Amends the Illinois Income Tax Act. Makes the following changes with respect to the angel investment credit: (1) reinstates the credit for taxable years beginning on or after December 31, 2016 and ending on or before December 31, 2021; (2) provides that the term "applicant" includes a corporation, partnership, or limited liability company formed for the purpose of facilitating an offer or sale of a security by an in-State issuer to resident of the State as provided under a particular provision of the Illinois Securities Law of 1953; (3) provides a definition of "investment"; (4) contains a requirement that the applicant must agree to remain in the State for a period of not less than 3 years; and (5) makes changes concerning the allocation of the credit awards. Effective immediately.
AN ACT concerning revenue.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

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

(35 ILCS 5/220)

Sec. 220. Angel investment credit.

(a) As used in this Section:

"Applicant" means a corporation, partnership, limited liability company, or a natural person that makes an investment in a qualified new business venture. The term "applicant" does not include: (1) a corporation, partnership, or limited liability company (other than any such corporation, partnership, or limited liability company formed solely for the purpose of facilitating an offering conducted pursuant to, and in compliance with, paragraph T of Section 4 of the Illinois Securities Law of 1953, or a natural person who has a direct or indirect ownership interest of at least 51% in the profits, capital, or value of the applicant; or (2) investment or a related member of the applicant.

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

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

"Investment" means money (or its equivalent) given to a qualified new business venture in consideration for an equity interest of the qualified new business venture (without regard to the class, or the distribution or dividend, voting or other rights, of such equity interest), an agreement for receipt of a future equity interest of the qualified new business venture (with warrants or a defined means of equity conversion), convertible debt made by the qualified new business venture (with a defined means of equity conversion) or some combination thereof.

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

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

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

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

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

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

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

(b) For taxable years beginning after December 31, 2010, and ending on or before December 31, 2016, subject
to the limitations provided in this Section, a claimant may
claim, as a credit against the tax imposed under subsections
(a) and (b) of Section 201 of this Act, an amount equal to:
25% of the claimant's investment made directly in a qualified new
business venture pursuant to subparagraph (A) of paragraph (3)
of subsection (e) or item (i) of subparagraph (B) of paragraph
(3) of subsection (e) below; and (ii) 10% of the claimant's
investment made directly in a qualified new business venture
pursuant to item (i) of subparagraph (B) of paragraph (3) of
subsection (e) below. In order for an investment in a qualified
new business venture to be eligible for tax credits, the
business must have applied for and received certification under
subsection (e) for the taxable year in which the investment was
made prior to the date on which the investment was made. The
credit under this Section may not exceed the taxpayer's
Illinois income tax liability for the taxable year. If the
amount of the credit exceeds the tax liability for the year,
the excess may be carried forward and applied to the tax
liability of the 5 taxable years following the excess credit
year. The credit shall be applied to the earliest year for
which there is a tax liability. If there are credits from more
than one tax year that are available to offset a liability, the
earlier credit shall be applied first. In the case of a
partnership or Subchapter S Corporation, the credit is allowed
to the partners or shareholders in accordance with the
determination of income and distributive share of income under
Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

(c) The maximum amount of an applicant's investment that may be used as the basis for a credit under this Section is $2,000,000 for each investment made directly in a qualified new business venture.

(d) The Department shall implement a program to certify an applicant for an angel investment credit. Upon satisfactory review, the Department shall issue a tax credit certificate stating the amount of the tax credit to which the applicant is entitled. The Department shall annually certify that (i) each approved applicant remains in the State of Illinois (and continues to remain in the State for a period of no less than 3 years from the issue date of the last tax credit certificate issued by the Department with respect to such business); and (ii) the claimant's investment has been made and remains in the qualified new business venture for no less than 3 years.

If an investment for which a claimant is allowed a credit under subsection (b) is held by the claimant for less than 3 years, other than as a result of a permitted sale of such investment to person which is not a related member or, if within that period of time the qualified new business venture is moved from the State of Illinois, the claimant shall pay to the Department of Revenue, in the manner prescribed by the Department of Revenue, the aggregate amount of the disqualified credits credit that the claimant received related to the
If the Department determines that a previously approved applicant has moved from the State of Illinois prior to the date which is 3 years from the issue date of the last tax credit certificate issued by the Department with respect to the subject business, such business shall pay to the Department of Revenue, in the manner prescribed by the Department of Revenue, the aggregate amount of the disqualified credits that claimants received related to investments in such business.

(e) The Department shall implement a program to register qualified new business ventures for purposes of this Section. A business desiring registration shall submit an application to the Department in each taxable year for which the business desires registration. The Department may register the business only if the business satisfies all of the following conditions:

(1) it has its headquarters in this State;

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

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

(A) the business is:

   (i) principally engaged in innovation in any of the following: manufacturing; biotechnology; nanotechnology; communications; agricultural
sciences; clean energy creation or storage technology; processing or assembling products, including medical devices, pharmaceuticals, computer software, computer hardware, semiconductors, other innovative technology products, or other products that are produced using manufacturing methods that are enabled by applying proprietary technology; or providing services that are enabled by applying proprietary technology; or

(ii) it is undertaking pre-commercialization activity related to proprietary technology that includes conducting research, developing a new product or business process, or developing a service that is principally reliant on applying proprietary technology; or

(B) the funding transaction of the qualified new business venture giving rise to the subject investment:

(i) is an offering:

(1) where the available investment interests have been publicly offered for sale solely to residents of the State;

(2) where at least 25% of the offered investment interests have been reserved for
sale to non-accredited investors (whether or not the same are resultantly sold to such investors); 

(3) which is held open for sale a period of at least 5 months (or until fully funded, if sooner); and

(4) which is conducted pursuant to, and in full compliance with, paragraph T of Section 4 of the Illinois Securities Law of 1953, and all other applicable federal and state laws and regulations; or

(ii) is an offering:

(1) which is made in conjunction with, within one month from the commencement of, and as part of a single plan of financing which includes, an offering of the type described in item (i) above;

(2) where the aggregate amount of available investment interests being sold as part of such offering does not exceed ten times the aggregate amount of investment interests being sold in the related offering of the type described in item (i) above;

(3) where the rights, with respect to distributions and payments only, of the available investment interests being sold are
equal, or junior, in terms of priority to the respective rights of the investment interests being sold in the related offering of the type described in item (i) above; and

(4) which is conducted pursuant to, and in full compliance with, all applicable federal and State laws and regulations;

(4) it is not principally engaged in real estate development (except for development projects anticipated to take more than 3 years to complete), insurance, banking, lending, lobbying, political consulting, professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants, wholesale or retail trade, leisure, hospitality, transportation, or construction (except for construction projects anticipated to take more than 3 years to complete or with respect to the construction of power production plants that derive energy from a renewable energy resource, as defined in Section 1 of the Illinois Power Agency Act;

(5) at the time it is first certified:

(A) it has fewer than 100 employees;

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

(C) it has received not more than $10,000,000 in aggregate private equity investment in cash;
(6) it agrees not to move its operations from the State of Illinois prior to the date which is 3 years from the issue date of the last tax credit certificate issued by the Department with respect to such business (blank); and

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

(f) The Department, in consultation with the Department of Revenue, shall adopt rules to administer this Section. The aggregate amount of the tax credits that may be claimed under this Section for investments made in qualified new business ventures shall be limited at $20,000,000 $10,000,000 per calendar year. The $20,000,000 annual allowable amount shall be allocated by the Department, on a per calendar quarter basis and prior to the commencement of each calendar year, in such proportion as determined by the Department, provided that: (i) the amount initially allocated by the Department for any one calendar quarter shall not exceed 35% of the total allowable amount; and (ii) any portion of the allocated allowable amount remaining unused as of the end of any of the first 3 calendar quarters of a given calendar year shall be rolled into, and added to, the total allocated amount for the next available calendar quarter.

(g) A claimant may not sell or otherwise transfer a credit awarded under this Section to any another person (or entity other than a related member).
(h) On or before March 1 of each year, the Department shall report to the Governor and to the General Assembly on the tax credit certificates awarded under this Section for the prior calendar year.

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

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

(B) the name and address of the qualified new business venture that received the investment giving rise to the credit and the county in which the qualified new business venture is located; and

(C) the date of approval by the Department of the applications for the tax credit certificate.

(2) The report must also include:

(A) the total number of applicants and amount for tax credit certificates awarded under this Section in the prior calendar year;

(B) the total number of applications and amount for which tax credit certificates were issued in the prior calendar year; and

(C) the total tax credit certificates and amount authorized under this Section for all calendar years.

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

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