

1 AN ACT concerning revenue.

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

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

6 (35 ILCS 5/704A)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (35 ILCS 10/5-5)

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

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

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

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

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

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



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

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

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

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

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

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

4 "New Employee" means:

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

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

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

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

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

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

1 previously performed by an employee who was:

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

3 and

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

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

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

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

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

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

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

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

1 the Illinois Unemployment Insurance Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6               (35 ILCS 10/5-15)

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

13 (35 ILCS 10/5-20)

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

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

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

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

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

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

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

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

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

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

12 (35 ILCS 10/5-25)

13 Sec. 5-25. Review of Application.

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

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

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

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

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

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

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

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

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

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

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



1 (35 ILCS 10/5-50)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (1) the name of the recipient business;

4 (2) the location of the project;

5 (3) the estimated value of the credit;

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

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

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

11 (35 ILCS 10/5-57 new)

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

21 (35 ILCS 10/5-65)

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

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

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

21 (35 ILCS 10/5-70)

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

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

8 The report must include, for each Agreement:

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

12 (2) any relevant modifications to existing Agreements;

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

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

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

19 (6) a copy of the original Agreement.

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

21 (35 ILCS 10/5-77)

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

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

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