

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 Illinois Income Tax Act is amended by  
5 changing Section 220 as follows:

6 (35 ILCS 5/220)

7 Sec. 220. Angel investment credit.

8 (a) As used in this Section:

9 "Applicant" means a corporation, partnership, limited  
10 liability company, or a natural person that makes an investment  
11 in a qualified new business venture. The term "applicant" does  
12 not include a corporation, partnership, limited liability  
13 company, or a natural person who has a direct or indirect  
14 ownership interest of at least 51% in the profits, capital, or  
15 value of the investment or a related member.

16 "Claimant" means an applicant certified by the Department  
17 who files a claim for a credit under this Section.

18 "Department" means the Department of Commerce and Economic  
19 Opportunity.

20 "Investment" means money (or its equivalent) given to a  
21 qualified new business venture, at a risk of loss, in  
22 consideration for an equity interest of the qualified new  
23 business venture. The Department may adopt rules to permit

1 certain forms of contingent equity investments to be considered  
2 eligible for a tax credit under this Section.

3 "Qualified new business venture" means a business that is  
4 registered with the Department under this Section.

5 "Related member" means a person that, with respect to the  
6 applicant investment, is any one of the following:

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

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

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

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

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

16           (b) For taxable years beginning after December 31, 2010,  
17 and ending on or before December 31, 2021 ~~December 31, 2016~~,  
18 subject to the limitations provided in this Section, a claimant  
19 may claim, as a credit against the tax imposed under  
20 subsections (a) and (b) of Section 201 of this Act, an amount  
21 equal to 25% of the claimant's investment made directly in a  
22 qualified new business venture. In order for an investment in a  
23 qualified new business venture to be eligible for tax credits,  
24 the business must have applied for and received certification  
25 under subsection (e) for the taxable year in which the  
26 investment was made prior to the date on which the investment

1 was made. The credit under this Section may not exceed the  
2 taxpayer's Illinois income tax liability for the taxable year.  
3 If the amount of the credit exceeds the tax liability for the  
4 year, the excess may be carried forward and applied to the tax  
5 liability of the 5 taxable years following the excess credit  
6 year. The credit shall be applied to the earliest year for  
7 which there is a tax liability. If there are credits from more  
8 than one tax year that are available to offset a liability, the  
9 earlier credit shall be applied first. In the case of a  
10 partnership or Subchapter S Corporation, the credit is allowed  
11 to the partners or shareholders in accordance with the  
12 determination of income and distributive share of income under  
13 Sections 702 and 704 and Subchapter S of the Internal Revenue  
14 Code.

15 (c) The minimum amount an applicant must invest in any  
16 single qualified new business venture in order to be eligible  
17 for a credit under this Section is \$10,000. The maximum amount  
18 of an applicant's total investment made in any single qualified  
19 new business venture that may be used as the basis for a credit  
20 under this Section is \$2,000,000 ~~for each investment made~~  
21 ~~directly in a qualified new business venture.~~

22 (d) The Department shall implement a program to certify an  
23 applicant for an angel investment credit. Upon satisfactory  
24 review, the Department shall issue a tax credit certificate  
25 stating the amount of the tax credit to which the applicant is  
26 entitled. The Department shall annually certify that: (i) each

1 qualified new business venture that receives an angel  
2 investment under this Section has maintained a minimum  
3 employment threshold, as defined by rule, in the State (and  
4 continues to maintain a minimum employment threshold in the  
5 State for a period of no less than 3 years from the issue date  
6 of the last tax credit certificate issued by the Department  
7 with respect to such business pursuant to this Section); and  
8 (ii) the claimant's investment has been made and remains,  
9 except in the event of a qualifying liquidity event, in the  
10 qualified new business venture for no less than 3 years.

11 If an investment for which a claimant is allowed a credit  
12 under subsection (b) is held by the claimant for less than 3  
13 years, other than as a result of a permitted sale of the  
14 investment to person who is not a related member, ~~or, if within~~  
15 ~~that period of time the qualified new business venture is moved~~  
16 ~~from the State of Illinois,~~ the claimant shall pay to the  
17 Department of Revenue, in the manner prescribed by the  
18 Department of Revenue, the aggregate amount of the disqualified  
19 credits ~~credit~~ that the claimant received related to the  
20 subject investment.

21 If the Department determines that a qualified new business  
22 venture failed to maintain a minimum employment threshold in  
23 the State through the date which is 3 years from the issue date  
24 of the last tax credit certificate issued by the Department  
25 with respect to the subject business pursuant to this Section,  
26 the claimant or claimants shall pay to the Department of

1 Revenue, in the manner prescribed by the Department of Revenue,  
2 the aggregate amount of the disqualified credits that claimant  
3 or claimants received related to investments in that business.

4 (e) The Department shall implement a program to register  
5 qualified new business ventures for purposes of this Section. A  
6 business desiring registration under this Section shall be  
7 required to submit a full and complete ~~an~~ application to the  
8 Department ~~in each taxable year for which the business desires~~  
9 ~~registration.~~ A submitted application shall be effective only  
10 for the taxable year in which it is submitted, and a business  
11 desiring registration under this Section shall be required to  
12 submit a separate application in and for each taxable year for  
13 which the business desires registration. Further, if at any  
14 time prior to the acceptance of an application for registration  
15 under this Section by the Department one or more events occurs  
16 which makes the information provided in that application  
17 materially false or incomplete (in whole or in part), the  
18 business shall promptly notify the Department of the same. Any  
19 failure of a business to promptly provide the foregoing  
20 information to the Department may, at the discretion of the  
21 Department, result in a revocation of a previously approved  
22 application for that business, or disqualification of the  
23 business from future registration under this Section, or both.  
24 The Department may register the business only if ~~the business~~  
25 ~~satisfies~~ all of the following conditions are satisfied:

26 (1) it has its principal place of business headquarters

1 in this State;

2 (2) at least 51% of the employees employed by the  
3 business are employed in this State;

4 (3) the business ~~it~~ has the potential for increasing  
5 jobs in this State, increasing capital investment in this  
6 State, or both, as determined by the Department, and either  
7 of the following apply:

8 (A) it is principally engaged in innovation in any  
9 of the following: manufacturing; biotechnology;  
10 nanotechnology; communications; agricultural sciences;  
11 clean energy creation or storage technology;  
12 processing or assembling products, including medical  
13 devices, pharmaceuticals, computer software, computer  
14 hardware, semiconductors, other innovative technology  
15 products, or other products that are produced using  
16 manufacturing methods that are enabled by applying  
17 proprietary technology; or providing services that are  
18 enabled by applying proprietary technology; or

19 (B) it is undertaking pre-commercialization  
20 activity related to proprietary technology that  
21 includes conducting research, developing a new product  
22 or business process, or developing a service that is  
23 principally reliant on applying proprietary  
24 technology;

25 (4) it is not principally engaged in real estate  
26 development, insurance, banking, lending, lobbying,

1 political consulting, professional services provided by  
2 attorneys, accountants, business consultants, physicians,  
3 or health care consultants, wholesale or retail trade,  
4 leisure, hospitality, transportation, or construction,  
5 except construction of power production plants that derive  
6 energy from a renewable energy resource, as defined in  
7 Section 1 of the Illinois Power Agency Act;

8 (5) at the time it is first certified:

9 (A) it has fewer than 100 employees;

10 (B) it has been in operation in Illinois for not  
11 more than 10 consecutive years prior to the year of  
12 certification; and

13 (C) it has received not more than \$10,000,000 in  
14 aggregate investments ~~private equity investment in~~  
15 ~~cash~~;

16 (5.1) it agrees to maintain a minimum employment  
17 threshold in the State of Illinois prior to the date which  
18 is 3 years from the issue date of the last tax credit  
19 certificate issued by the Department with respect to that  
20 business pursuant to this Section;

21 (6) (blank); and

22 (7) it has received not more than \$4,000,000 in  
23 investments that qualified for tax credits under this  
24 Section.

25 (f) The Department, in consultation with the Department of  
26 Revenue, shall adopt rules to administer this Section. The



1 aggregate amount of the tax credits that may be claimed under  
2 this Section for investments made in qualified new business  
3 ventures shall be limited at \$10,000,000 per calendar year, of  
4 which \$500,000 shall be reserved for investments made in  
5 qualified new business ventures which are "minority owned  
6 businesses", "female owned businesses", or "businesses owned  
7 by a person with a disability" (as those terms are used and  
8 defined in the Business Enterprise for Minorities, Females, and  
9 Persons with Disabilities Act), and an additional \$500,000  
10 shall be reserved for investments made in qualified new  
11 business ventures with their principal place of business in  
12 counties with a population of not more than 250,000. The  
13 foregoing annual allowable amounts shall be allocated by the  
14 Department, on a per calendar quarter basis and prior to the  
15 commencement of each calendar year, in such proportion as  
16 determined by the Department, provided that: (i) the amount  
17 initially allocated by the Department for any one calendar  
18 quarter shall not exceed 35% of the total allowable amount; and  
19 (ii) any portion of the allocated allowable amount remaining  
20 unused as of the end of any of the first 2 calendar quarters of  
21 a given calendar year shall be rolled into, and added to, the  
22 total allocated amount for the next available calendar quarter.

23 (g) A claimant may not sell or otherwise transfer a credit  
24 awarded under this Section to another person.

25 (h) On or before March 1 of each year, the Department shall  
26 report to the Governor and to the General Assembly on the tax

1 credit certificates awarded under this Section for the prior  
2 calendar year.

3 (1) This report must include, for each tax credit  
4 certificate awarded:

5 (A) the name of the claimant and the amount of  
6 credit awarded or allocated to that claimant;

7 (B) the name and address (including the county) of  
8 the qualified new business venture that received the  
9 investment giving rise to the credit, the North  
10 American Industry Classification System (NAICS) code  
11 applicable to that qualified new business venture, and  
12 the number of employees of the ~~the~~ qualified new  
13 business venture ~~that received the investment giving~~  
14 ~~rise to the credit and the county in which the~~  
15 ~~qualified new business venture is located;~~ and

16 (C) the date of approval by the Department of each  
17 claimant's ~~the applications for the~~ tax credit  
18 certificate.

19 (2) The report must also include:

20 (A) the total number of applicants and the total  
21 number of claimants, including the amount of each tax  
22 credit certificate ~~and amount for tax credit~~  
23 ~~certificates~~ awarded to a claimant under this Section  
24 in the prior calendar year;

25 (B) the total number of applications from  
26 businesses seeking registration under this Section,

1           the total number of new qualified business ventures  
2           registered by the Department, and the aggregate amount  
3           of investment upon which tax credit certificates were  
4           issued in the prior calendar year ~~the total number of~~  
5           ~~applications and amount for which tax credit~~  
6           ~~certificates were issued in the prior calendar year;~~  
7           and

8           (C) the total amount of tax credit certificates  
9           sought by applicants, the amount of each tax credit  
10           certificate issued to a claimant, the aggregate amount  
11           of all tax credit certificates issued in the prior  
12           calendar year and the aggregate amount of tax credit  
13           certificates issued as authorized under this Section  
14           for all calendar years ~~the total tax credit~~  
15           ~~certificates and amount authorized under this Section~~  
16           ~~for all calendar years.~~

17           (i) For each business seeking registration under this  
18           Section after December 31, 2016, the Department shall require  
19           the business to include in its application the North American  
20           Industry Classification System (NAICS) code applicable to the  
21           business and the number of employees of the business at the  
22           time of application. Each business registered by the Department  
23           as a qualified new business venture that receives an investment  
24           giving rise to the issuance of a tax credit certificate  
25           pursuant to this Section shall, for each of the 3 years  
26           following the issue date of the last tax credit certificate

1 issued by the Department with respect to such business pursuant  
2 to this Section, report to the Department the following:

3 (1) the number of employees and the location at which  
4 those employees are employed, both as of the end of each  
5 year;

6 (2) the amount of additional new capital investment  
7 raised as of the end of each year, if any; and

8 (3) the terms of any liquidity event occurring during  
9 such year; for the purposes of this Section, a "liquidity  
10 event" means any event that would be considered an exit for  
11 an illiquid investment, including any event that allows the  
12 equity holders of the business (or any material portion  
13 thereof) to cash out some or all of their respective equity  
14 interests.

15 (Source: P.A. 96-939, eff. 1-1-11; 97-507, eff. 8-23-11;  
16 97-1097, eff. 8-24-12.)