

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Economic Development for a Growing Economy
5 Tax Credit Act is amended by changing Section 5-15 as follows:

6 (35 ILCS 10/5-15)

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

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

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

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

22 (d) The Credit shall not exceed the Incremental Income Tax
23 attributable to the project that is the subject of the

1 Agreement.

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

5 (f) In lieu of the Credit allowed under this Act against
6 the taxes imposed pursuant to subsections (a) and (b) of
7 Section 201 of the Illinois Income Tax Act for any taxable year
8 ending on or after December 31, 2009, the Taxpayer may elect to
9 claim the Credit against its obligation to pay over withholding
10 under Section 704A of the Illinois Income Tax Act.

11 (1) The election under this subsection (f) may be made
12 only by a Taxpayer that (i) is primarily engaged in one of
13 the following business activities: water purification and
14 treatment, motor vehicle metal stamping, automobile
15 manufacturing, automobile and light duty motor vehicle
16 manufacturing, motor vehicle manufacturing, light truck
17 and utility vehicle manufacturing, heavy duty truck
18 manufacturing, or motor vehicle body manufacturing and
19 (ii) meets the following criteria:

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

1 effective date of Public Act 96-834), and (iv) is in
2 compliance with all provisions of that Agreement;

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

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 calendar
14 year 2008, (ii) has applied for an Agreement within 150
15 days after the effective date of this amendatory Act of
16 the 96th General Assembly, (iii) creates at least 400
17 new jobs in Illinois, (iv) retains at least 2,000 jobs
18 in Illinois that would have been at risk of relocation
19 out of Illinois over a 10-year period, and (v) makes a
20 capital investment of at least \$75,000,000; or ~~or~~

21 (D) the Taxpayer (i) had an Illinois net operating
22 loss carryforward under Section 207 of the Illinois
23 Income Tax Act in a taxable year ending during calendar
24 year 2009, (ii) has applied for an Agreement within 150
25 days after the effective date of this amendatory Act of
26 the 96th General Assembly, (iii) creates at least 150

1 new jobs, (iv) retains at least 1,000 jobs in Illinois
2 that would have been at risk of relocation out of
3 Illinois over a 10-year period, and (v) makes a capital
4 investment of at least \$57,000,000.

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

10 (3) The election shall be made in the form and manner
11 required by the Illinois Department of Revenue and, once
12 made, shall be irrevocable.

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

20 (g) A pass-through entity that has been awarded a credit
21 under this Act, its shareholders, or its partners may treat
22 some or all of the credit awarded pursuant to this Act as a tax
23 payment for purposes of the Illinois Income Tax Act. The term
24 "tax payment" means a payment as described in Article 6 or
25 Article 8 of the Illinois Income Tax Act or a composite payment
26 made by a pass-through entity on behalf of any of its

1 shareholders or partners to satisfy such shareholders' or
2 partners' taxes imposed pursuant to subsections (a) and (b) of
3 Section 201 of the Illinois Income Tax Act. In no event shall
4 the amount of the award credited pursuant to this Act exceed
5 the Illinois income tax liability of the pass-through entity or
6 its shareholders or partners for the taxable year.

7 (Source: P.A. 95-375, eff. 8-23-07; 96-834, eff. 12-14-09;
8 96-836, eff. 12-16-09; 96-905, eff. 6-4-10; 96-1000, eff.
9 7-2-10.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.