



Sen. James F. Clayborne, Jr.

**Filed: 4/14/2016**

09900SB0517sam001

LRB099 03055 HLH 47521 a

1 AMENDMENT TO SENATE BILL 517

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 517 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Targeted Tax Credit Act.

6 Section 5. Purpose. The General Assembly finds that the  
7 Illinois economy is highly vulnerable to other states that have  
8 financial incentive programs for business relocations. Because  
9 of the incentive programs of these competitor locations,  
10 Illinois must move aggressively with new business development  
11 tools so that Illinois is more competitive in site location  
12 decision-making. The State must not only continue to work with  
13 firms to help them locate their new plants and facilities in  
14 this State, but must also provide competitive location tax  
15 credits in support of the location and expansion of operations  
16 of commerce and industry. Illinois must create an atmosphere to

1 retain talent within their borders to maintain a global  
2 competitiveness. In an increasingly global economy, Illinois  
3 would benefit from rational and strategic use of State  
4 resources in support of business development, business  
5 retention, and growth.

6 Additionally, there are areas within Illinois' borders  
7 that have struggled to combat long-term joblessness and are in  
8 need of special business assistance to bring them back to  
9 viable economic units that are able to keep and attract  
10 business with the rational use of tax credits. It is no longer  
11 acceptable for these economic pockets to remain economically  
12 unproductive, impoverished, and underdeveloped.

13 Furthermore, the State must do more to encourage  
14 entrepreneurship and small business growth with the transfer of  
15 tax credits to the small business sector. This will cause  
16 ripple effects and strong secondary economic growth with  
17 further investment and job creation in Illinois. New and  
18 expanding industries have economic benefits beyond the jobs and  
19 income generated by original investments. These small business  
20 enterprises have historically provided a major source of new  
21 jobs in this State and their efforts must be vigorously  
22 supported.

23 Section 10. Definitions. As used in this Act:

24 "Agreement" means the Agreement between a Taxpayer and the  
25 Department.

1 "Applicant" means a Taxpayer who is operating a business,  
2 or plans to operate a business, in this State and is engaged in  
3 interstate or intrastate commerce for the purpose of  
4 manufacturing, processing, assembling, warehousing or  
5 distributing products, conducting research and development,  
6 providing tourism services, office industries, or agricultural  
7 processing, excluding retail, retail food, health, or  
8 professional services. "Applicant" does not include a Taxpayer  
9 who closes or substantially reduces an operation at one  
10 location in this State and relocates substantially the same  
11 operation to another location in this State. This does not  
12 prohibit a Taxpayer from expanding its operations at another  
13 location in the State, provided the existing operations of a  
14 similar location within the State are not closed or  
15 substantially reduced. This also does not prohibit a Taxpayer  
16 from moving its operations from one location in this State to  
17 another location in this State for the purpose of expanding the  
18 operation, provided that the Department determines that the  
19 expansion cannot reasonably be accommodated within the  
20 municipality in which the business is located, or in the case  
21 of a business located in an incorporated area of the county,  
22 within the county in which the business is located, after  
23 conferring with the chief elected official of the municipality  
24 or county and taking into consideration any evidence offered by  
25 the municipality or county regarding the ability to accommodate  
26 expansion within the municipality or county.

1 "Border County" means any county in this State sharing a  
2 boundary with another state.

3 "Census Tract" means a geographic unit whose boundaries are  
4 determined by the United States Census Bureau.

5 "Committee" means the Targeted Tax Credit Committee.

6 "Credit" means the amount agreed to between the Department  
7 and Applicant under this Act, but not to exceed the Incremental  
8 Income Tax attributable to the Applicant's project.

9 "Department" means the Department of Commerce and Economic  
10 Opportunity.

11 "Director" means the Director of the Department of Commerce  
12 and Economic Opportunity.

13 "Full-time employee" means an individual who is employed  
14 for consideration for at least 35 hours each week or who  
15 renders any other standard of service generally accepted by  
16 industry custom or practice as full-time employment.  
17 Vacations, paid holidays, and sick time are included in this  
18 computation. Overtime is not considered a part of regular  
19 hours. An individual for whom a W-2 is issued by a Professional  
20 Employment Organization is a full-time employee if employed in  
21 the service of the Applicant for consideration for at least 35  
22 hour each week or who renders any other standard of service  
23 generally accepted by industry custom or practice as full-time  
24 employment to Applicant.

25 "Incremental Income Tax" means the total amount withheld  
26 during the taxable year from the compensation of New Employees

1 under Article 7 of the Illinois Income Tax Act arising from  
2 employment at a project that is the subject of an Agreement.

3 "New Employee" means:

4 (a) A full-time employee first employed by a Taxpayer  
5 in a project that is the subject of an Agreement and who is  
6 hired after the Taxpayer enters into the Tax Credit  
7 Agreement.

8 (b) "New Employee" does not include:

9 (1) an employee of the Taxpayer who performs a job  
10 that was previously performed by another employee of  
11 that job;

12 (2) an employee of the Taxpayer employed for at  
13 least 6 months before hiring the employee or an  
14 individual previously employed in Illinois by a  
15 Related Member of the Taxpayer and whose employment was  
16 shifted to the Taxpayer after the Taxpayer entered into  
17 the Tax Credit Agreement; or

18 (3) a child, grandchild, parent, or spouse not  
19 legally separated from the individual, of any  
20 individual who has a direct or an indirect ownership  
21 interest of at least 5% in the profits, capital, or  
22 value of the Taxpayer.

23 (c) Notwithstanding paragraph (1) of subsection (b) of  
24 this definition, an employee may be considered a New  
25 Employee under the Agreement if the employee performs a job  
26 that was previously performed by an employee who was:

1           (1) treated under the Agreement as a New Employee;  
2           and

3           (2) promoted by the Taxpayer to another job.

4           (d) Notwithstanding subsection (a) of this definition,  
5           the Department may award Credit to an Applicant for an  
6           employee hired prior to the date of the Agreement if:

7           (1) the Applicant receives a letter from the  
8           Department stating an intent to enter into a Credit  
9           Agreement;

10          (2) the letter described in paragraph (1) of  
11          subsection (d) of this definition is issued by the  
12          Department no later than 15 days after the effective  
13          date of this Act; and

14          (3) the employee was hired after the date the  
15          letter described in paragraph (1) of subsection (d) of  
16          this definition was issued.

17          "Noncompliance Date" means the day following the last date  
18          upon which the Taxpayer was in compliance with the requirements  
19          of the Agreement and the provisions of this Act, as determined  
20          by the Director under Section 75.

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

24          "Professional Employer Organization" or "(PEO)" means an  
25          employee leasing company as defined in Section 206.1 of the  
26          Unemployment Insurance Act.

1 "Qualifying Border County" is a Border County with an  
2 unemployment rate that is at least 120% of any adjoining county  
3 located outside of this State.

4 "Qualifying Census Tract" is a Census Tract with an  
5 unemployment rate that is at least 120% of the unemployment  
6 rate of this State.

7 "Qualifying Small Business" is a Small Business that has  
8 increased employment over its previous 2 tax year employment  
9 levels.

10 "Related Member" means a person, with respect to the  
11 Taxpayer during any portion of the taxable year, is any one of  
12 the following:

13 (1) An individual stockholder if the stockholder and  
14 the members of the stockholder's family (under Section 318  
15 of the Internal Revenue Code) own directly, indirectly,  
16 beneficially, or constructively, in the aggregate, at  
17 least 50% of the value of the Taxpayer's outstanding stock.

18 (2) A partnership, estate, or trust and any partner or  
19 beneficiary if, in the aggregate, at least 50% of the  
20 profits, capital, stock, or value of the Taxpayer are owned  
21 directly, indirectly, beneficially, or constructively.

22 (3) A corporation and any party related to the  
23 corporation in a manner that would require an attribution  
24 of stock from the corporation to the party or from the  
25 party to the corporation under the attribution rules of  
26 Section 318 of the Internal Revenue Code, if the Taxpayer

1 owns directly, indirectly, beneficially, or constructively  
2 at least 50% of the value of the corporation's outstanding  
3 stock.

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

12 (5) A person to or from whom there is attribution of  
13 stock ownership in accordance with Section 1563(e) of the  
14 Internal Revenue Code, except, for purposes of determining  
15 whether a person is a Related Member under this paragraph  
16 (5), 20% shall be substituted for 5% wherever 5% appears in  
17 Section 1563(e) of the Internal Revenue Code.

18 "Rule" means each agency statement of general  
19 applicability that implements, applies, interprets or  
20 prescribes law or policy, but does not include: (i) statements  
21 concerning only the internal management of an agency and not  
22 affecting private rights or procedures available to persons or  
23 entities outside the agency; (ii) intra-agency memoranda; or  
24 (iii) the prescription of standardized forms.

25 "Small business" means any for profit entity,  
26 independently owned and operated, that has 500 or fewer



1 full-time employees.

2 "Taxpayer" means an individual, corporation, partnership,  
3 or other entity that has any Illinois Income Tax liability.

4 Section 15. Powers of the Department. The Department, in  
5 addition to those powers granted under the Civil Administrative  
6 Code of Illinois, is granted powers necessary to carry out the  
7 provisions of this Act, including, but not limited to, power  
8 to:

9 (a) Promulgate procedures, rules, or regulations deemed  
10 necessary for the administration of the programs, establish  
11 forms for applications, notifications, contracts, or any other  
12 agreements, and accept applications.

13 (b) Assist Taxpayers under this Act and cooperate with  
14 Taxpayers who are parties to Agreements in order to promote,  
15 foster, and support economic development, capital investment,  
16 and job creation or retention within the State.

17 (c) Enter into agreements and memoranda of understanding  
18 for participation with federal government agencies, local  
19 units of government, universities, research foundations or  
20 institutions, regional economic development corporations, or  
21 other organizations for the purposes of this Act.

22 (d) Gather information and conduct inquiries, including,  
23 but not limited to, information concerning Applicants for the  
24 purpose of making any necessary designations or certifications  
25 or to gather information to assist the Committee with any

1 recommendations in the furtherance of the purposes of this Act.

2 (e) Establish, negotiate, and effectuate any term,  
3 agreement, or other document with any person, and to consent,  
4 subject to the provisions of any Agreement with another party,  
5 to the modification of any Agreement to which the Department is  
6 a party.

7 (f) Fix, determine, charge, and collect any premiums, fees,  
8 charges, costs, and expenses from Applicants, including, but  
9 not limited to, any application fees, commitment fees, program  
10 fees, tax credit transfer fees, financing charges, any  
11 reasonable fees to defray the cost of certifying eligible  
12 Applicants, publication fees to pay expenses for the  
13 administration, staffing, or operation of the Department's or  
14 Committee's activities under this Act, or preparation,  
15 implementation, and enforcement of the terms of an Agreement,  
16 or for consultation, advisory and legal fees, and other costs.  
17 The Department shall determine the amount of the fees and the  
18 payment schedule. The amount of the fees need not be uniform  
19 among the various programs administered, however, all fees  
20 shall be the responsibility of the Applicant.

21 (g) Provide sufficient personnel to permit administration,  
22 staffing, operation, and related contractual support from  
23 funds made available through charges to Applicants, acquired  
24 through other means, or funds as may be appropriated by the  
25 General Assembly for the administration of products or services  
26 under this Act.

1           (h) Require Applicants, upon written request, to issue any  
2 necessary authorization to the appropriate federal, state, or  
3 local authority for the release of information concerning a  
4 project being considered under the provisions of this Act,  
5 including, but not be limited to, financial reports, returns,  
6 or records relating to Taxpayers or their projects. All  
7 Applicants must consent to have any written Agreement posted on  
8 the Department's web site.

9           (i) Require that a Taxpayer shall at all times keep proper  
10 books of record and account in accordance with generally  
11 accepted accounting principles consistently applied for the  
12 books, records, or papers related to the Agreement in the  
13 custody or control of the Taxpayer and open for reasonable  
14 Department inspection and audits, including, but not limited  
15 to, the making of copies of the books, records, or papers, and  
16 the inspection or appraisal of any of the Taxpayer or project  
17 assets.

18           (j) Take whatever actions necessary to protect the State's  
19 interest in the event of bankruptcy, default, foreclosure, or  
20 noncompliance with the terms and conditions of financial  
21 assistance or participation required under this Act, including  
22 the power to sell, dispose, lease, or rent real or personal  
23 property that the Department may receive as a result of these  
24 actions.

25           Section 20. Tax Credit Awards. Subject to the conditions

1 set forth in this Act, a Taxpayer is entitled to a Credit  
2 against or a payment towards taxes imposed under subsections  
3 (a) and (b) of Section 201 of the Illinois Income Tax Act that  
4 may be imposed on the Taxpayer for a taxable year beginning on  
5 or after January 1, 2017, if the Taxpayer is awarded a Credit  
6 by the Department under this Act for that taxable year.

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

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

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

14 (d) The Credit shall not exceed the Incremental Income Tax  
15 attributable to the project that is the subject of the  
16 Agreement.

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

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

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

7 (g) Tax Credits awarded under this Act may be sold,  
8 assigned, or transferred, in whole or in part, to an Illinois  
9 Small Business Taxpayer, subject to the following conditions:

10 (1) A Taxpayer awarded an income tax Credit under this  
11 Act may make only a single sale, assignment, or transfer of  
12 the tax Credit earned in a taxable year; however, the  
13 Credit may be sold, assigned, or transferred to one or more  
14 transferees.

15 (2) The tax Credit earned by the transferor may be  
16 transferred before the due date, including extensions, of  
17 the Illinois income tax return of the transferor. The  
18 amount of the Credit transferred to the transferee or  
19 transferees may not exceed the amount of the Credit earned  
20 by the transferor in the transferor's taxable year.

21 (3) Written notification of the transfer or sale of  
22 Credits awarded under this Act shall be submitted to the  
23 Department of Commerce and Economic Opportunity and the  
24 Department of Revenue within 30 days after the sale,  
25 assignment, or transfer. The Department of Revenue shall  
26 provide by rule the information required to be provided in

1 such written notification.

2 (4) The transfer or sale of tax Credits under this  
3 subsection does not extend the time during which those tax  
4 Credits can be used. The carry-forward period for a tax  
5 Credit that is transferred or sold shall begin on the date  
6 on which the tax Credit was originally issued.

7 (5) A transferee shall have only those rights to claim  
8 and use the Credit that were available to the Taxpayer that  
9 earned the Credit, except that Credits sold or transferred  
10 may not be used against a transferee's withholding tax  
11 liability.

12 (6) If the Taxpayer earning the Credit fails to comply  
13 with the terms and requirements of the Agreement, and,  
14 under this Act, notice is provided to the Department of  
15 Revenue of the Taxpayer's non-compliance, the Department  
16 shall hold the transferor liable for any tax, penalty, or  
17 interest due as a result of non-compliance with the  
18 Agreement.

19 Section 25. Tax Credit transfer. The Department shall  
20 establish a tax Credit exchange to allow Taxpayers who are a  
21 party to an Agreement to negotiate with Qualifying Small  
22 Businesses. A one-time transfer of any Credits earned is  
23 allowed. Credits may be transferred to more than one Qualifying  
24 Small Business. The Department must certify that a Small  
25 Business is qualified before they may enter the exchange. The

1 Department shall charge a fee for such transfer.

2 Section 30. Application for a project to create and retain  
3 new jobs.

4 (a) Any Taxpayer proposing a project located or planned to  
5 be located in a Qualifying Border County or Qualifying Census  
6 Tract may request consideration for designation of its project  
7 by formal written letter of request and by formal application  
8 to the Department, in which the Applicant states its intent to  
9 make at least a specified level of investment and intends to  
10 hire or retain a specified number of full-time employees at a  
11 designated location in Illinois. Retention is only necessary in  
12 cases where there is an existing facility. The Department shall  
13 require a formal application from an Applicant and a formal  
14 letter of request for assistance.

15 (b) In order to qualify for Credits under this Act, an  
16 Applicant's project must:

17 (1) involve an investment of at least \$5,000,000 in  
18 capital improvements to be placed in service and to employ  
19 at least 25 New Employees within the State as a direct  
20 result of the project;

21 (2) involve an investment, in an amount expressly  
22 specified by the Department, in capital improvements to be  
23 placed in service and will employ, in at least an amount  
24 expressly specified by the Department, New Employees  
25 within the State, provided that the Department and the

1 Committee have determined that the project will provide a  
2 substantial economic benefit to the State; or

3 (3) if the Applicant has 100 or fewer employees,  
4 involve an investment of at least \$1,000,000 in capital  
5 improvements to be placed in service and to employ at least  
6 5 New Employees within the State as a direct result of the  
7 project.

8 (c) After receipt of an application, the Department may  
9 enter into an Agreement with the Applicant if the application  
10 is approved in accordance with Section 35.

11 Section 35. Review of Application.

12 (a) The Targeted Tax Credit Review Committee is hereby  
13 created and shall be composed of the following 5 members:

14 (1) the Director of the Department of Commerce and  
15 Economic Opportunity;

16 (2) the Director of the Governor's Office of Management  
17 and Budget, or his or her designee;

18 (3) the Director of the Department of Revenue, or his  
19 or her designee;

20 (4) the State Treasurer, or his or her designee; and

21 (5) an individual who is the chief executive officer of  
22 a not for profit public/private economic development  
23 corporation, appointed by the Governor.

24 (b) The Director shall serve as Chairman of the Committee  
25 and all members, except the State Treasurer, shall serve at the



1 pleasure of the Governor.

2 (c) The Committee shall convene on a quarterly basis to  
3 competitively review all applications received. It shall  
4 conduct studies, review information with respect to  
5 Applicants, and make decisions for projects to benefit the  
6 State, all in a manner it deems necessary. The Department shall  
7 provide, or contract to provide, staff and resources necessary  
8 for the review process. The Committee shall compare and  
9 evaluate each application based upon the total economic impact  
10 on the Border County or Census Tract and the State. In making  
11 its decision that an Applicant's application for Tax Credits  
12 should or should not be approved, the Committee shall determine  
13 that the following conditions exist:

14 (1) The Applicant's project is located in a Qualifying  
15 Border County or Qualifying Census Tract or has a direct  
16 and substantial employment impact on such Counties or  
17 Census Tracts.

18 (2) The Applicant's project intends, as required by  
19 subsection (b) of Section 30, to make the required  
20 investment in the State and intends to hire the required  
21 number of New Employees in Illinois as a result of that  
22 project.

23 (3) The Applicant's project is economically sound and  
24 will benefit the people of this State by increasing  
25 opportunities for employment and strengthening the economy  
26 of this State.

1           (4) The political subdivisions affected by the project  
2           have committed local incentives with respect to the  
3           project, considering local ability to assist.

4           (5) Awarding the Credit will result in an overall  
5           positive fiscal impact to the State, as certified by the  
6           Committee using the best available data.

7           (6) The Credit is not prohibited by Section 45 of this  
8           Act.

9           (7) The jobs to be created or retained must meet or  
10          exceed the median income in the County where the project is  
11          located by 20%.

12          (d) A majority of the Committee shall determine whether an  
13          application is approved or denied.

14          (e) If it is determined by the Director that a project has  
15          a substantial benefit to the State, the Director shall have  
16          the power to call special meetings of the Committee upon due  
17          notice.

18          Section 40. Limitation to amount of costs of specified  
19          items. The total amount of the Credit allowed during all tax  
20          years may not exceed the aggregate amount of costs incurred by  
21          the Taxpayer during all prior tax years for the following  
22          items, to the extent provided in the Agreement:

23               (1) capital investment, including, but not limited to,  
24               equipment, buildings, or land;

25               (2) infrastructure development;

- 1 (3) debt service, except refinancing of current debt;
- 2 (4) research and development;
- 3 (5) job training and education;
- 4 (6) lease costs; or
- 5 (7) relocation costs.

6 Section 45. Relocation of jobs in Illinois. A Taxpayer is  
7 not entitled to claim Credit with respect to any jobs that the  
8 Taxpayer relocates from one site in Illinois to another site in  
9 Illinois. Moreover, any full-time employee of an eligible  
10 business relocated to Illinois in connection with that  
11 qualifying project is deemed to be a New Employee for purposes  
12 of this Act. Determinations under this Section shall be made by  
13 the Department.

14 Section 50. Determination of amount of the Credit. In  
15 determining the amount of the Credit that should be awarded,  
16 the Committee shall take into consideration the following  
17 factors:

18 (1) The number and location of jobs created or retained in  
19 relation to the economy of the Qualifying Border County or  
20 Qualifying Census Tract and where the projected investment is  
21 to occur.

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

23 (3) The quality of the jobs to be created or retained in  
24 the area, including, but not limited to, how much the jobs

1 created or retained exceed the median income, benefits in the  
2 County, and the quality of the employee benefits.

3 (4) The incremental payroll attributable to the project.

4 (5) The capital investment attributable to the project.

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

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

9 Section 55. Amount and duration of the Credit.

10 (a) The Committee shall determine the specific amount of  
11 Tax Credits awarded under this Act each fiscal year. However,  
12 the Agreements executed in any fiscal year shall not exceed a  
13 maximum ten-year commitment of \$50,000,000. The duration of the  
14 Credit may not exceed 10 taxable years, however, awarded  
15 Credits may be carried forward for up to 5 years from the date  
16 they were issued. The Credit shall be stated as a percentage of  
17 the Incremental Income Tax attributable to the Applicant's  
18 project and shall include a fixed dollar limitation for each  
19 year of any such Agreement.

20 Section 60. Contents of Agreements with Applicants. The  
21 Department shall enter into an Agreement with an Applicant that  
22 is awarded a Credit under this Act. The Agreement shall include  
23 all of the following:

24 (1) A detailed description of the project that is the

1 subject of the Agreement, including the location and amount  
2 of the investment and jobs created or retained.

3 (2) The duration of the Credit and the first taxable  
4 year for which the Credit may be claimed.

5 (3) The maximum Credit amount that will be allowed for  
6 each taxable year.

7 (4) A requirement that the Taxpayer shall maintain  
8 operations at the project location for 5 years after the  
9 project is placed in service.

10 (5) A specific method for determining the number of New  
11 Employees employed during a taxable year.

12 (6) A requirement that the Taxpayer shall annually  
13 report to the Department the number of New Employees, the  
14 Incremental Income Tax withheld in connection with the New  
15 Employees, and any other information the Director needs to  
16 perform its duties under this Act.

17 (7) A requirement that the Director is authorized to  
18 verify, with the appropriate State agencies, the amounts  
19 reported under paragraph (6) of this Section, and, upon  
20 verification, shall issue a certificate to the Taxpayer  
21 stating that the amounts have been verified.

22 (8) A requirement that the Taxpayer shall provide  
23 written notification to the Director not more than 30 days  
24 after the Taxpayer makes or receives a proposal that would  
25 transfer the Taxpayer's State tax liability obligations to  
26 a successor Taxpayer.

1           (9) A detailed description of the number of New  
2 Employees to be hired, and the occupation and payroll of  
3 the full-time jobs to be created or retained as a result of  
4 the project.

5           (10) The minimum investment the business enterprise  
6 will make in capital improvements, the time period for  
7 placing the property in service, and the designated  
8 location in Illinois for the investment.

9           (11) A requirement that the Taxpayer shall provide  
10 written notification to the Director and the Committee not  
11 more than 30 days after the Taxpayer determines that the  
12 minimum job creation or retention, employment payroll, or  
13 investment is no longer or will no longer be achieved or  
14 maintained, as set forth in the terms and conditions of the  
15 Agreement.

16           (12) A provision that, if the total number of New  
17 Employees falls below a specified level, the allowance of  
18 Credit shall be suspended until the number of New Employees  
19 equals or exceeds the Agreement amount.

20           (13) A detailed description of the items for which the  
21 costs incurred by the Taxpayer will be included in the  
22 limitation on the Credit provided in Section 40.

23           (14) A provision that, if the Taxpayer never meets  
24 either the investment or job creation and retention  
25 requirements specified in the Agreement during the entire  
26 5-year period beginning on the first day of the first

1 taxable year in which the Agreement is executed and ending  
2 on the last day of the fifth taxable year after the  
3 Agreement is executed, then the Agreement is automatically  
4 terminated on the last day of the fifth taxable year after  
5 the Agreement is executed and the Taxpayer is not entitled  
6 to the award of any Credits for any of that 5-year period.

7 (15) Any other performance conditions or contract  
8 provisions as the Department determines are appropriate.

9 The Department shall post on its website the terms of each  
10 Agreement entered into under this Act on or after the effective  
11 date of this Act.

12 Section 65. Certificate of verification; submission to the  
13 Department of Revenue. A Taxpayer claiming a Credit under this  
14 Act shall submit to the Department of Revenue a copy of the  
15 Director's certificate of verification under this Act for the  
16 taxable year. Failure to submit a copy of the certificate with  
17 the Taxpayer's tax return shall not invalidate a claim for a  
18 Credit. 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  
22 that:

23 (1) The project has substantially achieved the level of  
24 new full-time jobs specified in its Agreement.

25 (2) The project has substantially achieved the level of

1 annual payroll in Illinois specified in its Agreement.

2 (3) The project has substantially achieved the level of  
3 capital investment in Illinois specified in its Agreement.

4 Section 70. Pass-through entity.

5 (a) The shareholders or partners of a Taxpayer that is a  
6 pass-through entity shall be entitled to the Credit allowed  
7 under the Agreement.

8 (b) The Credit provided under subsection (a) of this  
9 Section is in addition to any Credit to which a shareholder or  
10 partner is otherwise entitled under a separate Agreement under  
11 this Act. A pass-through entity, and a shareholder or partner  
12 of the pass-through entity, may not claim more than one Credit  
13 under the same Agreement.

14 Section 75. Noncompliance; notice; assessment. If the  
15 Director determines that a Taxpayer who has received a Credit  
16 under this Act is not complying with the requirements of the  
17 Agreement or all of the provisions of this Act, the Director  
18 shall provide notice to the Taxpayer of the alleged  
19 noncompliance, and allow the Taxpayer a hearing under the  
20 Illinois Administrative Procedure Act. If, after such notice  
21 and any hearing, the Director determines that a noncompliance  
22 exists, the Director shall issue to the Department of Revenue  
23 notice to that effect, stating the Noncompliance Date.



1           Section 80. Annual report. On or before July 1 each year,  
2 the Committee shall submit a report to the Department on the  
3 Tax Credit program under this Act. The report shall include  
4 information on the number of Agreements that were entered into  
5 under this Act during the preceding calendar year, a  
6 description of the project that is the subject of each  
7 Agreement, an update on the status of projects under Agreements  
8 entered into before the preceding calendar year, and the sum of  
9 the Credits awarded under this Act. A copy of the report shall  
10 be delivered to the Governor and to each member of the General  
11 Assembly.

12           Section 85. Evaluation of Tax Credit program. The  
13 Department shall evaluate the Tax Credit program on a biennial  
14 basis. The evaluation shall include an assessment of the  
15 effectiveness of the program in creating or retaining jobs in  
16 Illinois and of the revenue impact of the program, and may  
17 include a review of the practices and experiences of other  
18 states with similar programs. The Director shall submit a  
19 report on the evaluation to the Governor and the General  
20 Assembly after June 30 and before November 1 of each  
21 odd-numbered year.

22           Section 90. Sunset of new Agreements. The Department shall  
23 not enter into any new Agreements under the provisions of  
24 Section 60 of this Act after December 31, 2029.

1           Section 95. Adoption of rules. The Department shall adopt  
2 rules necessary to implement this Act. The rules may provide  
3 for recipients of Credits under this Act to be charged fees to  
4 cover administrative costs of the Tax Credit Program. Fees  
5 collected shall be deposited into the Targeted Tax Credit Fund.

6           Section 100. The Targeted Tax Credit Fund.

7           (a) The Targeted Tax Credit Fund is established to be used  
8 exclusively for the purposes of this Act, including paying for  
9 the costs of promoting and administering the Targeted Tax  
10 Credit Program. The Fund shall be administered by the  
11 Department.

12           (b) The Fund consists of collected fees, appropriations  
13 from the General Assembly, and gifts and grants to the Fund.

14           (c) The State Treasurer shall invest the money in the Fund  
15 not currently needed to meet the obligations of the Fund in the  
16 same manner as other public funds may be invested. Interest  
17 that accrues from these investments shall be deposited into the  
18 Fund.

19           (d) The money in the Fund at the end of a State fiscal year  
20 remains in the Fund to be used exclusively for the purposes of  
21 this Act. Expenditures from the Fund are subject to  
22 appropriation by the General Assembly.

23           Section 105. Program terms and conditions.

1 (a) Any documentary materials or data made available or  
2 received by any member of a Committee or any agent or employee  
3 of the Department shall be deemed confidential and shall not be  
4 deemed public records to the extent that the materials or data  
5 consist of trade secrets, commercial or financial information  
6 regarding the operation of the business conducted by the  
7 Applicant or recipient of any tax Credit under this Act, or any  
8 information regarding the competitive position of a business in  
9 a particular field of endeavor.

10 (b) Nothing in this Act shall be construed as creating any  
11 rights in any Applicant to enter into an Agreement or in any  
12 person to challenge the terms of any Agreement.

13 Section 900. The State Finance Act is amended by adding  
14 Section 5.875 as follows:

15 (30 ILCS 105/5.875 new)

16 Sec. 5.875. The Targeted Tax Credit Fund.

17 (35 ILCS 10/Act rep.)

18 Section 905. The Economic Development for a Growing Economy  
19 Tax Credit Act is repealed.

20 Section 999. Effective date. This Act takes effect upon  
21 becoming law, except that Section 905 takes effect one year  
22 after this Act becomes law."