

1 AN ACT concerning corporations.

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 Corporate Accountability for Tax Expenditures Act.

6 Section 5. Definitions. As used in this Act:

7 "Base years" means the first 2 complete calendar years  
8 following the effective date of a recipient receiving  
9 development assistance.

10 "Date of assistance" means the commencement date of the  
11 assistance agreement, which date triggers the period during  
12 which the recipient is obligated to create or retain jobs and  
13 continue operations at the specific project site.

14 "Default" means that a recipient has not achieved its job  
15 creation, job retention, or wage or benefit goals, as  
16 applicable, during the prescribed period therefor.

17 "Department" means, unless otherwise noted, the  
18 Department of Commerce and Community Affairs or any successor  
19 agency.

20 "Development assistance" means (1) tax credits and tax  
21 exemptions (other than given under tax increment financing)  
22 given as an incentive to a recipient business organization  
23 pursuant to an initial certification or an initial  
24 designation made by the Department under the Economic  
25 Development for a Growing Economy Tax Credit Act and the  
26 Illinois Enterprise Zone Act, including the High Impact  
27 Business program, (2) grants or loans given to a recipient as  
28 an incentive to a business organization pursuant to the Large  
29 Business Development Program, the Business Development Public  
30 Infrastructure Program, or the Industrial Training Program,  
31 (3) the State Treasurer's Economic Program Loans, (4) the

1 Illinois Department of Transportation Economic Development  
2 Program, and (5) all successor and subsequent programs and  
3 tax credits designed to promote large business relocations  
4 and expansions. "Development assistance" does not include tax  
5 increment financing, assistance provided under the Illinois  
6 Enterprise Zone Act pursuant to local ordinance,  
7 participation loans, or financial transactions through  
8 statutorily authorized financial intermediaries in support of  
9 small business loans and investments or given in connection  
10 with the development of affordable housing.

11 "Development assistance agreement" means any agreement  
12 executed by the State granting body and the recipient setting  
13 forth the terms and conditions of development assistance to  
14 be provided to the recipient consistent with the final  
15 application for development assistance, including but not  
16 limited to the date of assistance, submitted to and approved  
17 by the State granting body.

18 "Full-time, permanent job" means either: (1) the  
19 definition therefor in the legislation authorizing the  
20 programs described in the definition of development  
21 assistance in the Act or (2) if there is no such definition,  
22 then as defined in administrative rules implementing such  
23 legislation, provided the administrative rules were in place  
24 prior to the effective date of this Act. On and after the  
25 effective date of this Act, if there is no definition of  
26 "full-time, permanent job" in either the legislation  
27 authorizing a program that constitutes economic development  
28 assistance under this Act or in any administrative rule  
29 implementing such legislation that was in place prior to the  
30 effective date of this Act, then "full-time, permanent job"  
31 means a job in which the new employee works for the recipient  
32 at a rate of at least 35 hours per week.

33 "New employee" means either: (1) the definition therefor  
34 in the legislation authorizing the programs described in the

1 definition of development assistance in the Act or (2) if  
2 there is no such definition, then as defined in  
3 administrative rules implementing such legislation, provided  
4 the administrative rules were in place prior to the effective  
5 date of this Act. On and after the effective date of this  
6 Act, if there is no definition of "new employee" in either  
7 the legislation authorizing a program that constitutes  
8 economic development assistance under this Act nor in any  
9 administrative rule implementing such legislation that was in  
10 place prior to the effective date of this Act, then "new  
11 employee" means a full-time, permanent employee who  
12 represents a net increase in the number of the recipient's  
13 employees statewide. "New employee" includes an employee who  
14 previously filled a new employee position with the recipient  
15 who was rehired or called back from a layoff that occurs  
16 during or following the base years.

17 The term "New Employee" does not include any of the  
18 following:

19 (1) An employee of the recipient who performs a job  
20 that was previously performed by another employee in this  
21 State, if that job existed in this State for at least 6  
22 months before hiring the employee.

23 (2) A child, grandchild, parent, or spouse, other  
24 than a spouse who is legally separated from the  
25 individual, of any individual who has a direct or  
26 indirect ownership interest of at least 5% in the  
27 profits, capital, or value of any member of the  
28 recipient.

29 "Part-time job" means either: (1) the definition therefor  
30 in the legislation authorizing the programs described in the  
31 definition of development assistance in the Act or (2) if  
32 there is no such definition, then as defined in  
33 administrative rules implementing such legislation, provided  
34 the administrative rules were in place prior to the effective

1 date of this Act. On and after the effective date of this  
2 Act, if there is no definition of "part-time job" in either  
3 the legislation authorizing a program that constitutes  
4 economic development assistance under this Act or in any  
5 administrative rule implementing such legislation that was in  
6 place prior to the effective date of this Act, then  
7 "part-time job" means a job in which the new employee works  
8 for the recipient at a rate of less than 35 hours per week.

9 "Recipient" means any business that receives economic  
10 development assistance. A business is any corporation,  
11 limited liability company, partnership, joint venture,  
12 association, sole proprietorship, or other legally recognized  
13 entity.

14 "Retained employee" means either: (1) the definition  
15 therefor in the legislation authorizing the programs  
16 described in the definition of development assistance in the  
17 Act or (2) if there is no such definition, then as defined in  
18 administrative rules implementing such legislation, provided  
19 the administrative rules were in place prior to the effective  
20 date of this Act. On and after the effective date of this  
21 Act, if there is no definition of "retained employee" in  
22 either the legislation authorizing a program that constitutes  
23 economic development assistance under this Act or in any  
24 administrative rule implementing such legislation that was in  
25 place prior to the effective date of this Act, then "retained  
26 employee" means any employee defined as having a full-time or  
27 full-time equivalent job preserved at a specific facility or  
28 site, the continuance of which is threatened by a specific  
29 and demonstrable threat, which shall be specified in the  
30 application for development assistance.

31 "Specific project site" means that distinct operational  
32 unit to which any development assistance is applied.

33 "State granting body" means the Department, any State  
34 department or State agency that provides development

1 assistance that has reporting requirements under this Act,  
2 and any successor agencies to any of the preceding.

3 "Temporary job" means either: (1) the definition therefor  
4 in the legislation authorizing the programs described in the  
5 definition of development assistance in the Act or (2) if  
6 there is no such definition, then as defined in  
7 administrative rules implementing such legislation, provided  
8 the administrative rules were in place prior to the effective  
9 date of this Act. On and after the effective date of this  
10 Act, if there is no definition of "temporary job" in either  
11 the legislation authorizing a program that constitutes  
12 economic development assistance under this Act or in any  
13 administrative rule implementing such legislation that was in  
14 place prior to the effective date of this Act, then  
15 "temporary job" means a job in which the new employee is  
16 hired for a specific duration of time or season.

17 "Value of assistance" means the face value of any form of  
18 development assistance.

19 Section 10. Unified Economic Development Budget.

20 (a) For each State fiscal year ending on or after June  
21 30, 2005, the Department of Revenue shall submit an annual  
22 Unified Economic Development Budget to the General Assembly.  
23 The Unified Economic Development Budget shall be due within 3  
24 months after the end of the fiscal year, and shall present  
25 all types of development assistance granted during the prior  
26 fiscal year, including:

27 (1) The aggregate amount of uncollected or diverted  
28 State tax revenues resulting from each type of  
29 development assistance provided in the tax statutes, as  
30 reported to the Department of Revenue on tax returns  
31 filed during the fiscal year.

32 (2) All State development assistance.

33 (b) All data contained in the Unified Economic

1 Development Budget presented to the General Assembly shall be  
2 fully subject to the Freedom of Information Act.

3 (c) The Department of Revenue shall submit a report of  
4 the amounts in subdivision (a)(1) of this Section to the  
5 Department, which may append such report to the Unified  
6 Economic Development Budget rather than separately reporting  
7 such amounts.

8 Section 15. Standardized applications for State  
9 development assistance.

10 (a) All final applications submitted to the Department or  
11 any other State granting body requesting development  
12 assistance shall contain, at a minimum:

13 (1) An application tracking number that is specific  
14 to both the State granting agency and to each  
15 application.

16 (2) The office mailing addresses, office telephone  
17 number, and chief officer of the granting body.

18 (3) The office mailing address, telephone number,  
19 4-digit SIC number or successor number, and the name of  
20 the chief officer of the applicant or authorized designee  
21 for the specific project site for which development  
22 assistance is requested.

23 (4) The applicant's total number of employees at the  
24 specific project site on the date that the application is  
25 submitted to the State granting body, including the  
26 number of full-time, permanent jobs, the number of  
27 part-time jobs, and the number of temporary jobs.

28 (5) The type of development assistance and value of  
29 assistance being requested.

30 (6) The number of jobs to be created and retained or  
31 both created and retained by the applicant as a result of  
32 the development assistance, including the number of  
33 full-time, permanent jobs, the number of part-time jobs,

1 and the number of temporary jobs.

2 (7) A detailed list of the occupation or job  
3 classifications and number of new employees or retained  
4 employees to be hired in full-time, permanent jobs, a  
5 schedule of anticipated starting dates of the new hires  
6 and the anticipated average wage by occupation or job  
7 classification and total payroll to be created as a  
8 result of the development assistance.

9 (8) A list of all other forms of development  
10 assistance that the applicant is requesting for the  
11 specific project site and the name of each State granting  
12 body from which that development assistance is being  
13 requested.

14 (9) A narrative, if necessary, describing why the  
15 development assistance is needed and how the applicant's  
16 use of the development assistance may reduce employment  
17 at any site in Illinois.

18 (10) A certification by the chief officer of the  
19 applicant or his or her authorized designee that the  
20 information contained in the application submitted to the  
21 granting body contains no knowing misrepresentation of  
22 material facts upon which eligibility for development  
23 assistance is based.

24 (b) Every State granting body either shall complete, or  
25 shall require the applicant to complete, an application form  
26 that meets the minimum requirements as prescribed in this  
27 Section each time an applicant applies for development  
28 assistance covered by this Act.

29 (c) The Department shall have the discretion to modify  
30 any standardized application for State development assistance  
31 required under subsection (a) for any grants under the  
32 Industrial Training Program that are not given as an  
33 incentive to a recipient business organization.

1 Section 20. State development assistance disclosure.

2 (a) Beginning February 1, 2005 and each year thereafter,  
3 every State granting body shall submit to the Department  
4 copies of all development assistance agreements that it  
5 approved in the prior calendar year.

6 (b) For each development assistance agreement for which  
7 the date of assistance has occurred in the prior calendar  
8 year, each recipient shall submit to the Department a  
9 progress report that shall include, but not be limited to,  
10 the following:

11 (1) The application tracking number.

12 (2) The office mailing address, telephone number,  
13 and the name of the chief officer of the granting body.

14 (3) The office mailing address, telephone number,  
15 4-digit SIC number or successor number, and the name of  
16 the chief officer of the applicant or authorized designee  
17 for the specific project site for which the development  
18 assistance was approved by the State granting body.

19 (4) The type of development assistance program and  
20 value of assistance that was approved by the State  
21 granting body.

22 (5) The applicant's total number of employees at the  
23 specific project site on the date that the application  
24 was submitted to the State granting body and the  
25 applicant's total number of employees at the specific  
26 project site on the date of the report, including the  
27 number of full-time, permanent jobs, the number of  
28 part-time jobs, and the number of temporary jobs, and a  
29 computation of the gain or loss of jobs in each category.

30 (6) The number of new employees and retained  
31 employees the applicant stated in its development  
32 assistance agreement, if any, if not, then in its  
33 application, would be created by the development  
34 assistance broken down by full-time, permanent,



1 part-time, and temporary.

2 (7) A declaration of whether the recipient is in  
3 compliance with the development assistance agreement.

4 (8) A detailed list of the occupation or job  
5 classifications and number of new employees or retained  
6 employees to be hired in full-time, permanent jobs, a  
7 schedule of anticipated starting dates of the new hires  
8 and the actual average wage by occupation or job  
9 classification and total payroll to be created as a  
10 result of the development assistance.

11 (9) A narrative, if necessary, describing how the  
12 recipient's use of the development assistance during the  
13 reporting year has reduced employment at any site in  
14 Illinois.

15 (10) A certification by the chief officer of the  
16 applicant or his or her authorized designee that the  
17 information in the progress report contains no knowing  
18 misrepresentation of material facts upon which  
19 eligibility for development assistance is based.

20 (c) The State granting body, or a successor agency, shall  
21 have full authority to verify information contained in the  
22 recipient's progress report, including the authority to  
23 inspect the specific project site and inspect the records of  
24 the recipient that are subject to the development assistance  
25 agreement.

26 (d) By June 1, 2005 and by June 1 of each year  
27 thereafter, the Department shall compile and publish all data  
28 in all of the progress reports in both written and electronic  
29 form.

30 (e) If a recipient of development assistance fails to  
31 comply with subsection (b) of this Section, the Department  
32 shall, within 20 working days after the reporting submittal  
33 deadlines set forth in (i) the legislation authorizing, (ii)  
34 the administrative rules implementing, or (iii) specific

1 provisions in development assistance agreements pertaining to  
2 the development assistance programs, suspend within 33  
3 working days any current development assistance to the  
4 recipient under its control, and shall be prohibited from  
5 completing any current or providing any future development  
6 assistance until it receives proof that the recipient has  
7 come into compliance with the requirements of subsection (b)  
8 of this Section.

9 (f) The Department shall have the discretion to modify  
10 the information required in the progress report required  
11 under subsection (b) consistent with the disclosure purpose  
12 of this Section for any grants under the Industrial Training  
13 Program that are not given as an incentive to a recipient  
14 business organization.

15 Section 25. Recapture.

16 (a) All development assistance agreements shall contain,  
17 at a minimum, the following recapture provisions:

18 (1) The recipient must (i) make the level of capital  
19 investment in the economic development project specified  
20 in the development assistance agreement; (ii) create or  
21 retain, or both, the requisite number of jobs, paying not  
22 less than specified wages for the created and retained  
23 jobs, within and for the duration of the time period  
24 specified in the legislation authorizing, or the  
25 administrative rules implementing, the development  
26 assistance programs and the development assistance  
27 agreement.

28 (2) If the recipient fails to create or retain the  
29 requisite number of jobs within and for the time period  
30 specified, in the legislation authorizing, or the  
31 administrative rules implementing, the development  
32 assistance programs and the development assistance  
33 agreement, the recipient shall be deemed to no longer

1           qualify for the State economic assistance and the  
2           applicable recapture provisions shall take effect.

3           (3) If the recipient receives State economic  
4           assistance in the form of a High Impact Business  
5           designation pursuant to Section 5.5 of the Illinois  
6           Enterprise Zone Act and the business receives the benefit  
7           of the exemption authorized under Section 51 of the  
8           Retailers' Occupation Tax Act (for the sale of building  
9           materials incorporated into a High Impact Business  
10          location) and the recipient fails to create or retain the  
11          requisite number of jobs, as determined by the  
12          legislation authorizing the development assistance  
13          programs or the administrative rules implementing such  
14          legislation, or both, within the requisite period of  
15          time, the recipient shall be required to pay to the State  
16          the full amount of the State tax exemption that it  
17          received as a result of the High Impact Business  
18          designation.

19          (4) If the recipient receives a grant or loan  
20          pursuant to the Large Business Development Program, the  
21          Business Development Public Infrastructure Program, or  
22          the Industrial Training Program and the recipient fails  
23          to create or retain the requisite number of jobs for the  
24          requisite time period, as provided in the legislation  
25          authorizing the development assistance programs or the  
26          administrative rules implementing such legislation, or  
27          both, or in the development assistance agreement, the  
28          recipient shall be required to repay to the State a pro  
29          rata amount of the grant; that amount shall reflect the  
30          percentage of the deficiency between the requisite number  
31          of jobs to be created or retained by the recipient and  
32          the actual number of such jobs in existence as of the  
33          date the Department determines the recipient is in breach  
34          of the job creation or retention covenants contained in

1 the development assistance agreement. If the recipient of  
2 development assistance under the Large Business  
3 Development Program, the Business Development Public  
4 Infrastructure Program, or the Industrial Training  
5 Program ceases operations at the specific project site,  
6 during the 5-year period commencing on the date of  
7 assistance, the recipient shall be required to repay the  
8 entire amount of the grant or to accelerate repayment of  
9 the loan back to the State.

10 (5) If the recipient receives a tax credit under the  
11 Economic Development for a Growing Economy tax credit  
12 program, the development assistance agreement must  
13 provide that (i) if the number of new or retained  
14 employees falls below the requisite number set forth in  
15 the development assistance agreement, the allowance of  
16 the credit shall be automatically suspended until the  
17 number of new and retained employees equals or exceeds  
18 the requisite number in the development assistance  
19 agreement; (ii) if the recipient discontinues operations  
20 at the specific project site during the first 5 years of  
21 the 10-year term of the development assistance agreement,  
22 the recipient shall forfeit all credits taken by the  
23 recipient during such 5-year period; and (iii) in the  
24 event of a revocation or suspension of the credit, the  
25 Department shall contact the Director of Revenue to  
26 initiate proceedings against the recipient to recover  
27 wrongfully exempted Illinois State income taxes and the  
28 recipient shall promptly repay to the Department of  
29 Revenue any wrongfully exempted Illinois State income  
30 taxes. The forfeited amount of credits shall be deemed  
31 assessed on the date the Department contacts the  
32 Department of Revenue and the recipient shall promptly  
33 repay to the Department of Revenue any wrongfully  
34 exempted Illinois State income taxes.

1           (b) The Director may elect to waive enforcement of any  
2 contractual provision arising out of the development  
3 assistance agreement required by this Act based on a finding  
4 that the waiver is necessary to avert an imminent and  
5 demonstrable hardship to the recipient that may result in  
6 such recipient's insolvency or discharge of workers. If a  
7 waiver is granted, the recipient must agree to a contractual  
8 modification, including recapture provisions, to the  
9 development assistance agreement. The existence of any waiver  
10 granted pursuant to this subsection (c), the date of the  
11 granting of such waiver, and a brief summary of the reasons  
12 supporting the granting of such waiver shall be disclosed  
13 consistent with the provisions of Section 25 of this Act.

14           (c) Beginning June 1, 2004, the Department shall  
15 annually compile a report on the outcomes and effectiveness  
16 of recapture provisions by program, including but not limited  
17 to: (i) the total number of companies that receive  
18 development assistance as defined in this Act; (ii) the total  
19 number of recipients in violation of development agreements  
20 with the Department; (iii) the total number of completed  
21 recapture efforts; (iv) the total number of recapture efforts  
22 initiated; and (v) the number of waivers granted. This report  
23 shall be disclosed consistent with the provisions of Section  
24 20 of this Act.

25           (d) For the purposes of this Act, recapture provisions do  
26 not include the Illinois Department of Transportation  
27 Economic Development Program, any grants under the Industrial  
28 Training Program that are not given as an incentive to a  
29 recipient business organization, or any successor programs as  
30 described in the term "development assistance" in Section 5  
31 of this Act.

32           Section 99. Effective date. This Act takes effect upon  
33 becoming law.