



## 103RD GENERAL ASSEMBLY

### State of Illinois

### 2023 and 2024

#### HB4646

Introduced 2/6/2024, by Rep. Curtis J. Tarver, II

#### SYNOPSIS AS INTRODUCED:

35 ILCS 25/10  
35 ILCS 25/25  
35 ILCS 25/30  
35 ILCS 25/35  
35 ILCS 25/45

Amends the Small Business Job Creation Tax Credit Act. Amends the Small Business Job Creation Tax Credit Act. Creates a second set of incentive periods beginning on July 1, 2024 and ending on June 30, 2030. Provides that the basic wage for the second set of incentive periods is \$15 per hour. Provides that the credit may not exceed \$2,500 per new employee hired, except that, if the new employee is a returning citizen, then the credit for that employee may not exceed \$3,500. Provides that the term "returning citizen" means an individual who (i) is a resident of Illinois, (ii) was formerly incarcerated in a federal, State, or local correctional institution, and (iii) is a new employee. Provides that the aggregate amount of credits that may be awarded under the Act is (i) \$50,000,000 for new employees other than returning citizens and (ii) \$5,000,000 for returning citizens. Adds provisions concerning recapture of the credit if the employee is terminated by the taxpayer within one year after the credit is awarded. Effective immediately.

LRB103 36516 HLH 66622 b

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 Small Business Job Creation Tax Credit Act  
5 is amended by changing Sections 10, 25, 30, 35, and 45 as  
6 follows:

7 (35 ILCS 25/10)

8 Sec. 10. Definitions. In this Act:

9 "Applicant" means a person that is operating a business  
10 located within the State of Illinois that is engaged in  
11 interstate or intrastate commerce and either:

12 (1) has no more than 50 full-time employees, without  
13 regard to the location of employment of such employees at  
14 the beginning of the incentive period; or

15 (2) for incentive periods ending on or before June 30,  
16 2016, hired within the incentive period an employee who  
17 had participated as worker-trainee in the Put Illinois to  
18 Work Program during 2010.

19 In the case of any person that is a member of a unitary  
20 business group within the meaning of subdivision (a) (27) of  
21 Section 1501 of the Illinois Income Tax Act, "applicant"  
22 refers to the unitary business group.

23 "Certificate" means the tax credit certificate issued by

1 the Department under Section 35 of this Act.

2 "Certificate of eligibility" means the certificate issued  
3 by the Department under Section 20 of this Act.

4 "Credit" means the amount awarded by the Department to an  
5 applicant by issuance of a certificate under Section 35 of  
6 this Act for each new full-time equivalent employee hired or  
7 job created.

8 "Department" means the Department of Commerce and Economic  
9 Opportunity.

10 "Director" means the Director of the Department.

11 "Full-time employee" means an individual who is employed  
12 for a basic wage for at least 35 hours each week ~~or who renders~~  
13 ~~any other standard of service generally accepted by industry~~  
14 ~~custom or practice as full-time employment~~. An individual for  
15 whom a W-2 is issued by a Professional Employer Organization  
16 is a full-time employee if he or she is employed in the service  
17 of the applicant for a basic wage for at least 35 hours each  
18 week ~~or renders any other standard of service generally~~  
19 ~~accepted by industry custom or practice as full time~~  
20 ~~employment~~. For the purposes of this Act, such an individual  
21 shall be considered a full-time employee of the applicant.

22 "Professional Employer Organization" (PEO) shall have the  
23 same meaning as defined in Section 5-5 of the Economic  
24 Development for a Growing Economy Tax Credit Act. As used in  
25 this Section, "Professional Employer Organization" does not  
26 include a day and temporary labor service agency regulated

1 under the Day and Temporary Labor Services Act.

2 "Incentive period" means the period beginning on July 1  
3 and ending on June 30 of the following year. The first series  
4 of incentive periods ~~period~~ shall begin on July 1, 2010 and ~~the~~  
5 ~~last incentive period shall~~ end on June 30, 2016. The second  
6 series of incentive periods shall begin on July 1, 2024 and end  
7 on June 30, 2030.

8 "Basic wage" means compensation for employment that is no  
9 less than (i) \$10 per hour for the first set of incentive  
10 periods or (ii) \$15 per hour for the second set of incentive  
11 periods, or the equivalent salary for a new employee.

12 "New employee" means a full-time employee who first became  
13 employed by an applicant with less than 50 full-time employees  
14 within the incentive period whose hire results in a net  
15 increase in the applicant's full-time Illinois employees and  
16 who is receiving a basic wage as compensation. †

17 ~~(1) who first became employed by an applicant with~~  
18 ~~less than 50 full time employees within the incentive~~  
19 ~~period whose hire results in a net increase in the~~  
20 ~~applicant's full-time Illinois employees and who is~~  
21 ~~receiving a basic wage as compensation; or~~

22 ~~(2) who participated as a worker trainee in the Put~~  
23 ~~Illinois to Work Program during 2010 and who is~~  
24 ~~subsequently hired during the incentive period by an~~  
25 ~~applicant and who is receiving a basic wage as~~  
26 ~~compensation.~~

1 The term "new employee" does not include:

2 (1) a person who was previously employed in Illinois  
3 by the applicant or a related member prior to the onset of  
4 the incentive period; or

5 (2) any individual who has a direct or indirect  
6 ownership interest of at least 5% in the profits, capital,  
7 or value of the applicant or a related member.

8 "Noncompliance date" means, in the case of an applicant  
9 that is not complying with the requirements of the provisions  
10 of this Act, the day following the last date upon which the  
11 taxpayer was in compliance with the requirements of the  
12 provisions of this Act, as determined by the Director,  
13 pursuant to Section 45 of this Act.

14 "Put Illinois to Work Program" means a worker training and  
15 employment program that was established by the State of  
16 Illinois with funding from the United States Department of  
17 Health and Human Services of Emergency Temporary Assistance  
18 for Needy Families funds authorized by the American Recovery  
19 and Reinvestment Act of 2009 (ARRA TANF Funds). These ARRA  
20 TANF funds were in turn used by the State of Illinois to fund  
21 the Put Illinois to Work Program.

22 "Related member" means a person that, with respect to the  
23 applicant during any portion of the incentive period, is any  
24 one of the following,

25 (1) An individual, if the individual and the members  
26 of the individual's family (as defined in Section 318 of

1           the Internal Revenue Code) own directly, indirectly,  
2           beneficially, or constructively, in the aggregate, at  
3           least 50% of the value of the outstanding profits,  
4           capital, stock, or other ownership interest in the  
5           applicant.

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

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

20          (4) A corporation and any party related to that  
21          corporation in a manner that would require an attribution  
22          of stock from the corporation to the party or from the  
23          party to the corporation under the attribution rules of  
24          Section 318 of the Internal Revenue Code, if the  
25          corporation and all such related parties own, in the  
26          aggregate, at least 50% of the profits, capital, stock, or

1 other ownership interest in the applicant.

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

9 "Returning citizen" means an individual who (i) is a  
10 resident of Illinois, (ii) was formerly incarcerated in a  
11 federal, State, or local correctional institution, and (iii)  
12 is a new employee.

13 (Source: P.A. 100-863, eff. 8-14-18.)

14 (35 ILCS 25/25)

15 Sec. 25. Tax credit.

16 (a) Subject to the conditions set forth in this Act, an  
17 applicant is entitled to a credit against payment of taxes  
18 withheld under Section 704A of the Illinois Income Tax Act:

19 (1) for new employees who participated as  
20 worker-trainees in the Put Illinois to Work Program during  
21 2010, for incentive periods ending on or before June 30,  
22 2016:

23 (A) in the first calendar year ending on or after  
24 the date that is 6 months after December 31, 2010, or  
25 the date of hire, whichever is later. Under this

1           subparagraph, the applicant is entitled to one-half of  
2           the credit allowable for each new employee who is  
3           employed for at least 6 months after the date of hire;  
4           and

5                   (B) in the first calendar year ending on or after  
6           the date that is 12 months after December 31, 2010, or  
7           the date of hire, whichever is later. Under this  
8           subparagraph, the applicant is entitled to one-half of  
9           the credit allowable for each new employee who is  
10          employed for at least 12 months after the date of hire;

11                   (2) for all other new employees, in the first  
12          calendar year ending on or after the date that is 12 months  
13          after the date of hire of a new employee. The credit shall  
14          be allowed as a credit to an applicant for each full-time  
15          employee hired during the incentive period that results in  
16          a net increase in full-time Illinois employees, where the  
17          net increase in the employer's full-time Illinois  
18          employees is maintained for at least 12 months.

19                   (b) The Department shall make credit awards under this Act  
20          to further job creation.

21                   (c) The credit shall be claimed for the first calendar  
22          year ending on or after the date on which the certificate is  
23          issued by the Department.

24                   (d) The credit shall not exceed \$2,500 per new employee  
25          hired, except that, for the second set of incentive periods,  
26          if the new employee is a returning citizen, then the credit for



1 that employee may not exceed \$3,500.

2 (e) The net increase in full-time Illinois employees,  
3 measured on an annual full-time equivalent basis, shall be the  
4 total number of full-time Illinois employees of the applicant  
5 on the final day of the incentive period, minus the number of  
6 full-time Illinois employees employed by the employer on the  
7 first day of that same incentive period. For purposes of the  
8 calculation, an employer that begins doing business in this  
9 State during the incentive period, as determined by the  
10 Director, shall be treated as having zero Illinois employees  
11 on the first day of the incentive period.

12 (f) The net increase in the number of full-time Illinois  
13 employees of the applicant under subsection (e) must be  
14 sustained continuously for at least 12 months, starting with  
15 the date of hire of a new employee during the incentive period.  
16 Eligibility for the credit does not depend on the continuous  
17 employment of any particular individual. For purposes of this  
18 subsection (f), if a new employee ceases to be employed before  
19 the completion of the 12-month period for any reason, the net  
20 increase in the number of full-time Illinois employees shall  
21 be treated as continuous if a different new employee is hired  
22 as a replacement ~~within a reasonable time~~ for the same  
23 position within 8 weeks after the position becomes vacant.

24 (g) The Department shall promulgate rules to enable an  
25 applicant for which a PEO has been contracted to issue W-2s and  
26 make payment of taxes withheld under Section 704A of the

1 Illinois Income Tax Act for new employees to retain the  
2 benefit of tax credits to which the applicant is otherwise  
3 entitled under this Act.

4 (Source: P.A. 96-888, eff. 4-13-10; 96-1498, eff. 1-18-11;  
5 97-636, eff. 6-1-12; 97-1052, eff. 8-23-12.)

6 (35 ILCS 25/30)

7 Sec. 30. Maximum amount of credits allowed. The Department  
8 shall limit the monetary amount of credits awarded under this  
9 Act to no more than (i) \$50,000,000 for new employees other  
10 than returning citizens and (ii) \$5,000,000 for returning  
11 citizens. If a new employee is a returning citizen, but the  
12 \$5,000,000 limit under this Section has been reached, then the  
13 applicant may request a credit for that employee under the  
14 \$50,000,000 limit; however, the credit awarded for that new  
15 employee may not exceed \$2,500. If applications for a greater  
16 amount are received, credits shall be allowed on a  
17 first-come-first-served basis, based on the date on which each  
18 properly completed application for a certificate of  
19 eligibility is received by the Department. If more than one  
20 certificate of eligibility is received on the same day, the  
21 credits will be awarded based on the time of submission for  
22 that particular day.

23 (Source: P.A. 96-888, eff. 4-13-10.)

24 (35 ILCS 25/35)

1           Sec. 35. Application for award of tax credit; tax credit  
2 certificate.

3           (a) On or after the conclusion of the 12-month period (or  
4 6-month period, for purposes of subparagraph (A) of item (1)  
5 of subsection (a) of Section 25) after a new employee has been  
6 hired, an applicant shall file with the Department an  
7 application for award of a credit. The application shall  
8 include the following:

9           (1) The names, Social Security numbers, job  
10 descriptions, salary or wage rates, and dates of hire of  
11 the new employees with respect to whom the credit is being  
12 requested, ~~and an indication of whether each new employee~~  
13 ~~listed participated as a worker trainee in the Put~~  
14 ~~Illinois to Work Program.~~

15           (2) A certification that each new employee listed has  
16 been retained on the job for one year (or 6 months, for  
17 purposes of subparagraph (A) of item (1) of subsection (a)  
18 of Section 25) from the date of hire.

19           (3) The number of new employees hired by the applicant  
20 during the incentive period.

21           (4) The net increase in the number of full-time  
22 Illinois employees of the applicant (including the new  
23 employees listed in the request) between the beginning of  
24 the incentive period and the dates on which the new  
25 employees listed in the request were hired. This  
26 requirement does not apply for tax credits the applicant

1 is seeking because the new employee had participated as a  
2 worker-trainee in the Put Illinois to Work Program.

3 (5) An agreement that the Director is authorized to  
4 verify with the appropriate State agencies the information  
5 contained in the request before issuing a certificate to  
6 the applicant.

7 (6) Any other information the Department determines to  
8 be appropriate.

9 (b) Although an application may be filed at any time after  
10 the conclusion of the 12-month period (or 6-month period, for  
11 purposes of subparagraph (A) of item (1) of subsection (a) of  
12 Section 25) after a new employee was hired, an application  
13 filed more than 90 days after the earliest date on which it  
14 could have been filed shall not be awarded any credit if, prior  
15 to the date it is filed, the Department has received  
16 applications under this Section for credits totaling more than  
17 \$50,000,000.

18 (c) The Department shall issue a certificate to each  
19 applicant awarded a credit under this Act. The certificate  
20 shall include the following:

21 (1) The name and taxpayer identification number of the  
22 applicant.

23 (2) The date on which the certificate is issued.

24 (3) The credit amount that will be allowed.

25 (4) Any other information the Department determines to  
26 be appropriate.

1 (Source: P.A. 96-888, eff. 4-13-10; 96-1498, eff. 1-18-11.)

2 (35 ILCS 25/45)

3 Sec. 45. Noncompliance with Act; recapture.

4 (a) If the Director determines that an applicant who has  
5 received a credit under this Act is not complying with the  
6 requirements of the provisions of this Act, the Director shall  
7 provide notice to the applicant of the alleged noncompliance,  
8 and allow the taxpayer a hearing under the provisions of the  
9 Illinois Administrative Procedure Act. If, after such notice  
10 and any hearing, the Director determines that a noncompliance  
11 exists, the Director shall issue to the Department of Revenue  
12 notice to that effect, stating the noncompliance date.

13 (b) For tax credits awarded during the second set of  
14 incentive periods, if an employee for whom a tax credit was  
15 awarded under this Act is terminated by the taxpayer within  
16 one year after the credit is awarded, then the Department  
17 shall recapture the amount of the credit awarded for that  
18 employee. This subsection (b) does not apply if the person is  
19 terminated for cause or if the person voluntarily resigns.

20 (Source: P.A. 96-888, eff. 4-13-10.)

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