



Rep. Jennifer Gong-Gershowitz

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10300SB0805ham001

LRB103 03260 HLH 60801 a

1 AMENDMENT TO SENATE BILL 805

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 805 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Enterprise Zone Act is amended by  
5 changing Section 5.5 as follows:

6 (20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

7 Sec. 5.5. High Impact Business.

8 (a) In order to respond to unique opportunities to assist  
9 in the encouragement, development, growth, and expansion of  
10 the private sector through large scale investment and  
11 development projects, the Department is authorized to receive  
12 and approve applications for the designation of "High Impact  
13 Businesses" in Illinois, for an initial term of 20 years with  
14 an option for renewal for a term not to exceed 20 years,  
15 subject to the following conditions:

16 (1) such applications may be submitted at any time

1 during the year;

2 (2) such business is not located, at the time of  
3 designation, in an enterprise zone designated pursuant to  
4 this Act;

5 (3) the business intends to do one or more of the  
6 following:

7 (A) the business intends to make a minimum  
8 investment of \$12,000,000 which will be placed in  
9 service in qualified property and intends to create  
10 500 full-time equivalent jobs at a designated location  
11 in Illinois or intends to make a minimum investment of  
12 \$30,000,000 which will be placed in service in  
13 qualified property and intends to retain 1,500  
14 full-time retained jobs at a designated location in  
15 Illinois. The terms "placed in service" and "qualified  
16 property" have the same meanings as described in  
17 subsection (h) of Section 201 of the Illinois Income  
18 Tax Act; or

19 (B) the business intends to establish a new  
20 electric generating facility at a designated location  
21 in Illinois. "New electric generating facility", for  
22 purposes of this Section, means a newly constructed  
23 electric generation plant or a newly constructed  
24 generation capacity expansion at an existing electric  
25 generation plant, including the transmission lines and  
26 associated equipment that transfers electricity from

1 points of supply to points of delivery, and for which  
2 such new foundation construction commenced not sooner  
3 than July 1, 2001. Such facility shall be designed to  
4 provide baseload electric generation and shall operate  
5 on a continuous basis throughout the year; and (i)  
6 shall have an aggregate rated generating capacity of  
7 at least 1,000 megawatts for all new units at one site  
8 if it uses natural gas as its primary fuel and  
9 foundation construction of the facility is commenced  
10 on or before December 31, 2004, or shall have an  
11 aggregate rated generating capacity of at least 400  
12 megawatts for all new units at one site if it uses coal  
13 or gases derived from coal as its primary fuel and  
14 shall support the creation of at least 150 new  
15 Illinois coal mining jobs, or (ii) shall be funded  
16 through a federal Department of Energy grant before  
17 December 31, 2010 and shall support the creation of  
18 Illinois coal-mining jobs, or (iii) shall use coal  
19 gasification or integrated gasification-combined cycle  
20 units that generate electricity or chemicals, or both,  
21 and shall support the creation of Illinois coal-mining  
22 jobs. The term "placed in service" has the same  
23 meaning as described in subsection (h) of Section 201  
24 of the Illinois Income Tax Act; or

25 (B-5) the business intends to establish a new  
26 gasification facility at a designated location in

1 Illinois. As used in this Section, "new gasification  
2 facility" means a newly constructed coal gasification  
3 facility that generates chemical feedstocks or  
4 transportation fuels derived from coal (which may  
5 include, but are not limited to, methane, methanol,  
6 and nitrogen fertilizer), that supports the creation  
7 or retention of Illinois coal-mining jobs, and that  
8 qualifies for financial assistance from the Department  
9 before December 31, 2010. A new gasification facility  
10 does not include a pilot project located within  
11 Jefferson County or within a county adjacent to  
12 Jefferson County for synthetic natural gas from coal;  
13 or

14 (C) the business intends to establish production  
15 operations at a new coal mine, re-establish production  
16 operations at a closed coal mine, or expand production  
17 at an existing coal mine at a designated location in  
18 Illinois not sooner than July 1, 2001; provided that  
19 the production operations result in the creation of  
20 150 new Illinois coal mining jobs as described in  
21 subdivision (a)(3)(B) of this Section, and further  
22 provided that the coal extracted from such mine is  
23 utilized as the predominant source for a new electric  
24 generating facility. The term "placed in service" has  
25 the same meaning as described in subsection (h) of  
26 Section 201 of the Illinois Income Tax Act; or

1           (D) the business intends to construct new  
2 transmission facilities or upgrade existing  
3 transmission facilities at designated locations in  
4 Illinois, for which construction commenced not sooner  
5 than July 1, 2001. For the purposes of this Section,  
6 "transmission facilities" means transmission lines  
7 with a voltage rating of 115 kilovolts or above,  
8 including associated equipment, that transfer  
9 electricity from points of supply to points of  
10 delivery and that transmit a majority of the  
11 electricity generated by a new electric generating  
12 facility designated as a High Impact Business in  
13 accordance with this Section. The term "placed in  
14 service" has the same meaning as described in  
15 subsection (h) of Section 201 of the Illinois Income  
16 Tax Act; or

17           (E) the business intends to establish a new wind  
18 power facility at a designated location in Illinois.  
19 For purposes of this Section, "new wind power  
20 facility" means a newly constructed electric  
21 generation facility, a newly constructed expansion of  
22 an existing electric generation facility, or the  
23 replacement of an existing electric generation  
24 facility, including the demolition and removal of an  
25 electric generation facility irrespective of whether  
26 it will be replaced, placed in service or replaced on

1 or after July 1, 2009, that generates electricity  
2 using wind energy devices, and such facility shall be  
3 deemed to include any permanent structures associated  
4 with the electric generation facility and all  
5 associated transmission lines, substations, and other  
6 equipment related to the generation of electricity  
7 from wind energy devices. For purposes of this  
8 Section, "wind energy device" means any device, with a  
9 nameplate capacity of at least 0.5 megawatts, that is  
10 used in the process of converting kinetic energy from  
11 the wind to generate electricity; or

12 (E-5) the business intends to establish a new  
13 utility-scale solar facility at a designated location  
14 in Illinois. For purposes of this Section, "new  
15 utility-scale solar power facility" means a newly  
16 constructed electric generation facility, or a newly  
17 constructed expansion of an existing electric  
18 generation facility, placed in service on or after  
19 July 1, 2021, that (i) generates electricity using  
20 photovoltaic cells and (ii) has a nameplate capacity  
21 that is greater than 5,000 kilowatts, and such  
22 facility shall be deemed to include all associated  
23 transmission lines, substations, energy storage  
24 facilities, and other equipment related to the  
25 generation and storage of electricity from  
26 photovoltaic cells; or

1 (F) the business commits to (i) make a minimum  
2 investment of \$500,000,000, which will be placed in  
3 service in a qualified property, (ii) create 125  
4 full-time equivalent jobs at a designated location in  
5 Illinois, (iii) establish a fertilizer plant at a  
6 designated location in Illinois that complies with the  
7 set-back standards as described in Table 1: Initial  
8 Isolation and Protective Action Distances in the 2012  
9 Emergency Response Guidebook published by the United  
10 States Department of Transportation, (iv) pay a  
11 prevailing wage for employees at that location who are  
12 engaged in construction activities, and (v) secure an  
13 appropriate level of general liability insurance to  
14 protect against catastrophic failure of the fertilizer  
15 plant or any of its constituent systems; in addition,  
16 the business must agree to enter into a construction  
17 project labor agreement including provisions  
18 establishing wages, benefits, and other compensation  
19 for employees performing work under the project labor  
20 agreement at that location; for the purposes of this  
21 Section, "fertilizer plant" means a newly constructed  
22 or upgraded plant utilizing gas used in the production  
23 of anhydrous ammonia and downstream nitrogen  
24 fertilizer products for resale; for the purposes of  
25 this Section, "prevailing wage" means the hourly cash  
26 wages plus fringe benefits for training and

1 apprenticeship programs approved by the U.S.  
2 Department of Labor, Bureau of Apprenticeship and  
3 Training, health and welfare, insurance, vacations and  
4 pensions paid generally, in the locality in which the  
5 work is being performed, to employees engaged in work  
6 of a similar character on public works; this paragraph  
7 (F) applies only to businesses that submit an  
8 application to the Department within 60 days after  
9 July 25, 2013 (the effective date of Public Act  
10 98-109); or and

11 (G) the business intends to establish a new  
12 cultured cell material food production facility at a  
13 designated location in Illinois. As used in this  
14 paragraph (G):

15 "Cultured cell material food production facility"  
16 means a facility (i) at which cultured animal cell  
17 food is developed using animal cell culture  
18 technology, (ii) at which production processes occur  
19 that include the establishment of cell lines and cell  
20 banks, manufacturing controls, and all components and  
21 inputs, and (iii) that complies with all existing  
22 registrations, inspections, licensing, and approvals  
23 from all applicable and participating State and  
24 federal food agencies, including the Department of  
25 Agriculture, the Department of Public Health, and the  
26 United States Food and Drug Administration, to ensure



1           that all food production is safe and lawful under  
2           provisions of the Federal Food, Drug and Cosmetic Act  
3           related to the development, production, and storage of  
4           cultured animal cell food.

5           "New cultured cell material food production  
6           facility" means a newly constructed cultured cell  
7           material food production facility that is placed in  
8           service on or after the effective date of this  
9           amendatory Act of the 103rd General Assembly or a  
10           newly constructed expansion of an existing cultured  
11           cell material food production facility, in a  
12           controlled environment, when the improvements are  
13           placed in service on or after the effective date of  
14           this amendatory Act of the 103rd General Assembly; and

15           (4) no later than 90 days after an application is  
16           submitted, the Department shall notify the applicant of  
17           the Department's determination of the qualification of the  
18           proposed High Impact Business under this Section.

19           (b) Businesses designated as High Impact Businesses  
20           pursuant to subdivision (a)(3)(A) of this Section shall  
21           qualify for the credits and exemptions described in the  
22           following Acts: Section 9-222 and Section 9-222.1A of the  
23           Public Utilities Act, subsection (h) of Section 201 of the  
24           Illinois Income Tax Act, and Section 1d of the Retailers'  
25           Occupation Tax Act; provided that these credits and exemptions  
26           described in these Acts shall not be authorized until the

1 minimum investments set forth in subdivision (a) (3) (A) of this  
2 Section have been placed in service in qualified properties  
3 and, in the case of the exemptions described in the Public  
4 Utilities Act and Section 1d of the Retailers' Occupation Tax  
5 Act, the minimum full-time equivalent jobs or full-time  
6 retained jobs set forth in subdivision (a) (3) (A) of this  
7 Section have been created or retained. Businesses designated  
8 as High Impact Businesses under this Section shall also  
9 qualify for the exemption described in Section 51 of the  
10 Retailers' Occupation Tax Act. The credit provided in  
11 subsection (h) of Section 201 of the Illinois Income Tax Act  
12 shall be applicable to investments in qualified property as  
13 set forth in subdivision (a) (3) (A) of this Section.

14 (b-5) Businesses designated as High Impact Businesses  
15 pursuant to subdivisions (a) (3) (B), (a) (3) (B-5), (a) (3) (C),  
16 ~~and~~ (a) (3) (D), and (a) (3) (G) of this Section shall qualify for  
17 the credits and exemptions described in the following Acts:  
18 Section 51 of the Retailers' Occupation Tax Act, Section 9-222  
19 and Section 9-222.1A of the Public Utilities Act, and  
20 subsection (h) of Section 201 of the Illinois Income Tax Act;  
21 however, the credits and exemptions authorized under Section  
22 9-222 and Section 9-222.1A of the Public Utilities Act, and  
23 subsection (h) of Section 201 of the Illinois Income Tax Act  
24 shall not be authorized until the new electric generating  
25 facility, the new gasification facility, the new transmission  
26 facility, ~~or~~ the new, expanded, or reopened coal mine, or the

1 new cultured cell material food production facility is  
2 operational, except that a new electric generating facility  
3 whose primary fuel source is natural gas is eligible only for  
4 the exemption under Section 51 of the Retailers' Occupation  
5 Tax Act.

6 (b-6) Businesses designated as High Impact Businesses  
7 pursuant to subdivision (a) (3) (E) or (a) (3) (E-5) of this  
8 Section shall qualify for the exemptions described in Section  
9 51 of the Retailers' Occupation Tax Act; any business so  
10 designated as a High Impact Business being, for purposes of  
11 this Section, a "Wind Energy Business".

12 (b-7) Beginning on January 1, 2021, businesses designated  
13 as High Impact Businesses by the Department shall qualify for  
14 the High Impact Business construction jobs credit under  
15 subsection (h-5) of Section 201 of the Illinois Income Tax Act  
16 if the business meets the criteria set forth in subsection (i)  
17 of this Section. The total aggregate amount of credits awarded  
18 under the Blue Collar Jobs Act (Article 20 of Public Act 101-9)  
19 shall not exceed \$20,000,000 in any State fiscal year.

20 (c) High Impact Businesses located in federally designated  
21 foreign trade zones or sub-zones are also eligible for  
22 additional credits, exemptions and deductions as described in  
23 the following Acts: Section 9-221 and Section 9-222.1 of the  
24 Public Utilities Act; and subsection (g) of Section 201, and  
25 Section 203 of the Illinois Income Tax Act.

26 (d) Except for businesses contemplated under subdivision

1 (a) (3) (E) ~~or~~ (a) (3) (E-5), or (a) (3) (G) of this Section,  
2 existing Illinois businesses which apply for designation as a  
3 High Impact Business must provide the Department with the  
4 prospective plan for which 1,500 full-time retained jobs would  
5 be eliminated in the event that the business is not  
6 designated.

7 (e) Except for new businesses ~~wind power facilities~~  
8 contemplated under subdivision (a) (3) (E) or subdivision  
9 (a) (3) (G) of this Section, new proposed facilities which apply  
10 for designation as High Impact Business must provide the  
11 Department with proof of alternative non-Illinois sites which  
12 would receive the proposed investment and job creation in the  
13 event that the business is not designated as a High Impact  
14 Business.

15 (f) Except for businesses contemplated under subdivision  
16 (a) (3) (E) or subdivision (a) (3) (G) of this Section, in the  
17 event that a business is designated a High Impact Business and  
18 it is later determined after reasonable notice and an  
19 opportunity for a hearing as provided under the Illinois  
20 Administrative Procedure Act, that the business would have  
21 placed in service in qualified property the investments and  
22 created or retained the requisite number of jobs without the  
23 benefits of the High Impact Business designation, the  
24 Department shall be required to immediately revoke the  
25 designation and notify the Director of the Department of  
26 Revenue who shall begin proceedings to recover all wrongfully

1 exempted State taxes with interest. The business shall also be  
2 ineligible for all State funded Department programs for a  
3 period of 10 years.

4 (g) The Department shall revoke a High Impact Business  
5 designation if the participating business fails to comply with  
6 the terms and conditions of the designation.

7 (h) Prior to designating a business, the Department shall  
8 provide the members of the General Assembly and Commission on  
9 Government Forecasting and Accountability with a report  
10 setting forth the terms and conditions of the designation and  
11 guarantees that have been received by the Department in  
12 relation to the proposed business being designated.

13 (i) High Impact Business construction jobs credit.  
14 Beginning on January 1, 2021, a High Impact Business may  
15 receive a tax credit against the tax imposed under subsections  
16 (a) and (b) of Section 201 of the Illinois Income Tax Act in an  
17 amount equal to 50% of the amount of the incremental income tax  
18 attributable to High Impact Business construction jobs credit  
19 employees employed in the course of completing a High Impact  
20 Business construction jobs project. However, the High Impact  
21 Business construction jobs credit may equal 75% of the amount  
22 of the incremental income tax attributable to High Impact  
23 Business construction jobs credit employees if the High Impact  
24 Business construction jobs credit project is located in an  
25 underserved area.

26 The Department shall certify to the Department of Revenue:

1 (1) the identity of taxpayers that are eligible for the High  
2 Impact Business construction jobs credit; and (2) the amount  
3 of High Impact Business construction jobs credits that are  
4 claimed pursuant to subsection (h-5) of Section 201 of the  
5 Illinois Income Tax Act in each taxable year. Any business  
6 entity that receives a High Impact Business construction jobs  
7 credit shall maintain a certified payroll pursuant to  
8 subsection (j) of this Section.

9 As used in this subsection (i):

10 "High Impact Business construction jobs credit" means an  
11 amount equal to 50% (or 75% if the High Impact Business  
12 construction project is located in an underserved area) of the  
13 incremental income tax attributable to High Impact Business  
14 construction job employees. The total aggregate amount of  
15 credits awarded under the Blue Collar Jobs Act (Article 20 of  
16 Public Act 101-9) shall not exceed \$20,000,000 in any State  
17 fiscal year

18 "High Impact Business construction job employee" means a  
19 laborer or worker who is employed by an Illinois contractor or  
20 subcontractor in the actual construction work on the site of a  
21 High Impact Business construction job project.

22 "High Impact Business construction jobs project" means  
23 building a structure or building or making improvements of any  
24 kind to real property, undertaken and commissioned by a  
25 business that was designated as a High Impact Business by the  
26 Department. The term "High Impact Business construction jobs

1 project" does not include the routine operation, routine  
2 repair, or routine maintenance of existing structures,  
3 buildings, or real property.

4 "Incremental income tax" means the total amount withheld  
5 during the taxable year from the compensation of High Impact  
6 Business construction job employees.

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

9 (1) the area has a poverty rate of at least 20%  
10 according to the latest American Community Survey;

11 (2) 35% or more of the families with children in the  
12 area are living below 130% of the poverty line, according  
13 to the latest American Community Survey;

14 (3) at least 20% of the households in the area receive  
15 assistance under the Supplemental Nutrition Assistance  
16 Program (SNAP); or

17 (4) the area has an average unemployment rate, as  
18 determined by the Illinois Department of Employment  
19 Security, that is more than 120% of the national  
20 unemployment average, as determined by the U.S. Department  
21 of Labor, for a period of at least 2 consecutive calendar  
22 years preceding the date of the application.

23 (j) Each contractor and subcontractor who is engaged in  
24 and executing a High Impact Business Construction jobs  
25 project, as defined under subsection (i) of this Section, for  
26 a business that is entitled to a credit pursuant to subsection

1 (i) of this Section shall:

2 (1) make and keep, for a period of 5 years from the  
3 date of the last payment made on or after June 5, 2019 (the  
4 effective date of Public Act 101-9) on a contract or  
5 subcontract for a High Impact Business Construction Jobs  
6 Project, records for all laborers and other workers  
7 employed by the contractor or subcontractor on the  
8 project; the records shall include:

9 (A) the worker's name;

10 (B) the worker's address;

11 (C) the worker's telephone number, if available;

12 (D) the worker's social security number;

13 (E) the worker's classification or  
14 classifications;

15 (F) the worker's gross and net wages paid in each  
16 pay period;

17 (G) the worker's number of hours worked each day;

18 (H) the worker's starting and ending times of work  
19 each day;

20 (I) the worker's hourly wage rate;

21 (J) the worker's hourly overtime wage rate;

22 (K) the worker's race and ethnicity; and

23 (L) the worker's gender;

24 (2) no later than the 15th day of each calendar month,  
25 provide a certified payroll for the immediately preceding  
26 month to the taxpayer in charge of the High Impact



1 Business construction jobs project; within 5 business days  
2 after receiving the certified payroll, the taxpayer shall  
3 file the certified payroll with the Department of Labor  
4 and the Department of Commerce and Economic Opportunity; a  
5 certified payroll must be filed for only those calendar  
6 months during which construction on a High Impact Business  
7 construction jobs project has occurred; the certified  
8 payroll shall consist of a complete copy of the records  
9 identified in paragraph (1) of this subsection (j), but  
10 may exclude the starting and ending times of work each  
11 day; the certified payroll shall be accompanied by a  
12 statement signed by the contractor or subcontractor or an  
13 officer, employee, or agent of the contractor or  
14 subcontractor which avers that:

15 (A) he or she has examined the certified payroll  
16 records required to be submitted by the Act and such  
17 records are true and accurate; and

18 (B) the contractor or subcontractor is aware that  
19 filing a certified payroll that he or she knows to be  
20 false is a Class A misdemeanor.

21 A general contractor is not prohibited from relying on a  
22 certified payroll of a lower-tier subcontractor, provided the  
23 general contractor does not knowingly rely upon a  
24 subcontractor's false certification.

25 Any contractor or subcontractor subject to this  
26 subsection, and any officer, employee, or agent of such

1 contractor or subcontractor whose duty as an officer,  
2 employee, or agent it is to file a certified payroll under this  
3 subsection, who willfully fails to file such a certified  
4 payroll on or before the date such certified payroll is  
5 required by this paragraph to be filed and any person who  
6 willfully files a false certified payroll that is false as to  
7 any material fact is in violation of this Act and guilty of a  
8 Class A misdemeanor.

9 The taxpayer in charge of the project shall keep the  
10 records submitted in accordance with this subsection on or  
11 after June 5, 2019 (the effective date of Public Act 101-9) for  
12 a period of 5 years from the date of the last payment for work  
13 on a contract or subcontract for the High Impact Business  
14 construction jobs project.

15 The records submitted in accordance with this subsection  
16 shall be considered public records, except an employee's  
17 address, telephone number, and social security number, and  
18 made available in accordance with the Freedom of Information  
19 Act. The Department of Labor shall share the information with  
20 the Department in order to comply with the awarding of a High  
21 Impact Business construction jobs credit. A contractor,  
22 subcontractor, or public body may retain records required  
23 under this Section in paper or electronic format.

24 (k) Upon 7 business days' notice, each contractor and  
25 subcontractor shall make available for inspection and copying  
26 at a location within this State during reasonable hours, the

1 records identified in this subsection (j) to the taxpayer in  
2 charge of the High Impact Business construction jobs project,  
3 its officers and agents, the Director of the Department of  
4 Labor and his or her deputies and agents, and to federal,  
5 State, or local law enforcement agencies and prosecutors.

6 (1) The changes made to this Section by this amendatory  
7 Act of the 102nd General Assembly, other than the changes in  
8 subsection (a), apply to high impact businesses that submit  
9 applications on or after the effective date of this amendatory  
10 Act of the 102nd General Assembly.

11 (Source: P.A. 101-9, eff. 6-5-19; 102-108, eff. 1-1-22;  
12 102-558, eff. 8-20-21; 102-605, eff. 8-27-21; 102-662, eff.  
13 9-15-21; 102-673, eff. 11-30-21; 102-813, eff. 5-13-22;  
14 102-1125, eff. 2-3-23.)

15 Section 10. The Economic Development for a Growing Economy  
16 Tax Credit Act is amended by changing Sections 5-5 and 5-15 as  
17 follows:

18 (35 ILCS 10/5-5)

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

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

22 "Applicant" means a Taxpayer that is operating a business  
23 located or that the Taxpayer plans to locate within the State  
24 of Illinois and that is engaged in interstate or intrastate

1 commerce for the purpose of manufacturing, processing,  
2 assembling, warehousing, or distributing products, conducting  
3 research and development, providing tourism services, or  
4 providing services in interstate commerce, office industries,  
5 or agricultural processing, but excluding retail, retail food,  
6 health, or professional services. "Applicant" does not include  
7 a Taxpayer who closes or substantially reduces an operation at  
8 one location in the State and relocates substantially the same  
9 operation to another location in the State. This does not  
10 prohibit a Taxpayer from expanding its operations at another  
11 location in the State, provided that existing operations of a  
12 similar nature located within the State are not closed or  
13 substantially reduced. This also does not prohibit a Taxpayer  
14 from moving its operations from one location in the State to  
15 another location in the State for the purpose of expanding the  
16 operation provided that the Department determines that  
17 expansion cannot reasonably be accommodated within the  
18 municipality in which the business is located, or in the case  
19 of a business located in an incorporated area of the county,  
20 within the county in which the business is located, after  
21 conferring with the chief elected official of the municipality  
22 or county and taking into consideration any evidence offered  
23 by the municipality or county regarding the ability to  
24 accommodate expansion within the municipality or county.

25 "Credit" means the amount agreed to between the Department  
26 and Applicant under this Act, but not to exceed the lesser of:

1 (1) the sum of (i) 50% of the Incremental Income Tax  
2 attributable to New Employees at the Applicant's project and  
3 (ii) 10% of the training costs of New Employees; or (2) 100% of  
4 the Incremental Income Tax attributable to New Employees at  
5 the Applicant's project. However, if the project is located in  
6 an underserved area, then the amount of the Credit may not  
7 exceed the lesser of: (1) the sum of (i) 75% of the Incremental  
8 Income Tax attributable to New Employees at the Applicant's  
9 project and (ii) 10% of the training costs of New Employees; or  
10 (2) 100% of the Incremental Income Tax attributable to New  
11 Employees at the Applicant's project. If the project is not  
12 located in an underserved area and the Applicant agrees to  
13 hire the required number of New Employees, then the maximum  
14 amount of the Credit for that Applicant may be increased by an  
15 amount not to exceed 25% of the Incremental Income Tax  
16 attributable to retained employees at the Applicant's project.  
17 If the project is located in an underserved area and the  
18 Applicant agrees to hire the required number of New Employees,  
19 then the maximum amount of the credit for that Applicant may be  
20 increased by an amount not to exceed 50% of the Incremental  
21 Income Tax attributable to retained employees at the  
22 Applicant's project.

23 "Department" means the Department of Commerce and Economic  
24 Opportunity.

25 "Director" means the Director of Commerce and Economic  
26 Opportunity.

1 "Full-time Employee" means an individual who is employed  
2 for consideration for at least 35 hours each week or who  
3 renders any other standard of service generally accepted by  
4 industry custom or practice as full-time employment. An  
5 individual for whom a W-2 is issued by a Professional Employer  
6 Organization (PEO) is a full-time employee if employed in the  
7 service of the Applicant for consideration for at least 35  
8 hours each week or who renders any other standard of service  
9 generally accepted by industry custom or practice as full-time  
10 employment to Applicant.

11 "Incremental Income Tax" means the total amount withheld  
12 during the taxable year from the compensation of New Employees  
13 and, if applicable, retained employees under Article 7 of the  
14 Illinois Income Tax Act arising from employment at a project  
15 that is the subject of an Agreement.

16 "New Construction EDGE Agreement" means the Agreement  
17 between a Taxpayer and the Department under the provisions of  
18 Section 5-51 of this Act.

19 "New Construction EDGE Credit" means an amount agreed to  
20 between the Department and the Applicant under this Act as  
21 part of a New Construction EDGE Agreement that does not exceed  
22 50% of the Incremental Income Tax attributable to New  
23 Construction EDGE Employees at the Applicant's project;  
24 however, if the New Construction EDGE Project is located in an  
25 underserved area, then the amount of the New Construction EDGE  
26 Credit may not exceed 75% of the Incremental Income Tax

1 attributable to New Construction EDGE Employees at the  
2 Applicant's New Construction EDGE Project.

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

7 "New Construction EDGE Incremental Income Tax" means the  
8 total amount withheld during the taxable year from the  
9 compensation of New Construction EDGE Employees.

10 "New Construction EDGE Project" means the building of a  
11 Taxpayer's structure or building, or making improvements of  
12 any kind to real property. "New Construction EDGE Project"  
13 does not include the routine operation, routine repair, or  
14 routine maintenance of existing structures, buildings, or real  
15 property.

16 "New Employee" means:

17 (a) A Full-time Employee first employed by a Taxpayer  
18 in the project that is the subject of an Agreement and who  
19 is hired after the Taxpayer enters into the tax credit  
20 Agreement.

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

22 (1) an employee of the Taxpayer who performs a job  
23 that was previously performed by another employee, if  
24 that job existed for at least 6 months before hiring  
25 the employee;

26 (2) an employee of the Taxpayer who was previously

1 employed in Illinois by a Related Member of the  
2 Taxpayer and whose employment was shifted to the  
3 Taxpayer after the Taxpayer entered into the tax  
4 credit Agreement; or

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

10 (c) Notwithstanding paragraph (1) of subsection (b),  
11 an employee may be considered a New Employee under the  
12 Agreement if the employee performs a job that was  
13 previously performed by an employee who was:

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

15 and

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

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

20 (1) the Applicant is in receipt of a letter from  
21 the Department stating an intent to enter into a  
22 credit Agreement;

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

26 (3) the employee was hired after the date the



1 letter described in paragraph (1) was issued.

2 "Noncompliance Date" means, in the case of a Taxpayer that  
3 is not complying with the requirements of the Agreement or the  
4 provisions of this Act, the day following the last date upon  
5 which the Taxpayer was in compliance with the requirements of  
6 the Agreement and the provisions of this Act, as determined by  
7 the Director, pursuant to Section 5-65.

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

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

14 "Related Member" means a person that, with respect to the  
15 Taxpayer during any portion of the taxable year, is any one of  
16 the following:

17 (1) An individual stockholder, if the stockholder and  
18 the members of the stockholder's family (as defined in  
19 Section 318 of the Internal Revenue Code) own directly,  
20 indirectly, beneficially, or constructively, in the  
21 aggregate, at least 50% of the value of the Taxpayer's  
22 outstanding stock.

23 (2) A partnership, estate, or trust and any partner or  
24 beneficiary, if the partnership, estate, or trust, and its  
25 partners or beneficiaries own directly, indirectly,  
26 beneficially, or constructively, in the aggregate, at

1 least 50% of the profits, capital, stock, or value of the  
2 Taxpayer.

3 (3) A corporation, and any party related to the  
4 corporation in a manner that would require an attribution  
5 of stock from the corporation to the party or from the  
6 party to the corporation under the attribution rules of  
7 Section 318 of the Internal Revenue Code, if the Taxpayer  
8 owns directly, indirectly, beneficially, or constructively  
9 at least 50% of the value of the corporation's outstanding  
10 stock.

11 (4) A corporation and any party related to that  
12 corporation in a manner that would require an attribution  
13 of stock from the corporation to the party or from the  
14 party to the corporation under the attribution rules of  
15 Section 318 of the Internal Revenue Code, if the  
16 corporation and all such related parties own in the  
17 aggregate at least 50% of the profits, capital, stock, or  
18 value of the Taxpayer.

19 (5) A person to or from whom there is attribution of  
20 stock ownership in accordance with Section 1563(e) of the  
21 Internal Revenue Code, except, for purposes of determining  
22 whether a person is a Related Member under this paragraph,  
23 20% shall be substituted for 5% wherever 5% appears in  
24 Section 1563(e) of the Internal Revenue Code.

25 "Startup taxpayer" means, for Agreements that are executed  
26 before the effective date of this amendatory Act of the 103rd

1 General Assembly, a corporation, partnership, or other entity  
2 incorporated or organized no more than 5 years before the  
3 filing of an application for an Agreement that has never had  
4 any Illinois income tax liability, excluding any Illinois  
5 income tax liability of a Related Member which shall not be  
6 attributed to the startup taxpayer. "Startup taxpayer" means,  
7 for Agreements that are executed on or after the effective  
8 date of this amendatory Act of the 103rd General Assembly, a  
9 corporation, partnership, or other entity that is incorporated  
10 or organized no more than 10 years before the filing of an  
11 application for an Agreement and that has never had any  
12 Illinois income tax liability. For the purpose of determining  
13 whether the taxpayer has had any Illinois income tax  
14 liability, the Illinois income tax liability of a Related  
15 Member shall not be attributed to the startup taxpayer.

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

18 Until July 1, 2022, "underserved area" means a geographic  
19 area that meets one or more of the following conditions:

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

22 (2) 75% or more of the children in the area  
23 participate in the federal free lunch program according to  
24 reported statistics from the State Board of Education;

25 (3) at least 20% of the households in the area receive  
26 assistance under the Supplemental Nutrition Assistance

1 Program (SNAP); or

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

8 On and after July 1, 2022, "underserved area" means a  
9 geographic area that meets one or more of the following  
10 conditions:

11 (1) the area has a poverty rate of at least 20%  
12 according to the latest American Community Survey;

13 (2) 35% or more of the families with children in the  
14 area are living below 130% of the poverty line, according  
15 to the latest American Community Survey;

16 (3) at least 20% of the households in the area receive  
17 assistance under the Supplemental Nutrition Assistance  
18 Program (SNAP); or

19 (4) the area has an average unemployment rate, as  
20 determined by the Illinois Department of Employment  
21 Security, that is more than 120% of the national  
22 unemployment average, as determined by the U.S. Department  
23 of Labor, for a period of at least 2 consecutive calendar  
24 years preceding the date of the application.

25 (Source: P.A. 101-9, eff. 6-5-19; 102-330, eff. 1-1-22;  
26 102-700, eff. 4-19-22; 102-1125, eff. 2-3-23.)

1 (35 ILCS 10/5-15)

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

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

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

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

17 (d) The Credit shall not exceed the Incremental Income Tax  
18 attributable to the project that is the subject of the  
19 Agreement.

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

23 (f) In lieu of the Credit allowed under this Act against  
24 the taxes imposed pursuant to subsections (a) and (b) of  
25 Section 201 of the Illinois Income Tax Act for any taxable year

1 ending on or after December 31, 2009, for Taxpayers that  
2 entered into Agreements prior to January 1, 2015 and otherwise  
3 meet the criteria set forth in this subsection (f), the  
4 Taxpayer may elect to claim the Credit against its obligation  
5 to pay over withholding under Section 704A of the Illinois  
6 Income Tax Act.

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

19 (A) 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, (iii) has  
25 an Agreement under this Act on December 14, 2009 (the  
26 effective date of Public Act 96-834), and (iv) is in

1 compliance with all provisions of that Agreement;

2 (B) the Taxpayer (i) had an Illinois net loss or an  
3 Illinois net loss deduction under Section 207 of the  
4 Illinois Income Tax Act for the taxable year in which  
5 the Credit is awarded, (ii) employed a minimum of  
6 1,000 full-time employees in this State during the  
7 taxable year in which the Credit is awarded, and (iii)  
8 has applied for an Agreement within 365 days after  
9 December 14, 2009 (the effective date of Public Act  
10 96-834);

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

22 (D) the Taxpayer (i) had an Illinois net operating  
23 loss carryforward under Section 207 of the Illinois  
24 Income Tax Act in a taxable year ending during  
25 calendar year 2009, (ii) has applied for an Agreement  
26 within 150 days after the effective date of this

1           amendatory Act of the 96th General Assembly, (iii)  
2           creates at least 150 new jobs, (iv) retains at least  
3           1,000 jobs in Illinois that would have been at risk of  
4           relocation out of Illinois over a 10-year period, and  
5           (v) makes a capital investment of at least  
6           \$57,000,000; or

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

17          (1.5) The election under this subsection (f) may also  
18          be made by a Taxpayer for any Credit awarded pursuant to an  
19          agreement that was executed between January 1, 2011 and  
20          June 30, 2011, if the Taxpayer (i) is primarily engaged in  
21          the manufacture of inner tubes or tires, or both, from  
22          natural and synthetic rubber, (ii) employs a minimum of  
23          2,400 full-time employees in Illinois at the time of  
24          application, (iii) creates at least 350 full-time jobs and  
25          retains at least 250 full-time jobs in Illinois that would  
26          have been at risk of being created or retained outside of



1 Illinois, and (iv) makes a capital investment of at least  
2 \$200,000,000 at the project location.

3 (1.6) The election under this subsection (f) may also  
4 be made by a Taxpayer for any Credit awarded pursuant to an  
5 agreement that was executed within 150 days after the  
6 effective date of this amendatory Act of the 97th General  
7 Assembly, if the Taxpayer (i) is primarily engaged in the  
8 operation of a discount department store, (ii) maintains  
9 its corporate headquarters in Illinois, (iii) employs a  
10 minimum of 4,250 full-time employees at its corporate  
11 headquarters in Illinois at the time of application, (iv)  
12 retains at least 4,250 full-time jobs in Illinois that  
13 would have been at risk of being relocated outside of  
14 Illinois, (v) had a minimum of \$40,000,000,000 in total  
15 revenue in 2010, and (vi) makes a capital investment of at  
16 least \$300,000,000 at the project location.

17 (1.7) Notwithstanding any other provision of law, the  
18 election under this subsection (f) may also be made by a  
19 Taxpayer for any Credit awarded pursuant to an agreement  
20 that was executed or applied for on or after July 1, 2011  
21 and on or before March 31, 2012, if the Taxpayer is  
22 primarily engaged in the manufacture of original and  
23 aftermarket filtration parts and products for automobiles,  
24 motor vehicles, light duty motor vehicles, light trucks  
25 and utility vehicles, and heavy duty trucks, (ii) employs  
26 a minimum of 1,000 full-time employees in Illinois at the

1 time of application, (iii) creates at least 250 full-time  
2 jobs in Illinois, (iv) relocates its corporate  
3 headquarters to Illinois from another state, and (v) makes  
4 a capital investment of at least \$4,000,000 at the project  
5 location.

6 (1.8) Notwithstanding any other provision of law, the  
7 election under this subsection (f) may also be made by a  
8 startup taxpayer for any Credit awarded pursuant to an  
9 Agreement that was executed ~~or applied for~~ on or after the  
10 effective date of this amendatory Act of the 102nd General  
11 Assembly, ~~if the startup taxpayer, without considering any~~  
12 ~~Related Member or other investor, (i) has never had any~~  
13 ~~Illinois income tax liability and (ii) was incorporated no~~  
14 ~~more than 5 years before the filing of an application for~~  
15 ~~an Agreement.~~ Any such election under this paragraph (1.8)  
16 shall be effective unless and until such startup taxpayer  
17 has any Illinois income tax liability. This election under  
18 this paragraph (1.8) shall automatically terminate when  
19 the startup taxpayer has any Illinois income tax liability  
20 at the end of any taxable year during the term of the  
21 Agreement. Thereafter, the startup taxpayer may receive a  
22 Credit, taking into account any benefits previously  
23 enjoyed or received by way of the election under this  
24 paragraph (1.8), so long as the startup taxpayer remains  
25 in compliance with the terms and conditions of the  
26 Agreement.

1           (2) An election under this subsection shall allow the  
2 credit to be taken against payments otherwise due under  
3 Section 704A of the Illinois Income Tax Act during the  
4 first calendar quarter ~~year~~ beginning after the end of the  
5 taxable quarter ~~year~~ in which the credit is awarded under  
6 this Act.

7           (3) The election shall be made in the form and manner  
8 required by the Illinois Department of Revenue and, once  
9 made, shall be irrevocable.

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

17           (g) A pass-through entity that has been awarded a credit  
18 under this Act, its shareholders, or its partners may treat  
19 some or all of the credit awarded pursuant to this Act as a tax  
20 payment for purposes of the Illinois Income Tax Act. The term  
21 "tax payment" means a payment as described in Article 6 or  
22 Article 8 of the Illinois Income Tax Act or a composite payment  
23 made by a pass-through entity on behalf of any of its  
24 shareholders or partners to satisfy such shareholders' or  
25 partners' taxes imposed pursuant to subsections (a) and (b) of  
26 Section 201 of the Illinois Income Tax Act. In no event shall

1 the amount of the award credited pursuant to this Act exceed  
2 the Illinois income tax liability of the pass-through entity  
3 or its shareholders or partners for the taxable year.

4 (Source: P.A. 102-700, eff. 4-19-22.)

5 Section 15. The Public Utilities Act is amended by  
6 changing Section 9-222.1A as follows:

7 (220 ILCS 5/9-222.1A)

8 Sec. 9-222.1A. High impact business. Beginning on August  
9 1, 1998 and thereafter, a business enterprise that is  
10 certified as a High Impact Business by the Department of  
11 Commerce and Economic Opportunity (formerly Department of  
12 Commerce and Community Affairs) is exempt from the tax imposed  
13 by Section 2-4 of the Electricity Excise Tax Law, if the High  
14 Impact Business is registered to self-assess that tax, and is  
15 exempt from any additional charges added to the business  
16 enterprise's utility bills as a pass-on of State utility taxes  
17 under Section 9-222 of this Act, to the extent the tax or  
18 charges are exempted by the percentage specified by the  
19 Department of Commerce and Economic Opportunity for State  
20 utility taxes, provided the business enterprise meets the  
21 following criteria:

22 (1) (A) it intends either (i) to make a minimum  
23 eligible investment of \$12,000,000 that will be placed  
24 in service in qualified property in Illinois and is

1 intended to create at least 500 full-time equivalent  
2 jobs at a designated location in Illinois; or (ii) to  
3 make a minimum eligible investment of \$30,000,000 that  
4 will be placed in service in qualified property in  
5 Illinois and is intended to retain at least 1,500  
6 full-time equivalent jobs at a designated location in  
7 Illinois; or

8 (B) it meets the criteria of subdivision  
9 (a) (3) (B), (a) (3) (C), (a) (3) (D), ~~or~~ (a) (3) (F), or  
10 (a) (3) (G) of Section 5.5 of the Illinois Enterprise  
11 Zone Act;

12 (2) it is designated as a High Impact Business by the  
13 Department of Commerce and Economic Opportunity; and

14 (3) it is certified by the Department of Commerce and  
15 Economic Opportunity as complying with the requirements  
16 specified in clauses (1) and (2) of this Section.

17 The Department of Commerce and Economic Opportunity shall  
18 determine the period during which the exemption from the  
19 Electricity Excise Tax Law and the charges imposed under  
20 Section 9-222 are in effect and shall specify the percentage  
21 of the exemption from those taxes or additional charges.

22 The Department of Commerce and Economic Opportunity is  
23 authorized to promulgate rules and regulations to carry out  
24 the provisions of this Section, including procedures for  
25 complying with the requirements specified in clauses (1) and  
26 (2) of this Section and procedures for applying for the

1 exemptions authorized under this Section; to define the  
2 amounts and types of eligible investments that business  
3 enterprises must make in order to receive State utility tax  
4 exemptions or exemptions from the additional charges imposed  
5 under Section 9-222 and this Section; to approve such utility  
6 tax exemptions for business enterprises whose investments are  
7 not yet placed in service; and to require that business  
8 enterprises granted tax exemptions or exemptions from  
9 additional charges under Section 9-222 repay the exempted  
10 amount if the business enterprise fails to comply with the  
11 terms and conditions of the certification.

12       Upon certification of the business enterprises by the  
13 Department of Commerce and Economic Opportunity, the  
14 Department of Commerce and Economic Opportunity shall notify  
15 the Department of Revenue of the certification. The Department  
16 of Revenue shall notify the public utilities of the exemption  
17 status of business enterprises from the tax or pass-on charges  
18 of State utility taxes. The exemption status shall take effect  
19 within 3 months after certification of the business  
20 enterprise.

21 (Source: P.A. 102-1125, eff. 2-3-23.)".