

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 Economic Development for a Growing Economy  
5 Tax Credit Act is amended by changing Sections 5-5, 5-15, and  
6 5-20 as 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

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

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

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

1 Income Tax attributable to New Employees at the Applicant's  
2 project and (ii) 10% of the training costs of New Employees; or  
3 (2) 100% of the Incremental Income Tax attributable to New  
4 Employees at the Applicant's project. If an Applicant agrees  
5 to hire the required number of New Employees, then the maximum  
6 amount of the Credit for that Applicant may be increased by an  
7 amount not to exceed 25% of the Incremental Income Tax  
8 attributable to retained employees at the Applicant's project;  
9 provided that, in order to receive the increase for retained  
10 employees, the Applicant must provide the additional evidence  
11 required under paragraph (3) of subsection (b) of Section  
12 5-25.

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

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

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

1 "Incremental Income Tax" means the total amount withheld  
2 during the taxable year from the compensation of New Employees  
3 and, if applicable, retained employees under Article 7 of the  
4 Illinois Income Tax Act arising from employment at a project  
5 that is the subject of an Agreement.

6 "New Construction EDGE Agreement" means the Agreement  
7 between a Taxpayer and the Department under the provisions of  
8 Section 5-51 of this Act.

9 "New Construction EDGE Credit" means an amount agreed to  
10 between the Department and the Applicant under this Act as  
11 part of a New Construction EDGE Agreement that does not exceed  
12 50% of the Incremental Income Tax attributable to New  
13 Construction EDGE Employees at the Applicant's project;  
14 however, if the New Construction EDGE Project is located in an  
15 underserved area, then the amount of the New Construction EDGE  
16 Credit may not exceed 75% of the Incremental Income Tax  
17 attributable to New Construction EDGE Employees at the  
18 Applicant's New Construction EDGE Project.

19 "New Construction EDGE Employee" means a laborer or worker  
20 who is employed by an Illinois contractor or subcontractor in  
21 the actual construction work on the site of a New Construction  
22 EDGE Project, pursuant to a New Construction EDGE Agreement.

23 "New Construction EDGE Incremental Income Tax" means the  
24 total amount withheld during the taxable year from the  
25 compensation of New Construction EDGE Employees.

26 "New Construction EDGE Project" means the building of a

1 Taxpayer's structure or building, or making improvements of  
2 any kind to real property. "New Construction EDGE Project"  
3 does not include the routine operation, routine repair, or  
4 routine maintenance of existing structures, buildings, or real  
5 property.

6 "New Employee" means:

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

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

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

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

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

26 (c) Notwithstanding paragraph (1) of subsection (b),

1 an employee may be considered a New Employee under the  
2 Agreement if the employee performs a job that was  
3 previously performed by an employee who was:

4 (1) treated under the Agreement as a New Employee;  
5 and

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

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

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

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

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

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

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

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

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

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

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

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

1           (4) A corporation and any party related to that  
2 corporation in a manner that would require an attribution  
3 of stock from the corporation to the party or from the  
4 party to the corporation under the attribution rules of  
5 Section 318 of the Internal Revenue Code, if the  
6 corporation and all such related parties own in the  
7 aggregate at least 50% of the profits, capital, stock, or  
8 value of the Taxpayer.

9           (5) A person to or from whom there is attribution of  
10 stock ownership in accordance with Section 1563(e) of the  
11 Internal Revenue Code, except, for purposes of determining  
12 whether a person is a Related Member under this paragraph,  
13 20% shall be substituted for 5% wherever 5% appears in  
14 Section 1563(e) of the Internal Revenue Code.

15           "Startup taxpayer" means a corporation, partnership, or  
16 other entity incorporated no more than 5 years before the  
17 filing of an application for an Agreement that has never had  
18 any Illinois income tax liability, excluding any Illinois  
19 income tax liability of a Related Member which shall not be  
20 attributed to the startup taxpayer.

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

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

25           (1) the area has a poverty rate of at least 20%  
26 according to the latest American Community Survey ~~federal~~



1 ~~decennial census;~~

2 (2) 35% or more of the families with children in the  
3 area are living below 130% of the poverty line, according  
4 to the latest American Community Survey ~~75% or more of the~~  
5 ~~children in the area participate in the federal free lunch~~  
6 ~~program according to reported statistics from the State~~  
7 ~~Board of Education;~~

8 (3) at least 20% of the households in the area receive  
9 assistance under the Supplemental Nutrition Assistance  
10 Program (SNAP); or

11 (4) the area has an average unemployment rate, as  
12 determined by the Illinois Department of Employment  
13 Security, that is more than 120% of the national  
14 unemployment average, as determined by the U.S. Department  
15 of Labor, for a period of at least 2 consecutive calendar  
16 years preceding the date of the application.

17 (Source: P.A. 100-511, eff. 9-18-17; 101-9, eff. 6-5-19.)

18 (35 ILCS 10/5-15)

19 Sec. 5-15. Tax Credit Awards. Subject to the conditions  
20 set forth in this Act, a Taxpayer is entitled to a Credit  
21 against or, as described in subsection (g) of this Section, a  
22 payment towards taxes imposed pursuant to subsections (a) and  
23 (b) of Section 201 of the Illinois Income Tax Act that may be  
24 imposed on the Taxpayer for a taxable year beginning on or  
25 after January 1, 1999, if the Taxpayer is awarded a Credit by

1 the Department under this Act for that taxable year.

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

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

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

9 (d) The Credit shall not exceed the Incremental Income Tax  
10 attributable to the project that is the subject of the  
11 Agreement.

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

15 (f) In lieu of the Credit allowed under this Act against  
16 the taxes imposed pursuant to subsections (a) and (b) of  
17 Section 201 of the Illinois Income Tax Act for any taxable year  
18 ending on or after December 31, 2009, for Taxpayers that  
19 entered into Agreements prior to January 1, 2015 and otherwise  
20 meet the criteria set forth in this subsection (f), the  
21 Taxpayer may elect to claim the Credit against its obligation  
22 to pay over withholding under Section 704A of the Illinois  
23 Income Tax Act.

24 (1) The election under this subsection (f) may be made  
25 only by a Taxpayer that (i) is primarily engaged in one of  
26 the following business activities: water purification and

1 treatment, motor vehicle metal stamping, automobile  
2 manufacturing, automobile and light duty motor vehicle  
3 manufacturing, motor vehicle manufacturing, light truck  
4 and utility vehicle manufacturing, heavy duty truck  
5 manufacturing, motor vehicle body manufacturing, cable  
6 television infrastructure design or manufacturing, or  
7 wireless telecommunication or computing terminal device  
8 design or manufacturing for use on public networks and  
9 (ii) meets the following criteria:

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

19 (B) the Taxpayer (i) had an Illinois net loss or an  
20 Illinois net loss deduction under Section 207 of the  
21 Illinois Income Tax Act for the taxable year in which  
22 the Credit is awarded, (ii) employed a minimum of  
23 1,000 full-time employees in this State during the  
24 taxable year in which the Credit is awarded, and (iii)  
25 has applied for an Agreement within 365 days after  
26 December 14, 2009 (the effective date of Public Act

1 96-834);

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

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

24 (E) the Taxpayer (i) employed at least 2,500  
25 full-time employees in the State during the year in  
26 which the Credit is awarded, (ii) commits to make at

1           least \$500,000,000 in combined capital improvements  
2           and project costs under the Agreement, (iii) applies  
3           for an Agreement between January 1, 2011 and June 30,  
4           2011, (iv) executes an Agreement for the Credit during  
5           calendar year 2011, and (v) was incorporated no more  
6           than 5 years before the filing of an application for an  
7           Agreement.

8           (1.5) The election under this subsection (f) may also  
9           be made by a Taxpayer for any Credit awarded pursuant to an  
10          agreement that was executed between January 1, 2011 and  
11          June 30, 2011, if the Taxpayer (i) is primarily engaged in  
12          the manufacture of inner tubes or tires, or both, from  
13          natural and synthetic rubber, (ii) employs a minimum of  
14          2,400 full-time employees in Illinois at the time of  
15          application, (iii) creates at least 350 full-time jobs and  
16          retains at least 250 full-time jobs in Illinois that would  
17          have been at risk of being created or retained outside of  
18          Illinois, and (iv) makes a capital investment of at least  
19          \$200,000,000 at the project location.

20          (1.6) The election under this subsection (f) may also  
21          be made by a Taxpayer for any Credit awarded pursuant to an  
22          agreement that was executed within 150 days after the  
23          effective date of this amendatory Act of the 97th General  
24          Assembly, if the Taxpayer (i) is primarily engaged in the  
25          operation of a discount department store, (ii) maintains  
26          its corporate headquarters in Illinois, (iii) employs a

1 minimum of 4,250 full-time employees at its corporate  
2 headquarters in Illinois at the time of application, (iv)  
3 retains at least 4,250 full-time jobs in Illinois that  
4 would have been at risk of being relocated outside of  
5 Illinois, (v) had a minimum of \$40,000,000,000 in total  
6 revenue in 2010, and (vi) makes a capital investment of at  
7 least \$300,000,000 at the project location.

8 (1.7) Notwithstanding any other provision of law, the  
9 election under this subsection (f) may also be made by a  
10 Taxpayer for any Credit awarded pursuant to an agreement  
11 that was executed or applied for on or after July 1, 2011  
12 and on or before March 31, 2012, if the Taxpayer is  
13 primarily engaged in the manufacture of original and  
14 aftermarket filtration parts and products for automobiles,  
15 motor vehicles, light duty motor vehicles, light trucks  
16 and utility vehicles, and heavy duty trucks, (ii) employs  
17 a minimum of 1,000 full-time employees in Illinois at the  
18 time of application, (iii) creates at least 250 full-time  
19 jobs in Illinois, (iv) relocates its corporate  
20 headquarters to Illinois from another state, and (v) makes  
21 a capital investment of at least \$4,000,000 at the project  
22 location.

23 (1.8) Notwithstanding any other provision of law, the  
24 election under this subsection (f) may also be made by a  
25 startup taxpayer for any Credit awarded pursuant to an  
26 Agreement that was executed or applied for on or after the

1 effective date of this amendatory Act of the 102nd General  
2 Assembly, if the startup taxpayer, without considering any  
3 Related Member or other investor, (i) has never had any  
4 Illinois income tax liability and (ii) was incorporated no  
5 more than 5 years before the filing of an application for  
6 an Agreement. Any such election under this paragraph (1.8)  
7 shall be effective unless and until such startup taxpayer  
8 has any Illinois income tax liability. This election under  
9 this paragraph (1.8) shall automatically terminate when  
10 the startup taxpayer has any Illinois income tax liability  
11 at the end of any taxable year during the term of the  
12 Agreement. Thereafter, the startup taxpayer may receive a  
13 Credit, taking into account any benefits previously  
14 enjoyed or received by way of the election under this  
15 paragraph (1.8), so long as the startup taxpayer remains  
16 in compliance with the terms and conditions of the  
17 Agreement.

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

23 (3) The election shall be made in the form and manner  
24 required by the Illinois Department of Revenue and, once  
25 made, shall be irrevocable.

26 (4) If a Taxpayer who meets the requirements of

1           subparagraph (A) of paragraph (1) of this subsection (f)  
2           elects to claim the Credit against its withholdings as  
3           provided in this subsection (f), then, on and after the  
4           date of the election, the terms of the Agreement between  
5           the Taxpayer and the Department may not be further amended  
6           during the term of the Agreement.

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

20          (Source: P.A. 100-511, eff. 9-18-17.)

21           (35 ILCS 10/5-20)

22           Sec. 5-20. Application for a project to create and retain  
23          new jobs.

24           (a) Any Taxpayer proposing a project located or planned to  
25          be located in Illinois may request consideration for



1 designation of its project, by formal written letter of  
2 request or by formal application to the Department, in which  
3 the Applicant states its intent to make at least a specified  
4 level of investment and intends to hire or retain a specified  
5 number of full-time employees at a designated location in  
6 Illinois. As circumstances require, the Department may require  
7 a formal application from an Applicant and a formal letter of  
8 request for assistance.

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

11 (1) if the Applicant has more than 100 employees,  
12 involve an investment of at least \$2,500,000 in capital  
13 improvements to be placed in service within the State as a  
14 direct result of the project; if the Applicant has 100 or  
15 fewer employees, then there is no capital investment  
16 requirement;

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

1 Employees;

2 (1.6) if the Applicant is a startup taxpayer, the  
3 employees employed by Related Members shall not be  
4 attributed to the Applicant for purposes of determining  
5 the capital investment or job creation requirements under  
6 this subsection (b);

7 (2) (blank);

8 (3) (blank); and

9 (4) include an annual sexual harassment policy report  
10 as provided under Section 5-58.

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

14 (Source: P.A. 100-511, eff. 9-18-17; 100-698, eff. 1-1-19;  
15 101-81, eff. 7-12-19.)