

1 AMENDMENT TO HOUSE BILL 235

2 AMENDMENT NO. _____. Amend House Bill 235 by replacing
3 everything after the enacting clause with the following:

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

1 pursuant to an initial certification or an initial
2 designation made by the Department under the Economic
3 Development for a Growing Economy Tax Credit Act and the
4 Illinois Enterprise Zone Act, including the High Impact
5 Business program, (2) grants or loans given to a recipient as
6 an incentive to a business organization pursuant to the Large
7 Business Development Program, the Business Development Public
8 Infrastructure Program, or the Industrial Training Program,
9 (3) the State Treasurer's Economic Program Loans, (4) the
10 Illinois Department of Transportation Economic Development
11 Program, and (5) all successor and subsequent programs and
12 tax credits designed to promote large business relocations
13 and expansions. "Development assistance" does not include tax
14 increment financing, assistance provided under the Illinois
15 Enterprise Zone Act pursuant to local ordinance,
16 participation loans, or financial transactions through
17 statutorily authorized financial intermediaries in support of
18 small business loans and investments or given in connection
19 with the development of affordable housing.

20 "Development assistance agreement" means any agreement
21 executed by the State granting body and the recipient setting
22 forth the terms and conditions of development assistance to
23 be provided to the recipient consistent with the final
24 application for development assistance, including but not
25 limited to the date of assistance, submitted to and approved
26 by the State granting body.

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

1 "full-time, permanent job" in either the legislation
2 authorizing a program that constitutes economic development
3 assistance under this Act or in any administrative rule
4 implementing such legislation that was in place prior to the
5 effective date of this Act, then "full-time, permanent job"
6 means a job in which the new employee works for the recipient
7 at a rate of at least 35 hours per week.

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

26 The term "New Employee" does not include any of the
27 following:

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

32 (2) A child, grandchild, parent, or spouse, other
33 than a spouse who is legally separated from the
34 individual, of any individual who has a direct or

1 indirect ownership interest of at least 5% in the
2 profits, capital, or value of any member of the
3 recipient.

4 "Part-time job" means either: (1) the definition therefor
5 in the legislation authorizing the programs described in the
6 definition of development assistance in the Act or (2) if
7 there is no such definition, then as defined in
8 administrative rules implementing such legislation, provided
9 the administrative rules were in place prior to the effective
10 date of this Act. On and after the effective date of this
11 Act, if there is no definition of "part-time job" in either
12 the legislation authorizing a program that constitutes
13 economic development assistance under this Act or in any
14 administrative rule implementing such legislation that was in
15 place prior to the effective date of this Act, then
16 "part-time job" means a job in which the new employee works
17 for the recipient at a rate of less than 35 hours per week.

18 "Recipient" means any business that receives economic
19 development assistance. A business is any corporation,
20 limited liability company, partnership, joint venture,
21 association, sole proprietorship, or other legally recognized
22 entity.

23 "Retained employee" means either: (1) the definition
24 therefor in the legislation authorizing the programs
25 described in the definition of development assistance in the
26 Act or (2) if there is no such definition, then as defined in
27 administrative rules implementing such legislation, provided
28 the administrative rules were in place prior to the effective
29 date of this Act. On and after the effective date of this
30 Act, if there is no definition of "retained employee" in
31 either the legislation authorizing a program that constitutes
32 economic development assistance under this Act or in any
33 administrative rule implementing such legislation that was in
34 place prior to the effective date of this Act, then "retained

1 employee" means any employee defined as having a full-time or
2 full-time equivalent job preserved at a specific facility or
3 site, the continuance of which is threatened by a specific
4 and demonstrable threat, which shall be specified in the
5 application for development assistance.

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

8 "State granting body" means the Department, any State
9 department or State agency that provides development
10 assistance that has reporting requirements under this Act,
11 and any successor agencies to any of the preceding.

12 "Temporary job" means either: (1) the definition therefor
13 in the legislation authorizing the programs described in the
14 definition of development assistance in the Act or (2) if
15 there is no such definition, then as defined in
16 administrative rules implementing such legislation, provided
17 the administrative rules were in place prior to the effective
18 date of this Act. On and after the effective date of this
19 Act, if there is no definition of "temporary job" in either
20 the legislation authorizing a program that constitutes
21 economic development assistance under this Act or in any
22 administrative rule implementing such legislation that was in
23 place prior to the effective date of this Act, then
24 "temporary job" means a job in which the new employee is
25 hired for a specific duration of time or season.

26 "Value of assistance" means the face value of any form of
27 development assistance.

28 Section 10. Unified Economic Development Budget.

29 (a) For each State fiscal year ending on or after June
30 30, 2005, the Department of Revenue shall submit an annual
31 Unified Economic Development Budget to the General Assembly.
32 The Unified Economic Development Budget shall be due within 3
33 months after the end of the fiscal year, and shall present

1 all types of development assistance granted during the prior
2 fiscal year, including:

3 (1) The aggregate amount of uncollected or diverted
4 State tax revenues resulting from each type of
5 development assistance provided in the tax statutes, as
6 reported to the Department of Revenue on tax returns
7 filed during the fiscal year.

8 (2) All State on-budget development assistance.

9 (b) All data contained in the Unified Economic
10 Development Budget presented to the General Assembly shall be
11 fully subject to the Freedom of Information Act.

12 (c) The Department of Revenue shall submit a report of
13 the amounts in subdivision (a)(1) of this Section to the
14 Department, which may append such report to the Unified
15 Economic Development Budget rather than separately reporting
16 such amounts.

17 Section 15. Standardized applications for State on-budget
18 development assistance.

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

22 (1) An application tracking number that is specific
23 to both the State granting agency and to each
24 application.

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

27 (3) The office mailing address, telephone number,
28 4-digit SIC number or successor number, and the name of
29 the chief officer of the applicant or authorized designee
30 for the specific project site for which development
31 assistance is requested.

32 (4) The applicant's total number of employees at the
33 specific project site on the date that the application is

1 submitted to the State granting body, including the
2 number of full-time, permanent jobs, the number of
3 part-time jobs, and the number of temporary jobs.

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

6 (6) The number of jobs to be created and retained or
7 both created and retained by the applicant as a result of
8 the development assistance, including the number of
9 full-time, permanent jobs, the number of part-time jobs,
10 and the number of temporary jobs.

11 (7) A detailed list of the occupation or job
12 classifications and number of new employees or retained
13 employees to be hired in full-time, permanent jobs, a
14 schedule of anticipated starting dates of the new hires
15 and the anticipated average wage by occupation or job
16 classification and total payroll to be created as a
17 result of the development assistance.

18 (8) A list of all other forms of development
19 assistance that the applicant is requesting for the
20 specific project site and the name of each State granting
21 body from which that development assistance is being
22 requested.

23 (9) A narrative, if necessary, describing why the
24 development assistance is needed and how the applicant's
25 use of the development assistance may reduce unemployment
26 at any site in Illinois.

27 (10) A certification by the chief officer of the
28 applicant or his or her authorized designee that the
29 information contained in the application submitted to the
30 granting body contains no knowing misrepresentation of
31 material facts upon which eligibility for development
32 assistance is based.

33 (b) Every State granting body either shall complete, or
34 shall require the applicant to complete, an application form

1 that meets the minimum requirements as prescribed in this
2 Section each time an applicant applies for development
3 assistance covered by this Act.

4 Section 20. State development assistance disclosure.

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

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

14 (1) The application tracking number.

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

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

22 (4) The type of development assistance program and
23 value of assistance that was approved by the State
24 granting body.

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

33 (6) The number of new employees and retained

1 employees the applicant stated in its development
2 assistance agreement, if any, if not, then in its
3 application, would be created by the development
4 assistance broken down by full-time, permanent,
5 part-time, and temporary.

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

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

15 (9) A narrative, if necessary, describing how the
16 recipient's use of the development assistance during the
17 reporting year has reduced employment at any site in
18 Illinois.

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

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

30 (d) By June 1, 2005 and by June 1 of each year
31 thereafter, the Department shall compile and publish all data
32 in all of the progress reports in both written and electronic
33 form.

34 (e) If a recipient of development assistance fails to

1 comply with subsections (a) and (b) of this Section, the
2 Department shall, within 20 working days after the reporting
3 submittal deadlines set forth in (i) the legislation
4 authorizing, (ii) the administrative rules implementing, or
5 (iii) specific provisions in development assistance
6 agreements pertaining to the development assistance programs,
7 suspend within 33 working days any current development
8 assistance to the recipient under its control, and shall be
9 prohibited from completing any current or providing any
10 future development assistance until it receives proof that
11 the recipient has come into compliance with the requirements
12 of subsections (a) and (b) of this Section.

13 Section 25. Recapture.

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

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

26 (2) If the recipient fails to create or retain the
27 requisite number of jobs within and for the time period
28 specified, in the legislation authorizing, or the
29 administrative rules implementing, the development
30 assistance programs and the development assistance
31 agreement, the recipient shall be deemed to no longer
32 qualify for the State economic assistance and the
33 applicable recapture provisions shall take effect.

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

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

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

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

33 (b) The Director may elect to waive enforcement of any
34 contractual provision arising out of the development

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

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

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

30 Section 99. Effective date. This Act takes effect upon
31 becoming law."