

# SB2071



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB2071

Introduced 2/10/2017, by Sen. Pamela J. Althoff

#### SYNOPSIS AS INTRODUCED:

New Act  
35 ILCS 5/224 new

Creates the Transforming, Helping, and Reviving Illinois' Versatile Economy (THRIVE) Job Creation Tax Credit Act. Provides that the Department of Commerce and Economic Opportunity shall award an income tax credit to taxpayers that meet certain criteria. Contains job creation and capital investment requirements. Provides that the credit may not exceed 50% of the incremental income tax attributable to the applicant's project. Amends the Illinois Income Tax Act to make conforming changes. Effective immediately.

LRB100 11448 HLH 21884 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 1. Short title. This Act may be cited as the  
5 Transforming, Helping, and Reviving Illinois' Versatile  
6 Economy (THRIVE) Job Creation Tax Credit Act.

7 Section 5. Definitions.

8 "Agreement" means the Agreement between a taxpayer and the  
9 Department under Section 40 of this Act.

10 "Applicant" means a taxpayer that is operating a business  
11 located, or that the taxpayer plans to locate, within the State  
12 and that is engaged in interstate or intrastate commerce for  
13 the purpose of manufacturing, processing, assembling,  
14 warehousing, or distributing products, conducting research and  
15 development, providing tourism services, or providing services  
16 in interstate commerce, office industries, or agricultural  
17 processing, but excluding retail, retail food, health, or  
18 professional services. "Applicant" does not include a taxpayer  
19 who closes or substantially reduces an operation at one  
20 location in the State and relocates substantially the same  
21 operation to another location in the State. This does not  
22 prohibit a taxpayer from expanding its operations at another  
23 location in the State, provided that existing operations of a

1 similar nature located within the State are not closed or  
2 substantially reduced. This also does not prohibit a taxpayer  
3 from moving its operations from one location in the State to  
4 another location in the State for the purpose of expanding the  
5 operation, provided that the Department determines that  
6 expansion cannot reasonably be accommodated within the  
7 municipality in which the business is located, or, in the case  
8 of a business located in an unincorporated area of the county,  
9 within the county in which the business is located, after  
10 conferring with the chief elected official of the municipality  
11 or county and taking into consideration any evidence offered by  
12 the municipality or county regarding the ability to accommodate  
13 expansion within the municipality or county.

14 "Credit" means the amount agreed to between the Department  
15 and applicant under this Act, but not to exceed 50% of the  
16 incremental income tax attributable to the applicant's  
17 project.

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

20 "Director" means the Director of Commerce and Economic  
21 Opportunity.

22 "Full-time employee" means an individual who is employed  
23 for consideration for at least 35 hours each week or who  
24 renders any other standard of service generally accepted by  
25 industry custom or practice as full-time employment. An  
26 individual for whom a W-2 is issued by a Professional Employer

1 Organization (PEO) is a full-time employee if employed in the  
2 service of the applicant for consideration for at least 35  
3 hours each week or who renders any other standard of service  
4 generally accepted by industry custom or practice as full-time  
5 employment.

6 "Incremental income tax" means the total amount withheld  
7 during the taxable year from the compensation of new employees  
8 under Article 7 of the Illinois Income Tax Act arising from  
9 employment at a project that is the subject of an agreement.

10 "New employee" means a full-time employee first employed by  
11 a taxpayer in the project that is the subject of an agreement  
12 and who is hired after the taxpayer enters into the tax credit  
13 agreement. The term "new employee" does not include:

14 (1) an employee of the taxpayer who performs a job that  
15 was previously performed by another employee, if that job  
16 existed for at least 6 months before the employee was hired  
17 by the taxpayer;

18 (2) an employee of the taxpayer who was previously  
19 employed in Illinois by a related member of the taxpayer  
20 and whose employment was shifted to the taxpayer after the  
21 taxpayer entered into the agreement; or

22 (3) a child, grandchild, parent, or spouse, other than  
23 a spouse who is legally separated from the individual, of  
24 any individual who has a direct or an indirect ownership  
25 interest of at least 5% in the profits, capital, or value  
26 of the taxpayer.

1           Notwithstanding paragraph (1) above, an employee may be  
2 considered a new employee under the agreement if the employee  
3 performs a job that was previously performed by an employee who  
4 was:

- 5           (1) treated under the agreement as a new employee; and
- 6           (2) promoted by the taxpayer to another job.

7           An employee hired prior to the date of the Agreement who  
8 otherwise qualifies as a new employee may be considered a new  
9 employee for purposes of awarding a credit under an agreement.  
10 if:

- 11           (1) the applicant is in receipt of a letter from the  
12 Department stating an intent to enter into a credit  
13 agreement;
- 14           (2) that letter is issued by the Department not later  
15 than 15 days after the effective date of this Act; and
- 16           (3) the employee was hired after the date the letter  
17 was issued.

18           "Noncompliance date" means, in the case of a taxpayer that  
19 is not complying with the requirements of the agreement or the  
20 provisions of this Act, the day following the last date upon  
21 which the taxpayer was in compliance with the requirements of  
22 the agreement and the provisions of this Act, as determined by  
23 the Director under Section 50 of this Act.

24           "Pass-through entity" means an entity that is exempt from  
25 the tax under subsection (b) or (c) of Section 205 of the  
26 Illinois Income Tax Act.

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

4 "Related member" means a person that, with respect to the  
5 taxpayer during any portion of the taxable year, is any one of  
6 the following:

7 (1) an individual stockholder, if the stockholder and  
8 the members of the stockholder's family (as defined in  
9 Section 318 of the Internal Revenue Code) own directly,  
10 indirectly, beneficially, or constructively, in the  
11 aggregate, at least 50% of the value of the taxpayer's  
12 outstanding stock;

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 value of the  
18 taxpayer;

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 to the party or from the  
22 party to the corporation under the attribution rules of  
23 Section 318 of the Internal Revenue Code, if the taxpayer  
24 owns directly, indirectly, beneficially, or constructively  
25 at least 50% of the value of the corporation's outstanding  
26 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 value of the taxpayer; and

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, for purposes of determining  
12 whether a person is a related member under this paragraph,  
13 20% shall be substituted for 5% wherever 5% appears in  
14 Section 1563(e) of the Internal Revenue Code.

15           "Taxpayer" means an individual, corporation, partnership,  
16 or other entity that has any Illinois income tax liability.

17           Section 10. Powers of the Department. The Department, in  
18 addition to those powers granted under the Civil Administrative  
19 Code of Illinois, is granted and shall have all the powers  
20 necessary or convenient to carry out and effectuate the  
21 purposes and provisions of this Act, including, but not limited  
22 to, power and authority to:

23           (1) Promulgate procedures or regulations deemed  
24 necessary and appropriate for the administration of the  
25 programs; establish forms for applications, notifications,

1 contracts, or any other agreements; and accept  
2 applications at any time during the year.

3 (2) Provide and assist taxpayers pursuant to the  
4 provisions of this Act, and cooperate with taxpayers that  
5 are parties to agreements to promote, foster, and support  
6 economic development, capital investment, and job creation  
7 within the State.

8 (3) Enter into agreements and memoranda of  
9 understanding for participation of and engage in  
10 cooperation with agencies of the federal government, units  
11 of local government, universities, research foundations or  
12 institutions, regional economic development corporations,  
13 or other organizations in furtherance of the purposes of  
14 this Act.

15 (4) Gather information and conduct inquiries, in the  
16 manner and by the methods as it deems desirable, including  
17 without limitation, gathering information with respect to  
18 applicants for the purpose of making any designations or  
19 certifications necessary or desirable in the furtherance  
20 of the purposes of this Act.

21 (5) Establish, negotiate, and effectuate any term,  
22 agreement or other document with any person necessary or  
23 appropriate to accomplish the purposes of this Act; and to  
24 consent, subject to the provisions of any agreement with  
25 another party, to the modification or restructuring of any  
26 agreement to which the Department is a party.



1           (6) Fix, determine, charge, and collect any premiums,  
2           fees, charges, costs, and expenses from Applicants,  
3           including, without limitation, any application fees,  
4           commitment fees, program fees, financing charges, or  
5           publication fees as deemed appropriate to pay expenses  
6           necessary or incident to the administration, staffing, or  
7           operation in connection with the Department's activities  
8           under this Act, or for preparation, implementation, and  
9           enforcement of the terms of an agreement, or for  
10          consultation, advisory and legal fees, and other costs;  
11          however, all fees and expenses incident thereto shall be  
12          the responsibility of the applicant.

13          (7) Provide for sufficient personnel to permit  
14          administration, staffing, operation, and related support  
15          required to adequately discharge its duties and  
16          responsibilities described in this Act from funds made  
17          available through charges to applicants or from funds as  
18          may be appropriated by the General Assembly for the  
19          administration of this Act.

20          (8) Require applicants, upon written request, to issue  
21          any necessary authorization to the appropriate federal,  
22          State, or local authority for the release of information  
23          concerning a project being considered under the provisions  
24          of this Act, with the information requested to include, but  
25          not be limited to, financial reports, returns, or records  
26          relating to the taxpayer or its project.

1           (9) Require that a taxpayer shall at all times keep  
2 proper books of record and account in accordance with  
3 generally accepted accounting principles consistently  
4 applied, with the books, records, or papers related to the  
5 agreement in the custody or control of the taxpayer open  
6 for reasonable Department inspection and audits, and  
7 including, without limitation, the making of copies of the  
8 books, records, or papers, and the inspection or appraisal  
9 of any of the taxpayer or project assets.

10           (10) Take whatever actions are necessary or  
11 appropriate to protect the State's interest in the event of  
12 bankruptcy, default, foreclosure, or noncompliance with  
13 the terms and conditions of financial assistance or  
14 participation required under this Act, including the power  
15 to sell, dispose, lease, or rent, upon terms and conditions  
16 determined by the Director to be appropriate, real or  
17 personal property that the Department may receive as a  
18 result of these actions.

19           Section 15. Tax credit awards. Subject to the conditions  
20 set forth in this Act, a taxpayer is entitled to a credit  
21 against taxes or, as to a pass-through entity, a payment  
22 towards taxes imposed pursuant to subsections (a) and (b) of  
23 Section 201 of the Illinois Income Tax Act if the taxpayer is  
24 awarded a credit by the Department under this Act for that  
25 taxable year.

1           The Department shall make credit awards under this Act to  
2 foster job creation in Illinois.

3           A person that proposes a project to create new jobs in  
4 Illinois must enter into an agreement with the Department for  
5 the credit under this Act.

6           The credit shall be claimed for the taxable years specified  
7 in the agreement.

8           The credit shall not exceed 50% of the incremental income  
9 tax attributable to the project that is the subject of the  
10 agreement.

11           Nothing herein shall prohibit a tax credit award to an  
12 applicant that uses a PEO if all other award criteria are  
13 satisfied.

14           Credits awarded under this Act are transferable through the  
15 Department at the discretion of the Director within 2 years  
16 after the credit is awarded. Credits may be transferred only to  
17 a single taxpayer or to common entities within a single  
18 ownership structure and may not be transferred more than once.  
19 The Department shall maintain an online information portal  
20 where entities anticipating the purchase or sale of credits  
21 shall register their intent to do so. Any taxpayer transferring  
22 a credit under this Section shall pay a uniform fee to the  
23 Department that the Department shall set by rule, and that  
24 amount shall be invested consistent with the clawback  
25 provisions set forth in Section 43 of this Act.

26           For partners, shareholders of Subchapter S corporations,

1 and owners of limited liability companies, if the liability  
2 company is treated as a partnership for purposes of federal and  
3 State income taxation, the credit under this Act shall be  
4 determined in accordance with the determination of income and  
5 distributive share of income under Sections 702 and 704 and  
6 Subchapter S of the Internal Revenue Code or as allowed under  
7 the agreement with the Department.

8 A pass-through entity that has been awarded a credit under  
9 this Act, or its shareholders or partners, may treat some or  
10 all of the credit awarded pursuant to this Act as a tax payment  
11 for purposes of the Illinois Income Tax Act. For purposes of  
12 this Section, "tax payment" means a payment as described in  
13 Article 6 or Article 8 of the Illinois Income Tax Act or a  
14 composite payment made by a pass-through entity on behalf of  
15 any of its shareholders or partners to satisfy such  
16 shareholders' or partners' taxes imposed pursuant to  
17 subsections (a) and (b) of Section 201 of the Illinois Income  
18 Tax Act. In no event shall the amount of the award credited  
19 pursuant to this Act exceed the Illinois income tax liability  
20 of the pass-through entity or its shareholders or partners for  
21 the taxable year.

22 Section 20. Application for a project to create new jobs.

23 (a) Any taxpayer proposing a project located or planned to  
24 be located in Illinois may request consideration for  
25 designation of its project, by formal application to the

1 Department in which the applicant states its intent to meet the  
2 criteria set forth in this Section.

3 (b) The applicant's project must: (1) employ a number of  
4 new employees equal to the lesser of (A) 10% of the number of  
5 full-time employees employed by the applicant world-wide on the  
6 date the application is filed with the Department or (B) 50 new  
7 employees; and (2) involve a capital investment of at least  
8 \$2,500,000 at a project location in the State, except that, if  
9 the applicant employs fewer than 100 full-time employees on the  
10 date the application is filed with the Department, then the  
11 applicant's capital investment may be less than \$2,500,000 if  
12 the capital investment is approved by the Department at the  
13 discretion of the Director at the time of the application.

14 (c) The Department may enter into an agreement with the  
15 applicant if the application is accepted and approved by the  
16 Department as provided in Section 22 of this Act.

17 Section 22. Review of Applications. In making its  
18 determination that an application for a credit should or should  
19 not be accepted, which shall occur within a reasonable time  
20 frame as determined by the nature of the application, the  
21 Department shall consider all of the following, as well as any  
22 other circumstances it may deem appropriate:

23 (1) The applicant's project intends, as required by  
24 subsection (b) of Section 20 of this Act to make the  
25 required investment in the State and intends to hire the

1 required number of new employees in Illinois as a result of  
2 that project.

3 (2) The applicant's project is economically sound and  
4 will benefit the people of Illinois by increasing  
5 opportunities for employment and strengthen the economy of  
6 Illinois.

7 (3) Evidence the receipt of the credit is essential to  
8 the applicant's decision to create new jobs in the State,  
9 such as the magnitude of the cost differential between  
10 Illinois and a competing State.

11 (4) The political subdivisions affected by the project  
12 have committed local incentives with respect to the  
13 project, considering local ability to assist.

14 (5) Awarding the credit will result in an overall  
15 positive fiscal impact to the State.

16 (6) The credit is not prohibited by Section 25 of this  
17 Act.

18 Section 25. Relocation of jobs within Illinois; baseline  
19 employment. A taxpayer is not entitled to claim the credit  
20 provided by this Act with respect to any jobs that the taxpayer  
21 relocates from one site in Illinois to another site in  
22 Illinois. In addition, a taxpayer is not entitled to claim a  
23 credit under this Act for a taxable year if the average number  
24 of full-time employees employed by the taxpayer in this State  
25 during that taxable year is less than the average number of

1 full-time employees employed by the taxpayer in this State as  
2 of the date of the application. If the project is a qualifying  
3 project certified under the Corporate Headquarters Relocation  
4 Act, however, then the taxpayer is not subject to the  
5 requirements of this Section but is nevertheless considered an  
6 applicant for purposes of this Act. Moreover, any full-time  
7 employee of an eligible business relocated to Illinois in  
8 connection with that qualifying project is deemed to be a new  
9 employee for purposes of this Act. Determinations under this  
10 Section shall be made by the Department and at the Department's  
11 discretion.

12 Section 30. Determination of amount of the credit. The  
13 credit may be stated as a percentage of the incremental income  
14 tax attributable to the applicant's project and may include a  
15 fixed dollar limitation. In determining the amount of the  
16 credit that should be awarded, the Department may take into  
17 consideration, the following factors:

18 (1) The number and location of jobs created in relation  
19 to the economy of the county where the projected investment  
20 is to occur.

21 (2) The potential impact on the economy of Illinois.

22 (3) The magnitude of the cost differential between  
23 Illinois and the competing state.

24 (4) The incremental payroll attributable to the  
25 project.

1           (5) The capital investment attributable to the  
2 project.

3           (6) The amount of the average wage and benefits paid by  
4 the applicant in relation to the wage and benefits of the  
5 area of the project.

6           (7) The costs to Illinois and the affected political  
7 subdivisions with respect to the project.

8           (8) The financial assistance that is otherwise  
9 provided by Illinois and the affected political  
10 subdivisions.

11           (9) The credit may not exceed the amount of taxes  
12 imposed pursuant to subsections (a) and (b) of Section 201  
13 of the Illinois Income Tax Act.

14           (10) The total amount of the credit allowed during all  
15 tax years may not exceed the aggregate amount of costs  
16 incurred by the taxpayer during all prior tax years for the  
17 following items, to the extent provided in the agreement:  
18 (a) capital investment, including, but not limited to,  
19 equipment, buildings, or land; (b) infrastructure  
20 development; (c) debt service, except refinancing of  
21 current debt; (d) research and development; (e) job  
22 training and education; (f) lease costs; or (g) relocation  
23 costs.

24           Section 35. Duration of the credit. The duration of the  
25 credit may not exceed 10 taxable years, except that, if the



1 project is located in a census tract with an unemployment rate  
2 that is greater than 150% of the State unemployment rate or a  
3 poverty rate greater than 150% of the State poverty rate at the  
4 time the application is filed with the Department, then the  
5 duration of the credit may not exceed 15 taxable years. Any  
6 credit that is unused in the year the credit is computed may be  
7 carried forward and applied to the tax liability of the 5  
8 taxable years following the excess credit year. The credit  
9 shall be applied to the earliest year for which there is a tax  
10 liability. If there are credits from more than one tax year  
11 that are available to offset a liability, the earlier credit  
12 shall be applied first.

13 Section 40. Contents of agreements with applicants. The  
14 Department shall enter into an agreement with an applicant that  
15 is awarded a credit under this Act. The Department may enter  
16 into only one agreement with a taxpayer with respect to a  
17 specific project or location. The agreement must include all of  
18 the following:

19 (1) A detailed description of the project that is the  
20 subject of the agreement, including the location and amount  
21 of the investment and jobs created.

22 (2) The duration of the credit and the first taxable  
23 year for which the credit may be claimed.

24 (3) The credit amount that will be allowed for each  
25 taxable year.

1           (4) A requirement that the taxpayer shall maintain  
2 operations at the project location that shall be stated as  
3 a minimum number of years not to exceed 10.

4           (5) A specific method for determining the number of new  
5 employees employed during a taxable year.

6           (6) A requirement that the taxpayer shall annually  
7 report to the Department the number of new employees, the  
8 incremental income tax withheld in connection with the new  
9 employees, and any other information the Department needs  
10 to fulfill the Department's responsibilities duties under  
11 this Act.

12           (7) A requirement that the Department is authorized to  
13 verify with the appropriate State agencies the amounts  
14 reported under paragraph (6), and after doing so shall  
15 issue a certificate to the taxpayer stating that the  
16 amounts have been verified.

17           (8) A requirement that the taxpayer shall provide  
18 written notification to the Department not more than 30  
19 days after the taxpayer makes or receives a proposal that  
20 would transfer the taxpayer's State tax liability  
21 obligations to a successor taxpayer.

22           (9) A detailed description of the number of new  
23 employees to be hired, and the occupation and payroll of  
24 the full-time jobs to be created as a result of the  
25 project.

26           (10) The minimum investment the business enterprise

1 will make in capital improvements, the time period for  
2 placing the property in service, and the designated  
3 location in Illinois for the investment.

4 (11) A requirement that the taxpayer shall provide  
5 written notification to the Department not more than 30  
6 days after the taxpayer determines that the minimum job  
7 creation, employment payroll, or investment no longer is  
8 being or will be achieved or maintained as set forth in the  
9 terms and conditions of the agreement.

10 (12) A provision specifying that, if the taxpayer  
11 ceases principal operations with the intent to shut down  
12 the project in the State permanently during the term of the  
13 agreement, then the entire credit amount awarded to the  
14 taxpayer prior to the date the taxpayer ceases principal  
15 operations shall be returned to the Department and shall be  
16 reallocated to the local workforce investment area in which  
17 the project was located as provided in Section 43 of this  
18 Act.

19 (13) A provision that if the total number of new  
20 employees falls below a specified level, the allowance of  
21 the credit shall be suspended until the number of new  
22 employees equals or exceeds that specified level.

23 (14) Any other performance conditions or contract  
24 provisions as the Department determines are appropriate.

25 Section 43. Taxpayer ceases principal operations. If the

1 taxpayer ceases principal operations at the project location  
2 during the term of the agreement with the intent to shut down  
3 the project in the State permanently, then the entire credit  
4 amount awarded to the taxpayer prior to the date the taxpayer  
5 ceases principal operations shall be returned to the Department  
6 and shall be reallocated to the local workforce investment area  
7 in which the project was located for the purposes of workforce  
8 development, expanded opportunities for unemployed persons,  
9 and expanded opportunities for women and minorities in the  
10 workforce.

11 Section 45. Certificate of verification; submission to the  
12 Department of Revenue. A taxpayer claiming a credit under this  
13 Act shall submit to the Department of Revenue a copy of the  
14 certificate of verification under this Act for the taxable  
15 year. However, failure to submit a copy of the certificate with  
16 the taxpayer's tax return shall not invalidate a claim for a  
17 credit.

18 For a taxpayer to be eligible for a certificate of  
19 verification, the taxpayer shall provide proof as required by  
20 the Department prior to the end of each calendar year,  
21 including, but not limited to, attestation by the Taxpayer that  
22 the project continues to meet the terms of the agreement.

23 Section 47. Pass-through entity.

24 (a) The shareholders or partners of a taxpayer that is a

1 pass-through entity shall be entitled to the credit allowed  
2 under the agreement.

3 (b) The credit provided under subsection (a) is in addition  
4 to any credit to which a shareholder or partner is otherwise  
5 entitled under a separate agreement under this Act. A  
6 pass-through entity and a shareholder or partner of the  
7 pass-through entity may not claim more than one credit under  
8 the same agreement.

9 Section 50. Noncompliance; notice; assessment. If the  
10 Department determines that a taxpayer who has received a credit  
11 under this Act is not complying with the requirements of the  
12 agreement or all of the provisions of this Act, the Department  
13 shall provide notice to the taxpayer of the alleged  
14 noncompliance, and allow the taxpayer a hearing under the  
15 provisions of the Illinois Administrative Procedure Act. If,  
16 after such notice and any hearing, the Department determines  
17 that a noncompliance exists, the Department shall issue to the  
18 Department of Revenue notice to that effect, stating the  
19 noncompliance date.

20 Section 55. Rules. The Department may adopt rules under the  
21 Illinois Administrative Procedure Act necessary to implement  
22 this Act.

23 Section 60. Annual report. On or before July 1 each year,

1 the Department shall submit a report to the Governor and the  
2 General Assembly on the tax credit program under this Act.  
3 Subject to the limitations of Section 70 of this Act, the  
4 report shall include information on the number of agreements  
5 that were entered into under this Act during the preceding  
6 calendar year, a description of the project that is the subject  
7 of each agreement, an update on the status of projects under  
8 agreements entered into before the preceding calendar year, and  
9 the sum of the credits awarded under this Act.

10 Section 65. Evaluation of tax credit program. On a biennial  
11 basis, the Department shall evaluate the tax credit program  
12 under this Act. Subject to the limitations of Section 70 of  
13 this Act, the evaluation shall include an assessment of the  
14 effectiveness of the program in creating new jobs in Illinois  
15 and of the revenue impact of the program, and may include a  
16 review of the practices and experiences of other states with  
17 similar programs. The Department shall submit a report on the  
18 evaluation to the Governor and the General Assembly after June  
19 30 and before November 1 in each odd-numbered year.

20 Section 70. Program terms and conditions.

21 (a) Any documentary materials or data made available or  
22 received by any agent or employee of the Department shall be  
23 deemed confidential and shall not be deemed public records to  
24 the extent that the materials or data consists of trade

1 secrets, commercial or financial information regarding the  
2 operation of the business conducted by the applicant for or  
3 recipient of any tax credit under this Act, or any information  
4 regarding the competitive position of a business in a  
5 particular field of endeavor.

6 (b) Nothing in this Act shall be construed as creating any  
7 rights in any applicant to enter into an agreement or in any  
8 person to challenge the terms of any agreement.

9 Section 80. The Illinois Income Tax Act is amended by  
10 adding Section 224 as follows:

11 (35 ILCS 5/224 new)

12 Sec. 224. Transforming, Helping, and Reviving Illinois'  
13 Versatile Economy (THRIVE) Job Creation Tax Credit. For taxable  
14 years beginning on or after January 1, 2017, a taxpayer who has  
15 been granted a credit under the Transforming, Helping, and  
16 Reviving Illinois' Versatile Economy (THRIVE) Job Creation Tax  
17 Credit Act is entitled to a credit against the taxes imposed  
18 under subsections (a) and (b) of Section 201 as provided in  
19 that Act.

20 If the Taxpayer is a partnership or Subchapter S  
21 corporation, the credit is allowed to the partners or  
22 shareholders in accordance with the determination of income and  
23 distributive share of income under Sections 702 and 704 and  
24 Subchapter S of the Internal Revenue Code.

1       A transfer of this credit may be made by the taxpayer  
2       earning the credit within 2 years after the credit is awarded  
3       in accordance with rules adopted by the Department of Commerce  
4       and Economic Opportunity.

5       The Department, in cooperation with the Department of  
6       Commerce and Economic Opportunity, must adopt rules to enforce  
7       and administer the provisions of this Section. This Section is  
8       exempt from the provisions of Section 250 of this Act.

9       The credit may not be carried back. If the amount of the  
10       credit exceeds the tax liability for the year, the excess may  
11       be carried forward and applied to the tax liability of the 5  
12       taxable years following the excess credit year. The credit  
13       shall be applied to the earliest year for which there is a tax  
14       liability. If there are credits from more than one tax year  
15       that are available to offset a liability, the earlier credit  
16       shall be applied first. In no event shall a credit under this  
17       Section reduce the taxpayer's liability to less than zero.

18       Section 99. Effective date. This Act takes effect upon  
19       becoming law.