



## 98TH GENERAL ASSEMBLY

### State of Illinois

#### 2013 and 2014

#### HB1336

by Rep. Jack D. Franks

#### SYNOPSIS AS INTRODUCED:

20 ILCS 3965/3	from Ch. 127, par. 3953
20 ILCS 3965/4	from Ch. 127, par. 3954
35 ILCS 10/5-5	
35 ILCS 10/5-10	
35 ILCS 10/5-20	
35 ILCS 10/5-25	
35 ILCS 10/5-40	
35 ILCS 10/5-45	
35 ILCS 10/5-50	
35 ILCS 10/5-70	

Amends the Illinois Economic Development Board Act and the Economic Development for a Growing Economy Tax Credit Act to provide that EDGE Agreements are subject to the approval of the Illinois Economic Development Board (instead of the Illinois Business Investment Committee). Provides that the Illinois Business Investment Committee is dissolved on the effective date of the amendatory Act and all duties and responsibilities of the Committee shall be assumed by the Illinois Economic Development Board. Sets forth the membership of the Illinois Economic Development Board. Provides that the Director of Revenue and the Auditor General shall also serve as ex officio members of the Board. Sets forth the powers of the Board. Removes provisions requiring Applicants to make certain capital investments. Changes the duration of the credit from 10 years to 5 years. Provides that the credit may not exceed the lesser of the incremental income tax attributable to the project or \$10,000 per New Employee. Provides that no more than \$100,000,000 in credits may be awarded in State Fiscal Year 2014 or any State fiscal year thereafter. Makes other changes.

LRB098 07447 HLH 37515 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 5. The Illinois Economic Development Board Act is  
5 amended by changing Sections 3 and 4 as follows:

6 (20 ILCS 3965/3) (from Ch. 127, par. 3953)

7 Sec. 3. Illinois Economic Development Board; composition.

8 ~~The board shall be composed of citizens from both the private~~  
9 ~~and public sectors who are actively engaged in organizations~~  
10 ~~and businesses that support economic expansion, industry~~  
11 ~~enhancement and job creation.~~ The board shall be composed of 9  
12 members appointed by the Governor, with the advice and consent  
13 of the Senate. Each member shall have experience in accounting  
14 or finance. Members shall be appointed so that no more than 5  
15 members are affiliated with the same political party. ~~the~~  
16 ~~following persons:~~

17 ~~(a) the Governor or his or her designee;~~

18 ~~(b) four members of the General Assembly, one each~~  
19 ~~appointed by the President of the Senate, the Speaker of~~  
20 ~~the House of Representatives, and the minority leaders of~~  
21 ~~the Senate and House of Representatives;~~

22 ~~(c) 20 members appointed by the Governor including~~  
23 ~~representatives of small business, minority owned~~

1 ~~companies, women owned companies, manufacturing, economic~~  
2 ~~development professionals, and citizens at large.~~

3 ~~(d) (blank);~~

4 ~~(e) (blank);~~

5 ~~(f) (blank);~~

6 ~~(g) (blank);~~

7 ~~(h) (blank);~~

8 ~~(i) (blank);~~

9 ~~(j) (blank);~~

10 ~~(k) (blank);~~

11 ~~(l) (blank);~~

12 ~~(m) (blank).~~

13 The Director of Commerce and Economic Opportunity, the  
14 Director of Revenue, and the Auditor General shall serve as  
15 ex-officio members ~~an ex-officio member~~ of the board.

16 The Governor shall appoint the members of the board  
17 specified in subsection (c) of this Section, subject to the  
18 advice and consent of the Senate, within 30 days after the  
19 effective date of this amendatory Act of the 98th General  
20 Assembly Act. The first meeting of the board shall occur within  
21 60 days after the effective date of this amendatory Act of the  
22 98th General Assembly Act.

23 The Governor shall appoint a chairperson and a vice  
24 chairperson of the board. Members shall serve 8-year terms.  
25 ~~2-year terms. The position of a legislative member shall become~~  
26 ~~vacant if the member ceases to be a member of the General~~

1 ~~Assembly.~~ A vacancy in a board position shall be filled by the  
2 original appointing authority.

3 The board shall include representation from each of the  
4 State's geographic areas.

5 The board shall meet quarterly or at the call of the chair  
6 and shall create subcommittees as needed to deal with specific  
7 issues and concerns. Members shall serve without compensation  
8 but may be reimbursed for expenses.

9 (Source: P.A. 94-793, eff. 5-19-06; 95-331, eff. 8-21-07.)

10 (20 ILCS 3965/4) (from Ch. 127, par. 3954)

11 Sec. 4. The board has the following responsibilities and  
12 powers:

13 (a) (blank); ~~to secure and encourage substantial private~~  
14 ~~sector, community and citizen support in the analysis of~~  
15 ~~economic development opportunities and development of specific~~  
16 ~~recommendations for economic growth;~~

17 (b) (blank); ~~to assist the Department's research efforts to~~  
18 ~~identify and analyze key businesses and industries to determine~~  
19 ~~their potential for expansion, diversification and production~~  
20 ~~of value-added goods;~~

21 (c) (blank); ~~to propose an appropriate State role in new~~  
22 ~~product development, venture capital formation and research~~  
23 ~~and development;~~

24 (d) to evaluate the performance of existing State economic  
25 development efforts for consistency, effectiveness and

1 coordination, as well as for their effect on job creation, and  
2 to evaluate the long-term benefits to the State of these  
3 efforts;

4 (e) (blank); ~~to propose, along with other State, local and~~  
5 ~~private groups, new methods to increase public and private~~  
6 ~~partnerships to foster economic development efforts;~~

7 (f) (blank); ~~assist the Department's efforts to develop a~~  
8 ~~long term economic development strategy based on consensus~~  
9 ~~goals and principles, an in depth analysis of market~~  
10 ~~opportunities, private sector support and investment, and~~  
11 ~~specific private and public economic development measures that~~  
12 ~~have a substantial potential to increase employment;~~

13 (g) (blank); ~~assist the Department's efforts to study the~~  
14 ~~key components of the State's business climate as they relate~~  
15 ~~to the long term development strategy including, but not~~  
16 ~~limited to, education and training, energy, existing~~  
17 ~~environmental conditions, research and development, capital,~~  
18 ~~land, transportation, advanced communications, taxes and~~  
19 ~~regulations with an analysis of their linkages to the State's~~  
20 ~~economy;~~

21 (h) (blank); ~~to review the various economic development~~  
22 ~~policy recommendations made by other agencies or organizations~~  
23 ~~and recommend to the Governor and legislature those strategies,~~  
24 ~~policies and programs it deems to be in the best interest of~~  
25 ~~the State by January 1, 1991, and thereafter by January 1 of~~  
26 ~~each year; and~~

1           (i) (blank); ~~to make specific recommendations for the~~  
2 ~~establishment of public private cooperative efforts in~~  
3 ~~economic development and State local cooperative efforts,~~  
4 ~~including, but not limited to, the need for establishing formal~~  
5 ~~working relationships, whether by contract or otherwise, for~~  
6 ~~purposes of engaging in joint, cooperative economic~~  
7 ~~development activities.~~

8           (j) to approve or reject applications for credits under the  
9 Economic Development for a Growing Economy Tax Credit Act; and

10           (k) to evaluate whether or not credits awarded under the  
11 Economic Development for a Growing Economy Tax Credit Act are  
12 meeting their public policy objectives, and to make  
13 recommendations to the Department, the Governor, and the  
14 General Assembly for improvements to the Economic Development  
15 for a Growing Economy Tax Credit program.

16           (Source: P.A. 86-1430.)

17           Section 10. The Economic Development for a Growing Economy  
18 Tax Credit Act is amended by changing Sections 5-5, 5-10, 5-20,  
19 5-25, 5-40, 5-45, 5-50, and 5-70 as follows:

20           (35 ILCS 10/5-5)

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

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

24           "Applicant" means a Taxpayer that is operating a business

1 located or that the Taxpayer plans to locate within the State  
2 of Illinois and that is engaged in interstate or intrastate  
3 commerce for the purpose of manufacturing, processing,  
4 assembling, warehousing, or distributing products, conducting  
5 research and development, providing tourism services,  
6 providing professional services, or providing services in  
7 interstate commerce, office industries, or agricultural  
8 processing, but excluding retail, retail food, or health,~~or~~  
9 ~~professional services.~~ "Applicant" does not include a Taxpayer  
10 who closes or substantially reduces an operation at one  
11 location in the State and relocates substantially the same  
12 operation to another location in the State. This does not  
13 prohibit a Taxpayer from expanding its operations at another  
14 location in the State, provided that existing operations of a  
15 similar nature located within the State are not closed or  
16 substantially reduced. This also does not prohibit a Taxpayer  
17 from moving its operations from one location in the State to  
18 another location in the State for the purpose of expanding the  
19 operation provided that the Department determines that  
20 expansion cannot reasonably be accommodated within the  
21 municipality in which the business is located, or in the case  
22 of a business located in an incorporated area of the county,  
23 within the county in which the business is located, after  
24 conferring with the chief elected official of the municipality  
25 or county and taking into consideration any evidence offered by  
26 the municipality or county regarding the ability to accommodate

1 expansion within the municipality or county.

2 "Board" means the Illinois Economic Development Board  
3 created under Section 2 of the Illinois Economic Development  
4 Board Act.

5 ~~"Committee" means the Illinois Business Investment~~  
6 ~~Committee created under Section 5-25 of this Act within the~~  
7 ~~Illinois Economic Development Board.~~

8 "Credit" means the amount agreed to between the Department  
9 and Applicant under this Act, but not to exceed the Incremental  
10 Income Tax attributable to the Applicant's project or \$10,000  
11 per New Employee, whichever is less.

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

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

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



1 the 98th General Assembly, an individual shall not be  
2 considered a full-time employee unless he or she receives a  
3 salary or other consideration from the Applicant that is equal  
4 to or greater than the median salary, as determined by the  
5 Bureau of Labor Statistics of the United States Department of  
6 Labor in the most recent Occupation Employment Statistics (OES)  
7 survey, for that individual's occupation and the metropolitan  
8 or nonmetropolitan statistical area in which that individual is  
9 employed.

10 "Incremental Income Tax" means the total amount withheld  
11 during the taxable year from the compensation of New Employees  
12 under Article 7 of the Illinois Income Tax Act arising from  
13 employment at a project that is the subject of an Agreement.

14 "New Employee" means:

15 (a) A Full-time Employee first employed by a Taxpayer  
16 in the project that is the subject of an Agreement and who  
17 is hired after the Taxpayer enters into the tax credit  
18 Agreement.

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

20 (1) an employee of the Taxpayer who performs a job  
21 that was previously performed by another employee, if  
22 that job existed for at least 6 months before hiring  
23 the employee;

24 (2) an employee of the Taxpayer who was previously  
25 employed in Illinois by a Related Member of the  
26 Taxpayer and whose employment was shifted to the

1 Taxpayer after the Taxpayer entered into the tax credit  
2 Agreement; or

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

8 (c) Notwithstanding paragraph (1) of subsection (b),  
9 an employee may be considered a New Employee under the  
10 Agreement if the employee performs a job that was  
11 previously performed by an employee who was:

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

13 and

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

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

18 (1) the Applicant is in receipt of a letter from  
19 the Department stating an intent to enter into a credit  
20 Agreement;

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

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

26 "Noncompliance Date" means, in the case of a Taxpayer that

1 is not complying with the requirements of the Agreement or the  
2 provisions of this Act, the day following the last date upon  
3 which the Taxpayer was in compliance with the requirements of  
4 the Agreement and the provisions of this Act, as determined by  
5 the Director, pursuant to Section 5-65.

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

9 "Professional Employer Organization" (PEO) means an  
10 employee leasing company, as defined in Section 206.1(A)(2) of  
11 the Illinois Unemployment Insurance Act.

12 "Related Member" means a person that, with respect to the  
13 Taxpayer during any portion of the taxable year, is any one of  
14 the following:

15 (1) An individual stockholder, if the stockholder and  
16 the members of the stockholder's family (as defined in  
17 Section 318 of the Internal Revenue Code) own directly,  
18 indirectly, beneficially, or constructively, in the  
19 aggregate, at least 50% of the value of the Taxpayer's  
20 outstanding stock.

21 (2) A partnership, estate, or trust and any partner or  
22 beneficiary, if the partnership, estate, or trust, and its  
23 partners or beneficiaries own directly, indirectly,  
24 beneficially, or constructively, in the aggregate, at  
25 least 50% of the profits, capital, stock, or value of the  
26 Taxpayer.

1           (3) A corporation, and any party related to the  
2 corporation in a manner that would require an attribution  
3 of stock from the corporation to the party or from the  
4 party to the corporation under the attribution rules of  
5 Section 318 of the Internal Revenue Code, if the Taxpayer  
6 owns directly, indirectly, beneficially, or constructively  
7 at least 50% of the value of the corporation's outstanding  
8 stock.

9           (4) A corporation and any party related to that  
10 corporation in a manner that would require an attribution  
11 of stock from the corporation to the party or from the  
12 party to the corporation under the attribution rules of  
13 Section 318 of the Internal Revenue Code, if the  
14 corporation and all such related parties own in the  
15 aggregate at least 50% of the profits, capital, stock, or  
16 value of the Taxpayer.

17           (5) A person to or from whom there is attribution of  
18 stock ownership in accordance with Section 1563(e) of the  
19 Internal Revenue Code, except, for purposes of determining  
20 whether a person is a Related Member under this paragraph,  
21 20% shall be substituted for 5% wherever 5% appears in  
22 Section 1563(e) of the Internal Revenue Code.

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

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

1 (35 ILCS 10/5-10)

2 Sec. 5-10. Powers of the Department. The Department, in  
3 addition to those powers granted under the Civil Administrative  
4 Code of Illinois, is granted and shall have all the powers  
5 necessary or convenient to carry out and effectuate the  
6 purposes and provisions of this Act, including, but not limited  
7 to, power and authority to:

8 (a) Promulgate procedures, rules, or regulations deemed  
9 necessary and appropriate for the administration of the  
10 programs; establish forms for applications, notifications,  
11 contracts, or any other agreements; and accept applications at  
12 any time during the year.

13 (b) Provide and assist Taxpayers pursuant to the provisions  
14 of this Act, and cooperate with Taxpayers that are parties to  
15 Agreements to promote, foster, and support economic  
16 development, capital investment, and job creation or retention  
17 within the State.

18 (c) Enter into agreements and memoranda of understanding  
19 for participation of and engage in cooperation with agencies of  
20 the federal government, local units of government,  
21 universities, research foundations or institutions, regional  
22 economic development corporations, or other organizations for  
23 the purposes of this Act.

24 (d) Gather information and conduct inquiries, in the manner  
25 and by the methods as it deems desirable, including without  
26 limitation, gathering information with respect to Applicants

1 for the purpose of making any designations or certifications  
2 necessary or desirable or to gather information to assist the  
3 Board ~~Committee~~ with any recommendation or guidance in the  
4 furtherance of the purposes of this Act.

5 (e) Establish, negotiate and effectuate any term,  
6 agreement or other document with any person, necessary or  
7 appropriate to accomplish the purposes of this Act; and to  
8 consent, subject to the provisions of any Agreement with  
9 another party, to the modification or restructuring of any  
10 Agreement to which the Department is a party, provided that all  
11 Agreements entered into on or after the effective date of this  
12 amendatory Act of the 98th General Assembly, and all  
13 modifications to or restructuring of Agreements occurring on or  
14 after the effective date of this amendatory Act of the 98th  
15 General Assembly, require the approval of the Board prior to  
16 implementation or continuing implementation.

17 (f) Fix, determine, charge, and collect any premiums, fees,  
18 charges, costs, and expenses from Applicants, including,  
19 without limitation, any application fees, commitment fees,  
20 program fees, financing charges, or publication fees as deemed  
21 appropriate to pay expenses necessary or incident to the  
22 administration, staffing, or operation in connection with the  
23 Department's or Board's ~~Committee's~~ activities under this Act,  
24 or for preparation, implementation, and enforcement of the  
25 terms of the Agreement, or for consultation, advisory and legal  
26 fees, and other costs; however, all fees and expenses incident

1 thereto shall be the responsibility of the Applicant.

2 (g) Provide for sufficient personnel to permit  
3 administration, staffing, operation, and related support  
4 required to adequately discharge its duties and  
5 responsibilities described in this Act from funds made  
6 available through charges to Applicants or from funds as may be  
7 appropriated by the General Assembly for the administration of  
8 this Act.

9 (h) Require Applicants, upon written request, to issue any  
10 necessary authorization to the appropriate federal, state, or  
11 local authority for the release of information concerning a  
12 project being considered under the provisions of this Act, with  
13 the information requested to include, but not be limited to,  
14 financial reports, returns, or records relating to the  
15 Taxpayers' or its project.

16 (i) Require that a Taxpayer shall at all times keep proper  
17 books of record and account in accordance with generally  
18 accepted accounting principles consistently applied, with the  
19 books, records, or papers related to the Agreement in the  
20 custody or control of the Taxpayer open for reasonable  
21 Department inspection and audits, and including, without  
22 limitation, the making of copies of the books, records, or  
23 papers, and the inspection or appraisal of any of the Taxpayer  
24 or project assets.

25 (j) Take whatever actions are necessary or appropriate to  
26 protect the State's interest in the event of bankruptcy,

1 default, foreclosure, or noncompliance with the terms and  
2 conditions of financial assistance or participation required  
3 under this Act, including the power to sell, dispose, lease, or  
4 rent, upon terms and conditions determined by the Director to  
5 be appropriate, real or personal property that the Department  
6 may receive as a result of these actions.

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

8 (35 ILCS 10/5-20)

9 Sec. 5-20. Application for a project to create and retain  
10 new jobs.

11 (a) Any Taxpayer proposing a project located or planned to  
12 be located in Illinois may request consideration for  
13 designation of its project, ~~by formal written letter of request~~  
14 ~~or~~ by formal application to the Department, in which the  
15 Applicant states its intent ~~to make at least a specified level~~  
16 ~~of investment and intends~~ to hire or retain a specified number  
17 of full-time employees at a designated location in Illinois.  
18 The Department shall prepare a standard, formal, written  
19 application form for all Applicants. All Applicants who apply  
20 for Credits under this Act on or after the effective date of  
21 this amendatory Act of the 98th General Assembly shall complete  
22 that application. As circumstances require, the Department may  
23 ~~require a formal application from an Applicant and a formal~~  
24 ~~letter of request for assistance.~~

25 (b) In order to qualify for Credits under this Act, an



1 Applicant's project must employ at least 25 New Employees  
2 within the State as a direct result of the project, except that  
3 (i) if the Applicant has 100 or fewer employees, then the  
4 Applicant must employ at least 5 New Employees within the State  
5 as a direct result of the project, and (ii) if the Department  
6 and the Board determine that the project will provide a  
7 substantial economic benefit to the State, then the Applicant  
8 may employ fewer than 25 New Employees within the State. If an  
9 Applicant's project employs fewer than 25 New Employees under  
10 item (ii) of this subsection (b), then the Department and the  
11 Board must expressly specify the minimum number of New  
12 Employees that the Applicant is required to employ. If, in any  
13 taxable year during which an Agreement is in effect, the total  
14 number of employees employed by the Taxpayer in Illinois is  
15 less than the total number of employees employed the Taxpayer  
16 in Illinois during the previous taxable year, the Taxpayer  
17 shall be deemed to be in noncompliance with the Agreement.†

18 ~~(1) involve an investment of at least \$5,000,000 in~~  
19 ~~capital improvements to be placed in service and to employ~~  
20 ~~at least 25 New Employees within the State as a direct~~  
21 ~~result of the project;~~

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

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

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

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

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

14 (35 ILCS 10/5-25)

15 Sec. 5-25. Review of Application.

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

1 the county board or the mayor, may serve as members of the  
2 Committee to assist with its analysis and deliberations. The  
3 Business Investment Committee shall be dissolved on the  
4 effective date of this amendatory Act of the 98th General  
5 Assembly, and the duties and responsibilities of the Committee  
6 shall be assumed by the Board.

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

17 (1) The Applicant ~~Applicant's project intends, as~~  
18 ~~required by subsection (b) of Section 5-20 to make the~~  
19 ~~required investment in the State and intends to hire the~~  
20 required number of New Employees in Illinois as a result of  
21 that project.

22 (2) The Applicant's project is economically sound and  
23 will benefit the people of the State of Illinois by  
24 increasing opportunities for employment and strengthen the  
25 economy of Illinois.

26 (3) That, if not for the Credit, the project would not

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

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

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

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

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

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

2 (35 ILCS 10/5-40)

3 Sec. 5-40. Determination of Amount of the Credit. In  
4 determining the amount of the Credit that should be awarded,  
5 the Board ~~Committee~~ shall provide guidance on, and the  
6 Department shall take into consideration, the following  
7 factors:

8 (1) The number and location of jobs created and  
9 retained in relation to the economy of the county where the  
10 projected investment is to occur.

11 (2) The potential impact on the economy of Illinois.

12 (3) The magnitude of the cost differential between  
13 Illinois and the competing state.

14 (4) The incremental payroll attributable to the  
15 project.

16 (5) (Blank). ~~The capital investment attributable to~~  
17 ~~the project.~~

18 (6) The amount of the average wage and benefits paid by  
19 the Applicant in relation to the wage and benefits of the  
20 area of the project.

21 (7) The costs to Illinois and the affected political  
22 subdivisions with respect to the project.

23 (8) The financial assistance that is otherwise  
24 provided by Illinois and the affected political  
25 subdivisions.

1           (9) Whether the Applicant's proposed credit per job is  
2           lower or higher than other past credits awarded.

3           (10) Whether the Applicant's proposed credit per job is  
4           lower or higher than other Applicants.

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

6           (35 ILCS 10/5-45)

7           Sec. 5-45. Amount and duration of the credit.

8           (a) Subject to the approval of the Board, the ~~The~~  
9           Department shall determine the amount and duration of the  
10           credit awarded under this Act. The duration of the credit may  
11           not exceed 5 ~~10~~ taxable years. The credit may be stated as a  
12           percentage of the Incremental Income Tax attributable to the  
13           applicant's project and may include a fixed dollar limitation.

14           (b) Notwithstanding subsection (a), and except as the  
15           credit may be applied in a carryover year pursuant to Section  
16           211(4) of the Illinois Income Tax Act, the credit may be  
17           applied against the State income tax liability in more than 5  
18           ~~10~~ taxable years but not in more than 10 ~~15~~ taxable years for  
19           an eligible business that (i) qualifies under this Act and the  
20           Corporate Headquarters Relocation Act and has in fact  
21           undertaken a qualifying project within the time frame specified  
22           by the Department of Commerce and Economic Opportunity under  
23           that Act, and (ii) applies against its State income tax  
24           liability, during the entire 10-year ~~15-year~~ period, no more  
25           than 60% of the maximum credit per year that would otherwise be

1 available under this Act.

2 (c) Notwithstanding any other provision of law, no more  
3 than \$100,000,000 in credits may be awarded under this Act in  
4 State Fiscal Year 2014. In each State fiscal year thereafter,  
5 the total amount of credits that may be awarded under this Act  
6 shall be increased by the percentage increase, if any, in the  
7 Consumer Price Index for All Urban Consumers, as issued by the  
8 United States Department of Labor, Bureau of Labor Statistics,  
9 during the 12-month calendar year immediately preceding that  
10 State fiscal year. This limitation does not apply to amounts  
11 that are carried forward under Section 211 of the Illinois  
12 Income Tax Act.

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

14 (35 ILCS 10/5-50)

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

19 (1) A detailed description of the project that is the  
20 subject of the Agreement, including the location ~~and amount~~  
21 ~~of the investment~~ and the number of jobs created or  
22 retained.

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

25 (3) The Credit amount that will be allowed for each

1 taxable year.

2 (4) A requirement that the Taxpayer shall maintain  
3 operations at the project location that shall be stated as  
4 a minimum number of years not to exceed 5 ~~10~~.

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

7 (6) A requirement that the Taxpayer shall annually  
8 report to the Department the number of New Employees, the  
9 Incremental Income Tax withheld in connection with the New  
10 Employees, and any other information the Director needs to  
11 perform the Director's duties under this Act.

12 (7) A requirement that the Director is authorized to  
13 verify with the appropriate State agencies the amounts  
14 reported under paragraph (6), and after doing so shall  
15 issue a certificate to the Taxpayer stating that the  
16 amounts have been verified.

17 (8) A requirement that the Taxpayer shall provide  
18 written notification to the Director not more than 30 days  
19 after the Taxpayer makes or receives a proposal that would  
20 transfer the Taxpayer's State tax liability obligations to  
21 a successor Taxpayer.

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

26 (10) (Blank). ~~The minimum investment the business~~



1 ~~enterprise will make in capital improvements, the time~~  
2 ~~period for placing the property in service, and the~~  
3 ~~designated location in Illinois for the investment.~~

4 (11) A requirement that the Taxpayer shall provide  
5 written notification to the Director and the Board  
6 ~~Committee~~ not more than 30 days after the Taxpayer  
7 determines that the minimum job creation or retention,  
8 employment payroll, or investment, if applicable, no  
9 longer is being or will be achieved or maintained as set  
10 forth in the terms and conditions of the Agreement.

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

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

18 (13.5) A provision that, if the Taxpayer never meets  
19 either the investment or job creation and retention  
20 requirements specified in the Agreement during the entire  
21 5-year period beginning on the first day of the first  
22 taxable year in which the Agreement is executed and ending  
23 on the last day of the fifth taxable year after the  
24 Agreement is executed, then the Agreement is automatically  
25 terminated on the last day of the fifth taxable year after  
26 the Agreement is executed and the Taxpayer is not entitled

1 to the award of any credits for any of that 5-year period.

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

4 The Department shall post on its website the terms of each  
5 Agreement entered into under this Act on or after the effective  
6 date of this amendatory Act of the 97th General Assembly.

7 Any Agreement entered into on or after the effective date  
8 of this amendatory Act of the 98th General Assembly is subject  
9 to the approval of the Board. Any modifications to an existing  
10 Agreement that take effect on or after the effective date of  
11 this amendatory Act of the 98th General Assembly are subject to  
12 the approval of the Board. The Department must forward any  
13 proposed Agreements or modifications to the Board within 15  
14 days after the terms of the Agreement or modification are  
15 finalized.

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

17 (35 ILCS 10/5-70)

18 Sec. 5-70. Annual report. On or before July 1 each year,  
19 the Board ~~Committee~~ shall submit a report to the Department on  
20 the tax credit program under this Act to the Governor and the  
21 General Assembly. The report shall include information on the  
22 number of Agreements that were entered into under this Act  
23 during the preceding calendar year, a description of the  
24 project that is the subject of each Agreement, an update on the  
25 status of projects under Agreements entered into before the

1 preceding calendar year, and the sum of the Credits awarded  
2 under this Act. A copy of the report shall be delivered to the  
3 Governor and to each member of the General Assembly and shall  
4 be posted on the Department's website.

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