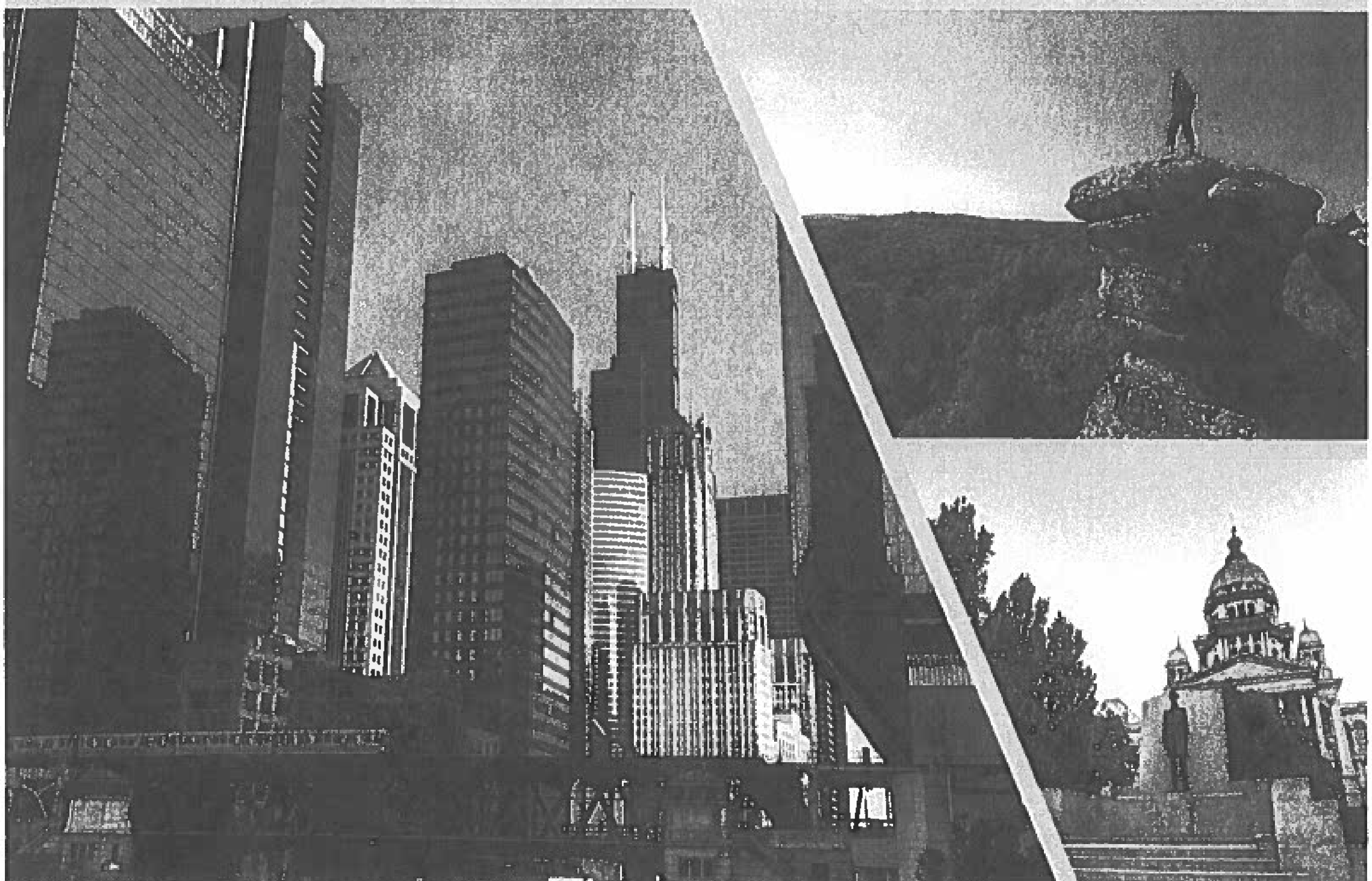
ILLINOIS EDGE TAX CREDIT PROGRAM

ECONOMIC DEVELOPMENT FOR A GROWING ECONOMY



2019 BIENNAL REPORT ON THE EDGE TAX CREDIT PROGRAM

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Illinois
Department of Commerce
& Economic Opportunity
JB Pritzker, Governor

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INTRODUCTION

Pursuant to the Economic Development for a Growing Economy ("EDGE") Tax Credit Act, 35 ILCS 10/5-1, *et seq.* (the "Act"), the Illinois Department of Commerce and Economic Opportunity ("DCEO" or the "Department") administers the EDGE Program. Since 1999, the EDGE Tax Credit has been used to attract businesses to Illinois and help businesses in the state expand, providing a solid foundation for business growth in the State.

Section 75 of the Act requires the Department to provide an evaluation of the EDGE Program to the Governor and the General Assembly on a biennial basis in odd-numbered years. The biennial report "shall include an assessment of the effectiveness of the program in creating new jobs in Illinois and of the revenue impact of the program" and may also include a review of similar programs offered in competing States. 35 ILCS 10/5-75.

This is DCEO's first biennial report on the effectiveness of the EDGE Program. And what it demonstrates is that DCEO has an opportunity to ensure that the return on investment for the EDGE Program benefits both the corporation claiming the benefit and Illinois taxpayers. Over the last nine months since Governor Pritzker took office, DCEO has been rigorously evaluating the impact of the EDGE program and working with the General Assembly to implement changes that help ensure the program has the intended impact and taxpayer funds are used efficiently, and we will continue to do so. In addition, DCEO is finalizing agreements with Illinois sister agencies that will provide critical data to help us further evaluate the efficacy of EDGE and other credit programs moving forward.

1: EDGE PROGRAM OVERVIEW

Legislative Intent and Program Sunset

In August 1999, the Illinois General Assembly noted that, although the Illinois economy was strong, Illinois was facing a competitive disadvantage as other States and nations were offering major financial incentives for businesses looking to relocate or expand. The General Assembly created the EDGE Program to make Illinois more competitive by offering tax credits to companies looking to relocate or expand. In an increasingly global economy, the General Assembly determined that Illinois' long-term development would benefit from the strategic use of State resources to support business development and growth.

The EDGE program originally sunset on December 31, 2016 (extended to April 30, 2017) and was reauthorized in September 2017.

2017 Program Reauthorization

On September 18, 2017, a significantly overhauled EDGE Tax Credit Program was enacted. The new law extends the EDGE Program sunset on new agreements to June 30, 2022. Revisions included:

- **Eligibility Requirements**
  - For companies with more than 100 employees, the minimum required capital investment was reduced from $5 million to $2.5 million, and the job creation requirement was modified to be the lesser of: (a) ten percent (10%) of the company's worldwide full-time headcount; or (b) 50 new jobs.
  - For companies with 100 or fewer employees, the capital investment requirement, which had been $1 million, was removed entirely. The job creation requirement was modified to the lesser of: (a) five percent (5%) of the company's worldwide full-time headcount; or (b) 50 new jobs.
  - To be eligible for EDGE, companies must demonstrate a viable out-of-state option and that "but for" the EDGE incentives, the project would occur outside Illinois. The current version of EDGE modified the "but for" requirement to eliminate any documentary evidence but maintained an evidentiary showing to qualify for credit for retained employees.

- **Credit Amounts**
  - The current EDGE Program allows tax credit awards of the lesser of: (1) the sum of fifty percent (50%) of the income tax withholdings associated with the new jobs created by the project and ten percent (10%) of the training costs related to the new employees; or (2) one hundred percent (100%) of the income tax withholdings associated with new employees at the project location. In contrast, agreements under the prior EDGE Act provided credits equal

to one hundred percent (100%) of the income tax withholdings associated with new employees at the project.

- EDGE also currently statutorily provides the Department with discretion to award an additional credit equal to and up to twenty-five percent (25%) of the payroll withholding associated with full-time employees retained at an incentivized project location. Except for certain "Special EDGE" agreements, the prior version of EDGE did not statutorily provide DCEO with the authority to award a credit for retained employees. (However, in many agreements under the prior EDGE statute, DCEO did provide credits for retained employees with percentages of withholding ranging from ten percent (10%) to one hundred percent (100%), with most agreements providing credits for fifty percent (50%)).

- **Incentives for Underserved Areas**
  - Additional incentives are offered to encourage companies to expand or move to underserved areas (as defined by the Act) in the State.
    - The potential credit for these projects increases the tax credit award amount to the lesser of: (1) the sum of seventy-five percent (75%) of the income tax withholdings associated with the new jobs created by the project and ten percent (10%) of the training costs related to the new employees; or (2) one hundred percent (100%) of the income tax withholdings associated with new employees at the project location.

- **Public Disclosure**
  - Codifying prior Department policy, Section 50 of the Act operates to increase transparency by requiring that DCEO post the terms of each EDGE Tax Credit Agreement on its website within ten (10) days of entering into any agreement. This posting must include:
    - the name of the recipient's business;
    - the location of the project;
    - the estimated value of the credit;
    - the number of new jobs and, if applicable, retained jobs; and
    - whether the project is in an underserved area.

- **Enhanced Compliance Provisions**
  - Under the 2017 EDGE legislation, the entire credit amount awarded to a company is subject to recapture if, during the term of the agreement, the company ceases principal operations with the intent to permanently shut down the project in the State.
  - In the event of such a claw-back of funds, the amount recaptured will be allocated to the local workforce investment area in which the project was located.

- **Vendor Diversity and Sexual Harassment Reporting**
  - Companies claiming the EDGE Tax Credit must file an annual report on supplier diversity goals with DCEO by April 15 of each taxable year for which it is claiming the credit.[1]

Approval Process

Companies that are interested in pursuing a project in Illinois may apply to the Department for an EDGE Tax Credit. Application materials submitted to DCEO include:

- Applicant Information
- Project Summary
- Project Description
- Jobs Impact
- Costs
- Competitive Requirements of the Project
- Cost Differential
- Company Certification
- Tax Clearance Documentation
- Certificate of Good Standing to Transact Business the Illinois
- Project Rationale
- Cost Differential Narrative

Once the formal application and required supporting documentation is received, a comprehensive due diligence process is initiated by agency staff. This process includes legal, fiscal, and compliance reviews. The materials are reviewed and approved by the DCEO Business Development Committee, with final approval by the DCEO Director.

If approved, DCEO is authorized to designate the business as "eligible" and enter into an EDGE Tax Credit Agreement. The eligible business may claim a nonrefundable and non-transferable tax credit against State income taxes. The Act allows eligible companies to claim such credits for a period not to exceed ten (10) years.

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1 In June 2019, a new provision was enacted allowing for New Construction EDGE Agreements; however, that provision does not take effect until January 1, 2021 so no information about such agreements is contained herein.

2: PROGRAM EVALUATION

This section provides an overall evaluation of the EDGE Program for the period 2016 through 2018. (Note that EDGE certificate requests are still being processed for taxable year 2018 so those numbers are incomplete. Also note that these metrics for the most part pre-date the September 2017 changes to the EDGE statute, and thus reflect a program that has been replaced). This section provides a summary of the various metrics tracked in the EDGE Program, including job creation, job retention, investment, and the costs to the State in terms of the amount of tax credits issued.

EDGE Agreements are structured to recognize that there is a certain "ramp up" period for projects as part of the capital construction and job hiring process. EDGE recipients are given until the end of the second full taxable year after entering into an agreement in which to make the requisite investment and hire the minimum number of new jobs associated with the project. For example, a company that signed an EDGE Agreement in June 2014 with a December 31 fiscal year end would likely not seek its first EDGE Tax Credit until the taxable year ending December 31, 2016. Accordingly, very few companies that have received EDGE Agreements under the current Act have sought an EDGE Tax Credit.

Job Creation and Retention

The primary goal of the EDGE Program is to encourage the creation of new jobs in Illinois, as well as to encourage the retention of existing full-time employees by encouraging companies to move to Illinois and stay in Illinois. As demonstrated by Table 1, companies receiving EDGE Tax Credits reported creating 43,240 jobs in 2016; 38,540 jobs in 2017; and 33,868 jobs for 2018 to date (note, we are currently working with sister agencies to identify a way to track actual job creation and retention). Table 1 also demonstrate a substantial number of jobs have been reported to be retained in Illinois by companies receiving EDGE Tax Credits: 48,940 in 2016; 45,407 in 2017; and 28,788 in 2018. Table 1 further shows a substantial overall payroll paid to Illinois employees of over $7 billion in additional payroll in each of 2016 and 2017. These numbers reflect only those jobs that have been reported by companies seeking an EDGE Tax Credit. They do not include employment at related corporate entities or other company locations that are not incentivized by way of EDGE or vendor and supplier hiring for companies receiving EDGE.

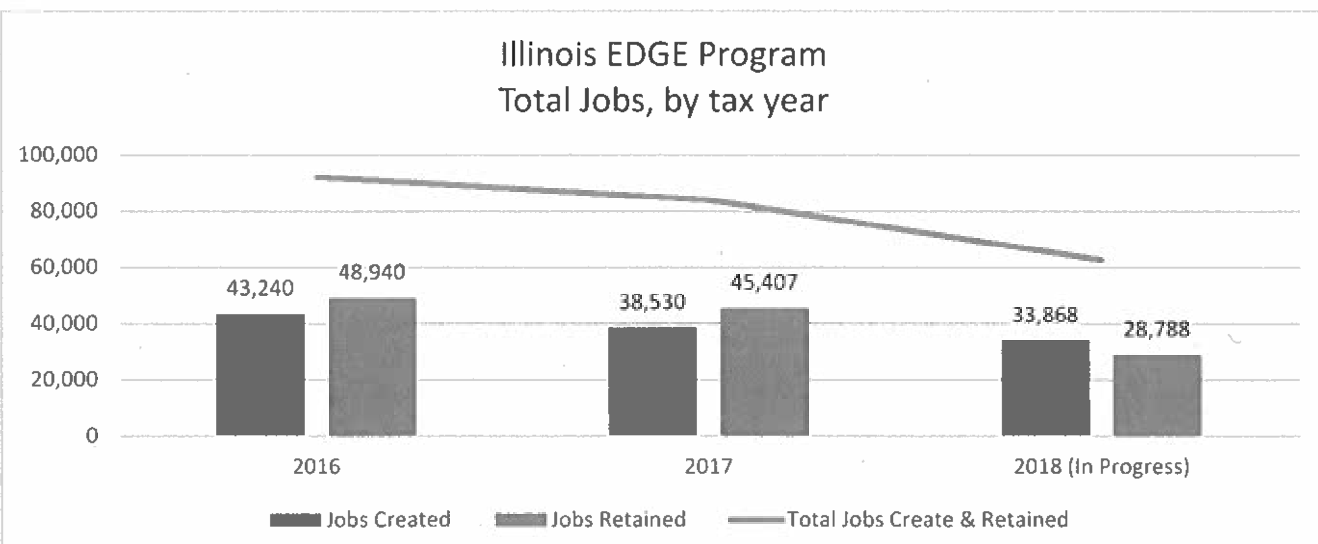
Table 1: Job Creation and Retention and Associated Payroll, 2016-2018

TAX YEAR	Reported Jobs Created	Reported Jobs Retained	Reported Payroll Amount
2016	43,240	48,940	$7,461,632,055
2017	38,530	45,407	$7,179,575,416
2018 (In Progress)	33,868	28,788	$5,551,801,681

As shown by Graph 1, the metrics demonstrate a decline between 2016 and 2018 in terms of job creation and retention. DCEO is evaluating root causes for this change including: companies failing to claim the credit, expiration of older agreements, termination or suspension of larger agreements unrelated to job creation or retention, and termination or suspension of Special EDGE agreements. It should be noted that since 2015, DCEO has generally required the removal of credits for retained employees as a condition for a company to get an EDGE amendment. This reduces the overall number of retained employees reported. Furthermore, as noted above, the 2018 numbers are not yet final and will likely increase.

DCEO will continue to study methods for improving the effectiveness of the program in connection with job creation and retention

Graph 1: Reported Job Creation and Retention Between 2016 and 2018



EDGE Certificates Awarded

The EDGE Program is an annual reporting program which generally allows companies to claim Tax Credits for up to ten (10) years. These credits are issued annually and based on the self-reported employment and payroll for the respective company fiscal year. As demonstrated by Table 2, the number of EDGE certificates issued on an annual basis has stayed virtually the same over the last three years: 249 certificates issued in 2016; 234 issued in 2017; and 190 issued thus far for 2018.

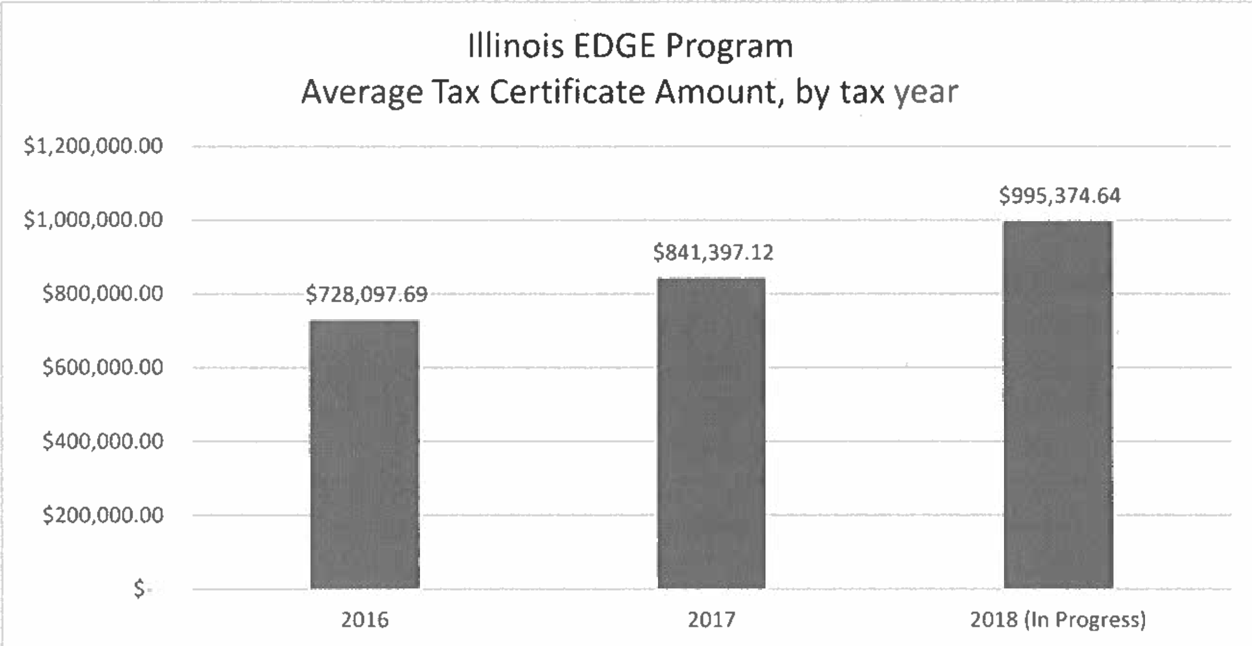
Table 2: Number of EDGE Certificates Issued and Number of Companies Losing Credits

TAX YEAR	EDGE Certificates Awarded	Number of Companies Losing Credits
2016	249	26
2017	234	23
2018 (In Progress)	190	41

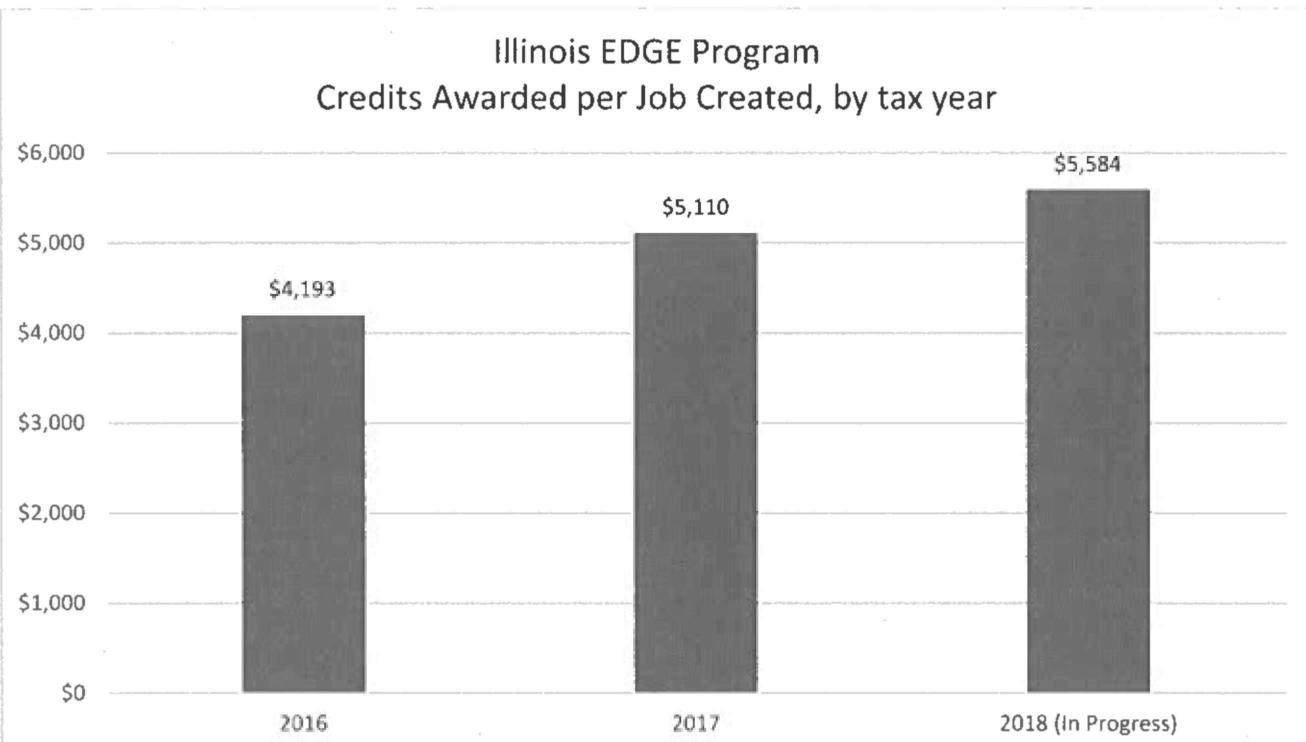
As reflected in Graph 2, the average value of tax credit certificates has increased from approximately $728,000 in 2016 to over $995,000 in 2018. As neither jobs nor payroll have increased dramatically, it is likely that this increase is a direct result of the increase in the personal income tax rate from 3.75% to 4.95% effective July 1, 2017 (Public Act 100-0303). A similar pattern is demonstrated by Graph 3, which reflects an increase in the value of tax credits awarded on a per job basis from $4,193 to $5,584 between 2016 and 2018.

Since EDGE Tax Credits are not refundable and some businesses move or close before claiming all credits, tax credits *awarded* do not reflect tax credits *claimed*, and therefore do not directly reflect a revenue impact for the State. (See Program Revenue Impact on page 12 for more information). It should also be noted that companies cannot use this credit if they have no tax liability.

Graph 2: Average value of Tax Certificates, 2016-2018



Graph 3: Tax Credits Awarded per Job Created, 2016-2018



Program Revenue Impact

The following is a summary of Tax Credit certificates issued since 2001 and the amount of credits actually claimed by the recipients. These aggregated numbers include carry-forward amounts which may be claimed up to five (5) years after issuance. The total amount of certificates issued, and amount of credits claimed for 2018 is not yet known as the DCEO and IDOR processes for calendar year 2018 are not yet complete.

Fiscal Year	**Amount of EDGE Credit Used to Offset Corporate Income Tax Liability** Per the Comptroller's Tax Expenditures Report	**Amount of EDGE Credit Used to Offset Individual Income Tax Liability** Per the Comptroller's Tax Expenditures Report	**Value of EDGE Tax Credits Certificates Issued by DCEO**
2001	$0	$0	$6,510,316
2002	$190,000	**	$11,929,375
2003	$3,330,000	**	$22,898,697
2004	$5,200,000	**	$29,293,557
2005	$9,082,000	**	$35,885,149
2006	$13,614,000	$99,000	$43,050,873
2007	$24,862,000	$4,717,000	$60,825,257
2008	$23,534,000	$4,981,000	$69,145,879
2009	$25,567,000	$3,651,000	$68,090,549
2010	$34,766,000	$691,000	$82,862,058
2011	$36,149,000	$3,082,000	$163,243,486
2012	$31,259,000	$9,207,000	$202,545,923
2013	$45,085,000	$38,943,000	$116,548,826
2014	$58,873,000	$37,762,000	$206,524,531
2015	$90,757,000	$45,760,000	$215,118,188
2016	$82,409,000	$41,347,000	$147,607,895
2017	$76,702,000	$56,171,000	$186,246,794
2018	*	*	*
Total	**$484,677,000**	**$190,240,000**	**$1,482,080,559**

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*2018 Tax Expenditure Report Not Yet Available

Amount of Individual Income Tax Credits Not Reported Separately for EDGE.

In sum, in evaluating the EDGE Program, it is important to understand the overall costs to the State as well as the benefits generated by the program. Assuming these projects would not have occurred in the State "but for" the EDGE Program, tens of thousands of new jobs would not have been created, tens of thousands of existing jobs may have been eliminated and billions in payroll and investment would have been lost. But the analysis cannot stop there. DCEO with its partnership with sister agencies intends to drill down on the Program Revenue Impact to ensure that it is a good steward of taxpayer funds. And working with the General Assembly, DCEO will enact reforms to ensure that EDGE has the intended impact.

3: PRACTICES OF OTHER STATES WITH SIMILAR PROGRAMS

In April 2012, the Pew Center on the States published "Evidence Counts: Evaluating State Tax Incentives for Jobs and Growth." This study examined programs from all 50 States designed to provide tax credits, exemptions, and deductions to encourage businesses to locate, hire, expand, and invest within their borders. The Study did not look at the quality and effectiveness of the underlying programs but rather at the effectiveness of each State's evaluation in terms of whether they: inform policy choices; include all major tax incentives; measure economic impact; and draw clear conclusions as to whether the incentives are achieving the intended goals. This Study, in turn, informs DCEO's efforts to meaningfully evaluate the EDGE Tax Credit Program and draw its own conclusions about whether the incentives are working.

As part of its State Tax Incentive Evaluation Ratings project, Pew ranks each State's efforts and ultimately classifies States into one (1) of three (3) categories:

- **Leading**: States that have well-designed plans to regularly evaluate tax incentives, have experience producing quality evaluations that rigorously measure economic impact, and a process for informing policy choices.
- **Making Progress**: States that have made a plan by enacting a policy that requires regular evaluation of major tax incentives.
- **Trailing**: States that lack a well-designed plan to regularly evaluate major tax incentives.

Under these rankings, Pew rates Illinois 40th and categorizes the State as "Trailing". All other border States, except for Kentucky, are rated as "Leading" (Iowa and Indiana) or "Making Progress" (Missouri and Wisconsin) (Goodman & Chapman, 2019).

The Pew rating for Illinois is sobering. Although Pew made its ranking prior to the following DCEO steps: preparing the current biennial report evaluating the EDGE tax incentive program; drafting a policy manual and procedures for the program; streamlining the application form; the recent audit of the EDGE Program initiated by DCEO; and HR 381 which directs the Illinois Auditor General to conduct a performance audit of the EDGE Program thus providing a plan for regular evaluation of tax incentives, its ranking and commentary cannot be ignored. Illinois can and must do better.

Neighboring State Tax Incentive Programs

As ranked and categorized by Pew in the most recent publication, August 19, 2019)

(*State* (*Rank*) and *Category*)

- Indiana (4th), Leading
- Iowa (5th), Leading
- Minnesota (8th), Leading
- Michigan (24th), Making Progress
- Missouri (25th), Making Progress
- Wisconsin (33rd), Making Progress
- Illinois (40th), Trailing
- Kentucky (41st), Trailing

Indiana

Program Name: Economic Development for a Growing Economy (EDGE) Tax Credit

Pew Rank: 4th

Category: Leading

The Economic Development for a Growing Economy (EDGE) Tax Credit provides an incentive to businesses to support jobs creation, capital investment and to improve the standard of living for Indiana residents. The refundable corporate income tax credit is calculated as a percentage (not to exceed 100%) of the expected increased tax withholdings generated from new jobs. The credit certification is phased in annually for up to ten (10) years based upon the employment ramp-up outlined by the business.

Pew Review: Indiana is leading other States because it has a well-designed plan to regularly evaluate tax incentives, experience in producing quality evaluations that rigorously measure economic impact, and a process for informing policy choices. Based on the findings of these evaluations, lawmakers have eliminated some incentives that provide a poor return on investment.

Iowa

Program Name: New Jobs Tax Credit

Pew Rank: 5th

Category: Leading

This one-time, corporate income tax credit is available to participants in the New Jobs Training Program. Iowa offers this credit as an incentive for businesses that provide additional training to employees and expand their workforce.

Pew Review: Iowa is leading other States because it has a well-designed plan to regularly evaluate tax incentives, experience in producing quality evaluations that rigorously measure economic impact, and a process for informing policy choices. The Department of Revenue's studies include a wealth of information on each tax credit's history, design, cost, and performance. Holding more frequent hearings on the evaluations could help lawmakers determine how to use the findings to improve incentive policy.

Minnesota

Program Name: Greater Minnesota Job Expansion Program

Pew Rank: 8th

Category: Leading

Greater Minnesota Job Expansion Program provides sales tax exemptions for up to twelve (12) years to eligible existing businesses located in Greater Minnesota that meet eligibility requirements including specified job creation and wage level.

Pew Review: Minnesota is leading other States because it has a well-designed plan to regularly evaluate tax incentives, experience in producing quality evaluations that rigorously measure economic impact, and a process for informing policy choices. The State's criteria for the studies reflect best practices for tax incentive evaluation. Since Minnesota's law does not require that each incentive be evaluated on a specific cycle, it will be up to lawmakers to ensure that they receive regular information on all major programs.

Michigan

Program Name: Michigan Business Development Program

Pew Rank: 24th

Category: Making Progress

Michigan has established several State and local economic development resources that provide support for companies investing and expanding their operations and workforces in Michigan communities. The State provides grants, loans or other economic assistance to support businesses to develop highly competitive projects that create jobs and/or provide investment.

Pew Review: Michigan is making progress because the State has adopted a plan for regular evaluation of tax incentives. The State will use a competitive request for proposals process to select a nonpartisan, independent evaluator to study incentives and offer policy recommendations. Evaluations will include whether an incentive is meeting its intended goal and analyze the incentive's economic and fiscal impact.

Missouri

Program Name: Business Facility Tax Credit Program

Pew Rank: 25th

Category: Making Progress

New or existing Missouri companies looking to embark on locating or expanding their headquarters in the State may be able to access incentives based on the number of news jobs and investment associated with the project.

Pew Review: Missouri is making progress because the State has adopted a plan for regular evaluation of tax incentives. The State has made improvements to incentives as a result of evaluations from the State Auditor. Missouri could advance further by ensuring that policymakers receive consistent information on the results of all major tax incentives.

Wisconsin

Program Name: Business Development Tax Credit Program

Pew Rank: 33rd

Category: Making Progress

The Business Development Tax Credit Program supports job creation, capital investment, training and Corporate Headquarters location or retention by providing businesses located in or relocating to Wisconsin with refundable tax credits that can help to reduce their Wisconsin income/franchise tax liability or provide a refund, thereby helping to enhance their cash flow to expand the project's scope, accelerate the timing of the project or enhance payroll.

Pew Review: Wisconsin is making progress because the State has adopted a plan for regular evaluation of tax incentives. The evaluations have documented shortcomings in the management of incentives and, in response, officials have acted to make improvements. The State could improve by including rigorous economic analysis in the evaluations.

Kentucky

Program Name: Kentucky Business Investment Program

Pew Rank: 41st

Category: Trailing

The Kentucky Business Investment Program provides income tax credits and wage assessments to new and existing businesses that locate or expand operations in Kentucky. Projects locating in certain counties may qualify for enhanced incentives.

Pew Review: Kentucky is trailing other States because it has not adopted a plan for regular evaluation of tax incentives. Evaluations could help determine the effectiveness of the Kentucky Business Investment Program, under which officials have approved hundreds of millions of dollars in incentives. The Cabinet for Economic Development has built a rich database on incentives, which could prove valuable if the State were to begin evaluating the programs.

All Other States Categorized as Leading

As ranked and categorized by Pew in the most recent publication, August 19, 2019)

- Colorado (1st)
- Connecticut (2nd)
- Florida (3rd)
- Maine (6th)
- Maryland (7th)
- Mississippi (9th)
- Nebraska (10th)
- North Dakota (11th)
- Oklahoma (12th)
- Pennsylvania (13th)
- Rhode Island (14th)
- Virginia (15th)
- Washington (16th)

4: CONCLUSIONS ON EFFECTIVENESS

The Department, as demonstrated more fully herein, believes that the EDGE Program can continue to be an effective and important tool to attract businesses to Illinois or help businesses in the State. Nonetheless, DCEO continues to explore enhancements to the program and improvements to its own processes and procedures. In addition to completing this first biennial evaluation of the EDGE Program, the Department is conducting a review of the program to improve its effectiveness and develop additional efficiencies.

During the past year, DCEO's Internal Auditor conducted an internal audit of the EDGE Program as one of the Director's Office special projects. That audit was completed in May 2019 and pursuant to the recommendations in that report, DCEO has drafted a policies and procedures manual, improved efficiencies in program operation, and is actively involved in hiring additional headcount for the program.

The Department is also currently working closely with the Office of the Auditor General in the performance of the EDGE Program audit directed by HR 381. Although this audit is ongoing, the results will be used to inform programmatic policy and practices and inform DCEO's plan to regularly evaluate tax incentives and produce quality evaluations that rigorously measure economic impact.

DCEO continually evaluates the policies and procedures for the EDGE Program, including exploring alternatives to increase the overall effectiveness of the program. In conjunction with stakeholders, the Department looks forward to working with the Governor's Office and the General Assembly in implementing new statutory provisions as well as exploring potential additional statutory enhancements.

Going forward, DCEO is committed to becoming a "leading state" as described in the Pew Study.

5: ENDNOTES

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