and the county in  
4           which the qualified Illinois emerging technology  
5           enterprise is located; and

6           (3) the dates of receipt and approval by the Department  
7           of the applications for the tax credit certificate.

8           (c) The report must summarize for each category of  
9           qualified investors:

10           (1) the total number of applicants for initial tax  
11           credit certificates under this Act in the prior calendar  
12           year;

13           (2) the total number of applications for which initial  
14           tax credit certificates were issued in the prior calendar  
15           year; and

16           (3) the total tax credit certificates authorized under  
17           this Act for all calendar years.

18           Section 75. Rules. The Department shall adopt any rule  
19           necessary for the administration of this Act, except that the  
20           Department of Revenue shall prescribe rules in accordance with  
21           subsection (d) of Section 218 of the Illinois Income Tax Act.

22           Section 90. The State Finance Act is amended by adding  
23           Section 5.719 as follows:

1 (30 ILCS 105/5.719 new)

2 Sec. 5.719. The Emerging Technology Grant Fund.

3 Section 95. The Illinois Income Tax Act is amended by  
4 adding Section 218 as follows:

5 (35 ILCS 5/218 new)

6 Sec. 218. Emerging Technology Investment Tax Credit.

7 (a) For tax years beginning on or after January 1, 2009, a  
8 taxpayer who has been awarded a tax credit under the Emerging  
9 Technology Industries Act is entitled to a credit against the  
10 taxes imposed under subsections (a) and (b) of Section 201 of  
11 this Act in an amount determined by the Department of Commerce  
12 and Economic Opportunity under the Emerging Technology  
13 Industries Act.

14 (b) If the taxpayer is a partnership or Subchapter S  
15 corporation, the credit is allowed to the partners or  
16 shareholders in accordance with the determination of income and  
17 distributive share of income under Sections 702 and 704 and  
18 Subchapter S of the Internal Revenue Code.

19 (c) The credit may not be carried forward or back.

20 (d) The Department, in cooperation with the Department of  
21 Commerce and Economic Opportunity, may prescribe rules to  
22 enforce and administer the provisions of this Section.

23 (e) The credit established under this Section and Sections  
24 45 through 65 of the Emerging Technology Industries Act is

1 exempt from the provisions of Section 250 of this Act.

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