



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB5315

by Rep. Jeanne M Ives

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/211  
35 ILCS 10/5-10  
35 ILCS 10/5-15  
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 10/5-55

Amends the Economic Development for a Growing Economy Tax Credit Act and the Illinois Income Tax Act. Provides that, for tax years beginning on or after January 1, 2015, each taxpayer that demonstrates completion of a project in Illinois during the taxable year that involves (i) an investment by the taxpayer of at least \$1,000,000 in capital improvements to be placed into service in Illinois and (ii) the employment of at least 5 new employees in Illinois is entitled to an EDGE credit. Provides that the amount of the credit shall be determined by multiplying the taxpayer's income tax rate by the average wage of the jobs created and then multiplying the result by the number of jobs created.

LRB098 19201 HLH 54353 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 Income Tax Act is amended by  
5 changing Section 211 as follows:

6 (35 ILCS 5/211)

7 Sec. 211. Economic Development for a Growing Economy Tax  
8 Credit.

9 (a) For tax years beginning on or after January 1, 1999,  
10 and beginning prior to January 1, 2015, a Taxpayer who has  
11 entered into an Agreement under the Economic Development for a  
12 Growing Economy Tax Credit Act is entitled to a credit against  
13 the taxes imposed under subsections (a) and (b) of Section 201  
14 of this Act in an amount to be determined in the Agreement. If  
15 the Taxpayer is a partnership or Subchapter S corporation, the  
16 credit shall be allowed to the partners or shareholders in  
17 accordance with the determination of income and distributive  
18 share of income under Sections 702 and 704 and subchapter S of  
19 the Internal Revenue Code. The Department, in cooperation with  
20 the Department of Commerce and Economic Opportunity, shall  
21 prescribe rules to enforce and administer the provisions of  
22 this Section. This Section is exempt from the provisions of  
23 Section 250 of this Act.

1           The credit shall be subject to the conditions set forth in  
2 the Agreement and the following limitations:

3           (1) The tax credit shall not exceed the Incremental  
4 Income Tax (as defined in Section 5-5 of the Economic  
5 Development for a Growing Economy Tax Credit Act) with  
6 respect to the project.

7           (2) The amount of the credit allowed during the tax  
8 year plus the sum of all amounts allowed in prior years  
9 shall not exceed 100% of the aggregate amount expended by  
10 the Taxpayer during all prior tax years on approved costs  
11 defined by Agreement.

12           (3) The amount of the credit shall be determined on an  
13 annual basis. Except as applied in a carryover year  
14 pursuant to Section 211(4) of this Act, the credit may not  
15 be applied against any State income tax liability in more  
16 than 10 taxable years; provided, however, that (i) an  
17 eligible business certified by the Department of Commerce  
18 and Economic Opportunity under the Corporate Headquarters  
19 Relocation Act may not apply the credit against any of its  
20 State income tax liability in more than 15 taxable years  
21 and (ii) credits allowed to that eligible business are  
22 subject to the conditions and requirements set forth in  
23 Sections 5-35 and 5-45 of the Economic Development for a  
24 Growing Economy Tax Credit Act.

25           (4) The credit may not exceed the amount of taxes  
26 imposed pursuant to subsections (a) and (b) of Section 201

1 of this Act. Any credit that is unused in the year the  
2 credit is computed may be carried forward and applied to  
3 the tax liability of the 5 taxable years following the  
4 excess credit year. The credit shall be applied to the  
5 earliest year for which there is a tax liability. If there  
6 are credits from more than one tax year that are available  
7 to offset a liability, the earlier credit shall be applied  
8 first.

9 (5) No credit shall be allowed with respect to any  
10 Agreement for any taxable year ending after the  
11 Noncompliance Date. Upon receiving notification by the  
12 Department of Commerce and Economic Opportunity of the  
13 noncompliance of a Taxpayer with an Agreement, the  
14 Department shall notify the Taxpayer that no credit is  
15 allowed with respect to that Agreement for any taxable year  
16 ending after the Noncompliance Date, as stated in such  
17 notification. If any credit has been allowed with respect  
18 to an Agreement for a taxable year ending after the  
19 Noncompliance Date for that Agreement, any refund paid to  
20 the Taxpayer for that taxable year shall, to the extent of  
21 that credit allowed, be an erroneous refund within the  
22 meaning of Section 912 of this Act.

23 (6) For purposes of this Section, the terms  
24 "Agreement", "Incremental Income Tax", and "Noncompliance  
25 Date" have the same meaning as when used in the Economic  
26 Development for a Growing Economy Tax Credit Act.

1       (b) For tax years beginning on or after January 1, 2015, a  
2 taxpayer that demonstrates completion of a project in Illinois  
3 during the taxable year that involves (i) an investment by the  
4 taxpayer of at least \$1,000,000 in capital improvements to be  
5 placed into service in Illinois and (ii) the employment of at  
6 least 5 new employees in Illinois, as "new employee" is defined  
7 in Section 5-5 of the Economic Development for a Growing  
8 Economy Tax Credit Act, is entitled to a credit against the  
9 taxes imposed under subsections (a) and (b) of Section 201 of  
10 this Act in an amount determined by multiplying the rate of tax  
11 set forth in subsection (b) of Section 201 for that taxpayer by  
12 the average wage of the jobs created, as certified by the  
13 Department of Commerce and Economic Opportunity, and then  
14 multiplying the result by the number of jobs created, as  
15 certified by the Department of Commerce and Economic  
16 Opportunity. The Department of Commerce and Economic  
17 Opportunity shall certify both the eligibility of the taxpayer  
18 to receive credits under this Section and the wage and  
19 employment information set forth in this subsection (b).

20       If the Taxpayer is a partnership or Subchapter S  
21 corporation, the credit shall be allowed to the partners or  
22 shareholders in accordance with the determination of income and  
23 distributive share of income under Sections 702 and 704 and  
24 subchapter S of the Internal Revenue Code.

25       The credit may not exceed the amount of taxes imposed  
26 pursuant to subsections (a) and (b) of Section 201 of this Act.

1 Any credit that is unused in the year the credit is computed  
2 may be carried forward and applied to the tax liability of the  
3 5 taxable years following the excess credit year. The credit  
4 shall be applied to the earliest year for which there is a tax  
5 liability. If there are credits from more than one tax year  
6 that are available to offset a liability, the earlier credit  
7 shall be applied first.

8 Nothing in this subsection (b) shall invalidate any tax  
9 credit award entered into prior to the effective date of this  
10 amendatory Act of the 98th General Assembly.

11 This Section is exempt from the provisions of Section 250  
12 of this Act.

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

14 Section 10. The Economic Development for a Growing Economy  
15 Tax Credit Act is amended by changing Sections 5-10, 5-15,  
16 5-20, 5-25, 5-40, 5-45, 5-50, and 5-55 as follows:

17 (35 ILCS 10/5-10)

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

24 (a) Promulgate procedures, rules, or regulations deemed

1 necessary and appropriate for the administration of the  
2 programs; establish forms for applications, notifications,  
3 contracts, or any other agreements; and, for taxable years  
4 beginning prior to January 1, 2015, accept applications at any  
5 time during the year.

6 (b) Provide and assist Taxpayers pursuant to the provisions  
7 of this Act, and cooperate with Taxpayers that are parties to  
8 Agreements to promote, foster, and support economic  
9 development, capital investment, and job creation or retention  
10 within the State.

11 (c) For taxable years beginning prior to January 1, 2015,  
12 enter ~~Enter~~ into agreements and memoranda of understanding for  
13 participation of and engage in cooperation with agencies of the  
14 federal government, local units of government, universities,  
15 research foundations or institutions, regional economic  
16 development corporations, or other organizations for the  
17 purposes of this Act.

18 (d) Gather information and conduct inquiries, in the manner  
19 and by the methods as it deems desirable, including without  
20 limitation, gathering information with respect to Applicants  
21 and Taxpayers for the purpose of making any designations or  
22 certifications, including certifications under subsection (b)  
23 of Section 211 of the Illinois Income Tax Act, necessary or  
24 desirable or to gather information to assist the Committee with  
25 any recommendation or guidance in the furtherance of the  
26 purposes of this Act.

1           (e) For taxable years beginning prior to January 1, 2015,  
2 establish ~~Establish~~, negotiate and effectuate any term,  
3 agreement or other document with any person, necessary or  
4 appropriate to accomplish the purposes of this Act; and to  
5 consent, subject to the provisions of any Agreement with  
6 another party, to the modification or restructuring of any  
7 Agreement to which the Department is a party.

8           (f) Prior to January 1, 2015, fix ~~Fix~~, determine, charge,  
9 and collect any premiums, fees, charges, costs, and expenses  
10 from Applicants, including, without limitation, any  
11 application fees, commitment fees, program fees, financing  
12 charges, or publication fees as deemed appropriate to pay  
13 expenses necessary or incident to the administration,  
14 staffing, or operation in connection with the Department's or  
15 Committee's activities under this Act, or for preparation,  
16 implementation, and enforcement of the terms of the Agreement,  
17 or for consultation, advisory and legal fees, and other costs;  
18 however, all fees and expenses incident thereto shall be the  
19 responsibility of the Applicant.

20           (g) Provide for sufficient personnel to permit  
21 administration, staffing, operation, and related support  
22 required to adequately discharge its duties and  
23 responsibilities described in this Act from funds made  
24 available through charges to Applicants or from funds as may be  
25 appropriated by the General Assembly for the administration of  
26 this Act.



1           (h) Require Applicants and Taxpayers, upon written  
2 request, to issue any necessary authorization to the  
3 appropriate federal, state, or local authority for the release  
4 of information concerning a project being considered under the  
5 provisions of this Act, with the information requested to  
6 include, but not be limited to, financial reports, returns, or  
7 records relating to the Taxpayers' or its project.

8           (i) Require that a Taxpayer shall at all times keep proper  
9 books of record and account in accordance with generally  
10 accepted accounting principles consistently applied, with the  
11 books, records, or papers related to the Agreement in the  
12 custody or control of the Taxpayer open for reasonable  
13 Department inspection and audits, and including, without  
14 limitation, the making of copies of the books, records, or  
15 papers, and the inspection or appraisal of any of the Taxpayer  
16 or project assets.

17           (j) Take whatever actions are necessary or appropriate to  
18 protect the State's interest in the event of bankruptcy,  
19 default, foreclosure, or noncompliance with the terms and  
20 conditions of financial assistance or participation required  
21 under this Act, including the power to sell, dispose, lease, or  
22 rent, upon terms and conditions determined by the Director to  
23 be appropriate, real or personal property that the Department  
24 may receive as a result of these actions.

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

1 (35 ILCS 10/5-15)

2 Sec. 5-15. Tax Credit Awards. Subject to the conditions set  
3 forth in this Act, for taxable years beginning prior to January  
4 1, 2015, a Taxpayer is entitled to a Credit against or, as  
5 described in subsection (g) of this Section, a payment towards  
6 taxes imposed pursuant to subsections (a) and (b) of Section  
7 201 of the Illinois Income Tax Act that may be imposed on the  
8 Taxpayer for a taxable year beginning on or after January 1,  
9 1999, if the Taxpayer is awarded a Credit by the Department  
10 under this Act for that taxable year.

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

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

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

18 (d) The Credit shall not exceed the Incremental Income Tax  
19 attributable to the project that is the subject of the  
20 Agreement.

21 (e) Nothing herein shall prohibit a Tax Credit Award to an  
22 Applicant that uses a PEO if all other award criteria are  
23 satisfied.

24 (f) In lieu of the Credit allowed under this Act against  
25 the taxes imposed pursuant to subsections (a) and (b) of  
26 Section 201 of the Illinois Income Tax Act for any taxable year

1 ending on or after December 31, 2009, the Taxpayer may elect to  
2 claim the Credit against its obligation to pay over withholding  
3 under Section 704A of the Illinois Income Tax Act.

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

16 (A) the Taxpayer (i) had an Illinois net loss or an  
17 Illinois net loss deduction under Section 207 of the  
18 Illinois Income Tax Act for the taxable year in which  
19 the Credit is awarded, (ii) employed a minimum of 1,000  
20 full-time employees in this State during the taxable  
21 year in which the Credit is awarded, (iii) has an  
22 Agreement under this Act on December 14, 2009 (the  
23 effective date of Public Act 96-834), and (iv) is in  
24 compliance with all provisions of that Agreement;

25 (B) the Taxpayer (i) had an Illinois net loss or an  
26 Illinois net loss deduction under Section 207 of the

1 Illinois Income Tax Act for the taxable year in which  
2 the Credit is awarded, (ii) employed a minimum of 1,000  
3 full-time employees in this State during the taxable  
4 year in which the Credit is awarded, and (iii) has  
5 applied for an Agreement within 365 days after December  
6 14, 2009 (the effective date of Public Act 96-834);

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

17 (D) the Taxpayer (i) had an Illinois net operating  
18 loss carryforward under Section 207 of the Illinois  
19 Income Tax Act in a taxable year ending during calendar  
20 year 2009, (ii) has applied for an Agreement within 150  
21 days after the effective date of this amendatory Act of  
22 the 96th General Assembly, (iii) creates at least 150  
23 new jobs, (iv) retains at least 1,000 jobs in Illinois  
24 that would have been at risk of relocation out of  
25 Illinois over a 10-year period, and (v) makes a capital  
26 investment of at least \$57,000,000; or

1 (E) the Taxpayer (i) employed at least 2,500  
2 full-time employees in the State during the year in  
3 which the Credit is awarded, (ii) commits to make at  
4 least \$500,000,000 in combined capital improvements  
5 and project costs under the Agreement, (iii) applies  
6 for an Agreement between January 1, 2011 and June 30,  
7 2011, (iv) executes an Agreement for the Credit during  
8 calendar year 2011, and (v) was incorporated no more  
9 than 5 years before the filing of an application for an  
10 Agreement.

11 (1.5) The election under this subsection (f) may also  
12 be made by a Taxpayer for any Credit awarded pursuant to an  
13 agreement that was executed between January 1, 2011 and  
14 June 30, 2011, if the Taxpayer (i) is primarily engaged in  
15 the manufacture of inner tubes or tires, or both, from  
16 natural and synthetic rubber, (ii) employs a minimum of  
17 2,400 full-time employees in Illinois at the time of  
18 application, (iii) creates at least 350 full-time jobs and  
19 retains at least 250 full-time jobs in Illinois that would  
20 have been at risk of being created or retained outside of  
21 Illinois, and (iv) makes a capital investment of at least  
22 \$200,000,000 at the project location.

23 (1.6) The election under this subsection (f) may also  
24 be made by a Taxpayer for any Credit awarded pursuant to an  
25 agreement that was executed within 150 days after the  
26 effective date of this amendatory Act of the 97th General

1 Assembly, if the Taxpayer (i) is primarily engaged in the  
2 operation of a discount department store, (ii) maintains  
3 its corporate headquarters in Illinois, (iii) employs a  
4 minimum of 4,250 full-time employees at its corporate  
5 headquarters in Illinois at the time of application, (iv)  
6 retains at least 4,250 full-time jobs in Illinois that  
7 would have been at risk of being relocated outside of  
8 Illinois, (v) had a minimum of \$40,000,000,000 in total  
9 revenue in 2010, and (vi) makes a capital investment of at  
10 least \$300,000,000 at the project location.

11 (1.7) Notwithstanding any other provision of law, the  
12 election under this subsection (f) may also be made by a  
13 Taxpayer for any Credit awarded pursuant to an agreement  
14 that was executed or applied for on or after July 1, 2011  
15 and on or before March 31, 2012, if the Taxpayer is  
16 primarily engaged in the manufacture of original and  
17 aftermarket filtration parts and products for automobiles,  
18 motor vehicles, light duty motor vehicles, light trucks and  
19 utility vehicles, and heavy duty trucks, (ii) employs a  
20 minimum of 1,000 full-time employees in Illinois at the  
21 time of application, (iii) creates at least 250 full-time  
22 jobs in Illinois, (iv) relocates its corporate  
23 headquarters to Illinois from another state, and (v) makes  
24 a capital investment of at least \$4,000,000 at the project  
25 location.

26 (2) An election under this subsection shall allow the

1 credit to be taken against payments otherwise due under  
2 Section 704A of the Illinois Income Tax Act during the  
3 first calendar year beginning after the end of the taxable  
4 year in which the credit is awarded under this Act.

5 (3) The election shall be made in the form and manner  
6 required by the Illinois Department of Revenue and, once  
7 made, shall be irrevocable.

8 (4) If a Taxpayer who meets the requirements of  
9 subparagraph (A) of paragraph (1) of this subsection (f)  
10 elects to claim the Credit against its withholdings as  
11 provided in this subsection (f), then, on and after the  
12 date of the election, the terms of the Agreement between  
13 the Taxpayer and the Department may not be further amended  
14 during the term of the Agreement.

15 (g) A pass-through entity that has been awarded a credit  
16 under this Act, its shareholders, or its partners may treat  
17 some or all of the credit awarded pursuant to this Act as a tax  
18 payment for purposes of the Illinois Income Tax Act. The term  
19 "tax payment" means a payment as described in Article 6 or  
20 Article 8 of the Illinois Income Tax Act or a composite payment  
21 made by a pass-through entity on behalf of any of its  
22 shareholders or partners to satisfy such shareholders' or  
23 partners' taxes imposed pursuant to subsections (a) and (b) of  
24 Section 201 of the Illinois Income Tax Act. In no event shall  
25 the amount of the award credited pursuant to this Act exceed  
26 the Illinois income tax liability of the pass-through entity or

1 its shareholders or partners for the taxable year.

2 For taxable years beginning on or after January 1, 2015,  
3 tax credits shall be awarded as provided in subsection (b) of  
4 Section 211 of the Illinois Income Tax Act.

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

8 (35 ILCS 10/5-20)

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

11 (a) For taxable years beginning prior to January 1, 2015,  
12 any ~~Any~~ Taxpayer proposing a project located or planned to be  
13 located in Illinois may request consideration for designation  
14 of its project, by formal written letter of request or by  
15 formal application to the Department, in which the Applicant  
16 states its intent to make at least a specified level of  
17 investment and intends to hire or retain a specified number of  
18 full-time employees at a designated location in Illinois. As  
19 circumstances require, the Department may require a formal  
20 application from an Applicant and a formal letter of request  
21 for assistance.

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

24 (1) involve an investment of at least \$5,000,000 in  
25 capital improvements to be placed in service and to employ



1 at least 25 New Employees within the State as a direct  
2 result of the project;

3 (2) involve an investment of at least an amount (to be  
4 expressly specified by the Department and the Committee) in  
5 capital improvements to be placed in service and will  
6 employ at least an amount (to be expressly specified by the  
7 Department and the Committee) of New Employees within the  
8 State, provided that the Department and the Committee have  
9 determined that the project will provide a substantial  
10 economic benefit to the State; or

11 (3) if the applicant has 100 or fewer employees,  
12 involve an investment of at least \$1,000,000 in capital  
13 improvements to be placed in service and to employ at least  
14 5 New Employees within the State as a direct result of the  
15 project.

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

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

20 (35 ILCS 10/5-25)

21 Sec. 5-25. Review of Application.

22 (a) In addition to those duties granted under the Illinois  
23 Economic Development Board Act, the Illinois Economic  
24 Development Board shall form a Business Investment Committee  
25 for the purpose of making recommendations for applications. At

1 the request of the Board, the Director of Commerce and Economic  
2 Opportunity or his or her designee, the Director of the  
3 Governor's Office of Management and Budget or his or her  
4 designee, the Director of Revenue or his or her designee, the  
5 Director of Employment Security or his or her designee, and an  
6 elected official of the affected locality, such as the chair of  
7 the county board or the mayor, may serve as members of the  
8 Committee to assist with its analysis and deliberations.

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

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

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

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

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

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

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

26           (7) The Credit is not prohibited by Section 5-35 of

1           this Act.

2           Notwithstanding any other provision of law, the Business  
3 Investment Committee is dissolved on January 1, 2015.

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

5           (35 ILCS 10/5-40)

6           Sec. 5-40. Determination of Amount of the Credit. With  
7 respect to credits awarded for taxable years beginning prior to  
8 January 1, 2015, in ~~in~~ determining the amount of the Credit  
9 that should be awarded, the Committee shall provide guidance  
10 on, and the Department shall take into consideration, the  
11 following factors:

12           (1) The number and location of jobs created and  
13 retained in relation to the economy of the county where the  
14 projected investment is to occur.

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

16           (3) The magnitude of the cost differential between  
17 Illinois and the competing state.

18           (4) The incremental payroll attributable to the  
19 project.

20           (5) The capital investment attributable to the  
21 project.

22           (6) The amount of the average wage and benefits paid by  
23 the Applicant in relation to the wage and benefits of the  
24 area of the project.

25           (7) The costs to Illinois and the affected political

1 subdivisions with respect to the project.

2 (8) The financial assistance that is otherwise  
3 provided by Illinois and the affected political  
4 subdivisions.

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) With respect to credits awarded for taxable years  
9 beginning prior to January 1, 2015, the ~~The~~ Department shall  
10 determine the amount and duration of the credit awarded under  
11 this Act. The duration of the credit may not exceed 10 taxable  
12 years. The credit may be stated as a percentage of the  
13 Incremental Income Tax attributable to the applicant's project  
14 and may include a fixed dollar limitation.

15 (b-5) With respect to credits awarded for taxable years  
16 beginning on or after January 1, 2015, the amount of the credit  
17 shall be determined according to subsection (b) of Section 211  
18 of the Illinois Income Tax Act.

19 (b) Notwithstanding subsection (a), and except as the  
20 credit may be applied in a carryover year pursuant to Section  
21 211~~(4)~~ of the Illinois Income Tax Act, the credit may be  
22 applied against the State income tax liability in more than 10  
23 taxable years but not in more than 15 taxable years for an  
24 eligible business that (i) qualifies under this Act and the  
25 Corporate Headquarters Relocation Act and has in fact

1 undertaken a qualifying project within the time frame specified  
2 by the Department of Commerce and Economic Opportunity under  
3 that Act, and (ii) applies against its State income tax  
4 liability, during the entire 15-year period, no more than 60%  
5 of the maximum credit per year that would otherwise be  
6 available under this Act.

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

8 (35 ILCS 10/5-50)

9 Sec. 5-50. Contents of Agreements with Applicants. With  
10 respect to credits awarded for taxable years beginning prior to  
11 January 1, 2015, the ~~The~~ Department shall enter into an  
12 Agreement with an Applicant that is awarded a Credit under this  
13 Act. The Agreement must include all of the following:

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

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

19 (3) The Credit amount that will be allowed for each  
20 taxable year.

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

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

1           (6) A requirement that the Taxpayer shall annually  
2 report to the Department the number of New Employees, the  
3 Incremental Income Tax withheld in connection with the New  
4 Employees, and any other information the Director needs to  
5 perform the Director's duties under this Act.

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

11           (8) A requirement that the Taxpayer shall provide  
12 written notification to the Director not more than 30 days  
13 after the Taxpayer makes or receives a proposal that would  
14 transfer the Taxpayer's State tax liability obligations to  
15 a successor Taxpayer.

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

20           (10) The minimum investment the business enterprise  
21 will make in capital improvements, the time period for  
22 placing the property in service, and the designated  
23 location in Illinois for the investment.

24           (11) A requirement that the Taxpayer shall provide  
25 written notification to the Director and the Committee not  
26 more than 30 days after the Taxpayer determines that the

1 minimum job creation or retention, employment payroll, or  
2 investment no longer is being or will be achieved or  
3 maintained as set forth in the terms and conditions of the  
4 Agreement.

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

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

12 (13.5) A provision that, if the Taxpayer never meets  
13 either the investment or job creation and retention  
14 requirements specified in the Agreement during the entire  
15 5-year period beginning on the first day of the first  
16 taxable year in which the Agreement is executed and ending  
17 on the last day of the fifth taxable year after the  
18 Agreement is executed, then the Agreement is automatically  
19 terminated on the last day of the fifth taxable year after  
20 the Agreement is executed and the Taxpayer is not entitled  
21 to the award of any credits for any of that 5-year period.

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.



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

2 (35 ILCS 10/5-55)

3 Sec. 5-55. Certificate of verification; submission to the  
4 Department of Revenue. A Taxpayer claiming a Credit under this  
5 Act shall submit to the Department of Revenue a copy of the  
6 Director's certificate of verification under this Act for the  
7 taxable year. However, failure to submit a copy of the  
8 certificate with the Taxpayer's tax return shall not invalidate  
9 a claim for a Credit.

10 For taxable years beginning prior to January 1, 2015, for  
11 ~~For~~ a Taxpayer to be eligible for a certificate of  
12 verification, the Taxpayer shall provide proof as required by  
13 the Department prior to the end of each calendar year,  
14 including, but not limited to, attestation by the Taxpayer  
15 that:

16 (1) The project has substantially achieved the level of  
17 new full-time jobs specified in its Agreement.

18 (2) The project has substantially achieved the level of  
19 annual payroll in Illinois specified in its Agreement.

20 (3) The project has substantially achieved the level of  
21 capital investment in Illinois specified in its Agreement.

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