

# SB1622



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB1622

Introduced 2/9/2017, by Sen. Daniel Biss

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/220

Amends the Illinois Income Tax Act. Provides that the angel investment credit applies for taxable years ending on or before December 31, 2022 (instead of December 31, 2016). Makes changes concerning the annual report submitted by the Department of Commerce and Economic Opportunity to the Governor and the General Assembly. Effective immediately.

LRB100 06203 HLH 16237 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 220 as follows:

6 (35 ILCS 5/220)

7 Sec. 220. Angel investment credit.

8 (a) As used in this Section:

9 "Applicant" means a corporation, partnership, limited  
10 liability company, or a natural person that makes an investment  
11 in a qualified new business venture. The term "applicant" does  
12 not include a corporation, partnership, limited liability  
13 company, or a natural person who has a direct or indirect  
14 ownership interest of at least 51% in the profits, capital, or  
15 value of the investment or a related member.

16 "Claimant" means an applicant certified by the Department  
17 who files a claim for a credit under this Section.

18 "Department" means the Department of Commerce and Economic  
19 Opportunity.

20 "Qualified new business venture" means a business that is  
21 registered with the Department under this Section.

22 "Related member" means a person that, with respect to the  
23 investment, is any one of the following:

1           (1) An individual, if the individual and the members of  
2           the individual's family (as defined in Section 318 of the  
3           Internal Revenue Code) own directly, indirectly,  
4           beneficially, or constructively, in the aggregate, at  
5           least 50% of the value of the outstanding profits, capital,  
6           stock, or other ownership interest in the applicant.

7           (2) A partnership, estate, or trust and any partner or  
8           beneficiary, if the partnership, estate, or trust and its  
9           partners or beneficiaries own directly, indirectly,  
10          beneficially, or constructively, in the aggregate, at  
11          least 50% of the profits, capital, stock, or other  
12          ownership interest in the applicant.

13          (3) A corporation, and any party related to the  
14          corporation in a manner that would require an attribution  
15          of stock from the corporation under the attribution rules  
16          of Section 318 of the Internal Revenue Code, if the  
17          applicant and any other related member own, in the  
18          aggregate, directly, indirectly, beneficially, or  
19          constructively, at least 50% of the value of the  
20          corporation's outstanding stock.

21          (4) A corporation and any party related to that  
22          corporation in a manner that would require an attribution  
23          of stock from the corporation to the party or from the  
24          party to the corporation under the attribution rules of  
25          Section 318 of the Internal Revenue Code, if the  
26          corporation and all such related parties own, in the

1 aggregate, at least 50% of the profits, capital, stock, or  
2 other ownership interest in the applicant.

3 (5) A person to or from whom there is attribution of  
4 stock ownership in accordance with Section 1563(e) of the  
5 Internal Revenue Code, except that for purposes of  
6 determining whether a person is a related member under this  
7 paragraph, "20%" shall be substituted for "5%" whenever  
8 "5%" appears in Section 1563(e) of the Internal Revenue  
9 Code.

10 (b) For taxable years beginning after December 31, 2010,  
11 and ending on or before December 31, 2022 ~~December 31, 2016~~,  
12 subject to the limitations provided in this Section, a claimant  
13 may claim, as a credit against the tax imposed under  
14 subsections (a) and (b) of Section 201 of this Act, an amount  
15 equal to 25% of the claimant's investment made directly in a  
16 qualified new business venture. In order for an investment in a  
17 qualified new business venture to be eligible for tax credits,  
18 the business must have applied for and received certification  
19 under subsection (e) for the taxable year in which the  
20 investment was made prior to the date on which the investment  
21 was made. The credit under this Section may not exceed the  
22 taxpayer's Illinois income tax liability for the taxable year.  
23 If the amount of the credit exceeds the tax liability for the  
24 year, the excess may be carried forward and applied to the tax  
25 liability of the 5 taxable years following the excess credit  
26 year. The credit shall be applied to the earliest year for

1 which there is a tax liability. If there are credits from more  
2 than one tax year that are available to offset a liability, the  
3 earlier credit shall be applied first. In the case of a  
4 partnership or Subchapter S Corporation, the credit is allowed  
5 to the partners or shareholders in accordance with the  
6 determination of income and distributive share of income under  
7 Sections 702 and 704 and Subchapter S of the Internal Revenue  
8 Code.

9 (c) The maximum amount of an applicant's investment that  
10 may be used as the basis for a credit under this Section is  
11 \$2,000,000 for each investment made directly in a qualified new  
12 business venture.

13 (d) The Department shall implement a program to certify an  
14 applicant for an angel investment credit. Upon satisfactory  
15 review, the Department shall issue a tax credit certificate  
16 stating the amount of the tax credit to which the applicant is  
17 entitled. The Department shall annually certify that the  
18 claimant's investment has been made and remains in the  
19 qualified new business venture for no less than 3 years.

20 If an investment for which a claimant is allowed a credit  
21 under subsection (b) is held by the claimant for less than 3  
22 years, or, if within that period of time the qualified new  
23 business venture is moved from the State of Illinois, the  
24 claimant shall pay to the Department of Revenue, in the manner  
25 prescribed by the Department of Revenue, the amount of the  
26 credit that the claimant received related to the investment.

1           (e) The Department shall implement a program to register  
2 qualified new business ventures for purposes of this Section. A  
3 business desiring registration shall submit an application to  
4 the Department in each taxable year for which the business  
5 desires registration. The Department may register the business  
6 only if the business satisfies all of the following conditions:

7           (1) it has its headquarters in this State;

8           (2) at least 51% of the employees employed by the  
9 business are employed in this State;

10          (3) it has the potential for increasing jobs in this  
11 State, increasing capital investment in this State, or  
12 both, and either of the following apply:

13           (A) it is principally engaged in innovation in any  
14 of the following: manufacturing; biotechnology;  
15 nanotechnology; communications; agricultural sciences;  
16 clean energy creation or storage technology;  
17 processing or assembling products, including medical  
18 devices, pharmaceuticals, computer software, computer  
19 hardware, semiconductors, other innovative technology  
20 products, or other products that are produced using  
21 manufacturing methods that are enabled by applying  
22 proprietary technology; or providing services that are  
23 enabled by applying proprietary technology; or

24           (B) it is undertaking pre-commercialization  
25 activity related to proprietary technology that  
26 includes conducting research, developing a new product

1 or business process, or developing a service that is  
2 principally reliant on applying proprietary  
3 technology;

4 (4) it is not principally engaged in real estate  
5 development, insurance, banking, lending, lobbying,  
6 political consulting, professional services provided by  
7 attorneys, accountants, business consultants, physicians,  
8 or health care consultants, wholesale or retail trade,  
9 leisure, hospitality, transportation, or construction,  
10 except construction of power production plants that derive  
11 energy from a renewable energy resource, as defined in  
12 Section 1 of the Illinois Power Agency Act;

13 (5) at the time it is first certified:

14 (A) it has fewer than 100 employees;

15 (B) it has been in operation in Illinois for not  
16 more than 10 consecutive years prior to the year of  
17 certification; and

18 (C) it has received not more than \$10,000,000 in  
19 aggregate private equity investment in cash;

20 (6) (blank); and

21 (7) it has received not more than \$4,000,000 in  
22 investments that qualified for tax credits under this  
23 Section.

24 (f) The Department, in consultation with the Department of  
25 Revenue, shall adopt rules to administer this Section. The  
26 aggregate amount of the tax credits that may be claimed under

1 this Section for investments made in qualified new business  
2 ventures shall be limited at \$10,000,000 per calendar year.

3 (g) A claimant may not sell or otherwise transfer a credit  
4 awarded under this Section to another person.

5 (h) On or before March 1 of each year, the Department shall  
6 report to the Governor and to the General Assembly on the tax  
7 credit certificates awarded under this Section for the prior  
8 calendar year.

9 (1) This report must include, for each tax credit  
10 certificate awarded:

11 (A) the name of the claimant, ~~and~~ the amount of  
12 credit awarded or allocated to that claimant, and the  
13 name of the recipient qualified new business venture  
14 that received the investment;

15 (B) the name and address, including the county, the  
16 North American Industry Classification System (NAICS)  
17 code, and the number of employees of the qualified new  
18 business venture that received an investment giving  
19 rise to the credit ~~the name and address of the~~  
20 ~~qualified new business venture that received the~~  
21 ~~investment giving rise to the credit and the county in~~  
22 ~~which the qualified new business venture is located;~~  
23 and

24 (C) the date of approval by the Department of each  
25 claimant's ~~the applications for the~~ tax credit  
26 certificate.



1 (2) The report must also include:

2 (A) the total number of applicants and the total  
3 number of claimants, including the amount of each tax  
4 credit certificate and amount for tax credit  
5 ~~certificates~~ awarded to a claimant under this Section  
6 in the prior calendar year;

7 (B) the total number of applications from  
8 businesses seeking registration, the total number of  
9 new qualified business ventures registered by the  
10 Department, and the aggregate amount of investment  
11 upon which tax credit certificates were issued in the  
12 prior calendar year ~~the total number of applications~~  
13 ~~and amount for which tax credit certificates were~~  
14 ~~issued in the prior calendar year; and~~

15 (C) the total amount of tax credit certificates  
16 sought by applicants, the amount of each tax credit  
17 certificate issued to a claimant, the aggregate amount  
18 of all tax credit certificates issued in the prior  
19 calendar year and the aggregate amount of tax credit  
20 certificates issued as authorized under this Section  
21 for all calendar years. ~~the total tax credit~~  
22 ~~certificates and amount authorized under this Section~~  
23 ~~for all calendar years.~~

24 (2) On and after the effective date of this amendatory  
25 Act of the 100th General Assembly, the Department shall  
26 require a business seeking registration as a qualified new

1 business venture to include in its application the North  
2 American Industry Classification System (NAICS) code  
3 associated with the business and the number of employees at  
4 the time of application. Each business registered by the  
5 Department as a qualified new business venture that  
6 receives an investment giving rise to the issuance of a tax  
7 credit certificate shall, for each of the 3 subsequent  
8 years, report to the Department the following:

9 (A) the number of employees at the end of each  
10 year;

11 (B) the amount of additional new capital  
12 investment raised within each year; and

13 (C) any liquidity event transpiring within the  
14 3-year period; for purposes of this paragraph (C), a  
15 liquidity event shall mean an event that allows some or  
16 all investors in a company to cash out some or all of  
17 their ownership shares or that is considered an exit  
18 strategy for an illiquid investment.

19 (Source: P.A. 96-939, eff. 1-1-11; 97-507, eff. 8-23-11;  
20 97-1097, eff. 8-24-12.)

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law.