

HB0073



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB0073

by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

40 ILCS 5/1-101.1
35 ILCS 5/201

from Ch. 108 1/2, par. 1-101.1
from Ch. 120, par. 2-201

Amends the Illinois Pension Code. Makes a technical change in a Section concerning definitions. Amends the Illinois Income Tax Act. Makes a technical change in a Section concerning the tax imposed.

LRB100 03724 RPS 13729 b

PENSION IMPACT
NOTE ACT MAY
APPLY

A BILL FOR

1 AN ACT concerning public employee benefits.

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

4 Section 5. The Illinois Pension Code is amended by changing
5 Section 1-101.1 as follows:

6 (40 ILCS 5/1-101.1) (from Ch. 108 1/2, par. 1-101.1)

7 Sec. 1-101.1. Definitions. For purposes of this Article,
8 unless the ~~the~~ context otherwise requires, the words defined in
9 the Sections following this Section and preceding Section 1-102
10 shall have meanings given in those Sections.

11 (Source: P.A. 90-507, eff. 8-22-97.)

12 Section 10. The Illinois Income Tax Act is amended by
13 changing Section 201 as follows:

14 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

15 Sec. 201. Tax Imposed.

16 (a) In general. A tax measured by net income is hereby
17 imposed on every individual, corporation, trust and estate for
18 each taxable year ending after July 31, 1969 on the ~~the~~
19 privilege of earning or receiving income in or as a resident of
20 this State. Such tax shall be in addition to all other
21 occupation or privilege taxes imposed by this State or by any

1 municipal corporation or political subdivision thereof.

2 (b) Rates. The tax imposed by subsection (a) of this
3 Section shall be determined as follows, except as adjusted by
4 subsection (d-1):

5 (1) In the case of an individual, trust or estate, for
6 taxable years ending prior to July 1, 1989, an amount equal
7 to 2 1/2% of the taxpayer's net income for the taxable
8 year.

9 (2) In the case of an individual, trust or estate, for
10 taxable years beginning prior to July 1, 1989 and ending
11 after June 30, 1989, an amount equal to the sum of (i) 2
12 1/2% of the taxpayer's net income for the period prior to
13 July 1, 1989, as calculated under Section 202.3, and (ii)
14 3% of the taxpayer's net income for the period after June
15 30, 1989, as calculated under Section 202.3.

16 (3) In the case of an individual, trust or estate, for
17 taxable years beginning after June 30, 1989, and ending
18 prior to January 1, 2011, an amount equal to 3% of the
19 taxpayer's net income for the taxable year.

20 (4) In the case of an individual, trust, or estate, for
21 taxable years beginning prior to January 1, 2011, and
22 ending after December 31, 2010, an amount equal to the sum
23 of (i) 3% of the taxpayer's net income for the period prior
24 to January 1, 2011, as calculated under Section 202.5, and
25 (ii) 5% of the taxpayer's net income for the period after
26 December 31, 2010, as calculated under Section 202.5.

1 (5) In the case of an individual, trust, or estate, for
2 taxable years beginning on or after January 1, 2011, and
3 ending prior to January 1, 2015, an amount equal to 5% of
4 the taxpayer's net income for the taxable year.

5 (5.1) In the case of an individual, trust, or estate,
6 for taxable years beginning prior to January 1, 2015, and
7 ending after December 31, 2014, an amount equal to the sum
8 of (i) 5% of the taxpayer's net income for the period prior
9 to January 1, 2015, as calculated under Section 202.5, and
10 (ii) 3.75% of the taxpayer's net income for the period
11 after December 31, 2014, as calculated under Section 202.5.

12 (5.2) In the case of an individual, trust, or estate,
13 for taxable years beginning on or after January 1, 2015,
14 and ending prior to January 1, 2025, an amount equal to
15 3.75% of the taxpayer's net income for the taxable year.

16 (5.3) In the case of an individual, trust, or estate,
17 for taxable years beginning prior to January 1, 2025, and
18 ending after December 31, 2024, an amount equal to the sum
19 of (i) 3.75% of the taxpayer's net income for the period
20 prior to January 1, 2025, as calculated under Section
21 202.5, and (ii) 3.25% of the taxpayer's net income for the
22 period after December 31, 2024, as calculated under Section
23 202.5.

24 (5.4) In the case of an individual, trust, or estate,
25 for taxable years beginning on or after January 1, 2025, an
26 amount equal to 3.25% of the taxpayer's net income for the

1 taxable year.

2 (6) In the case of a corporation, for taxable years
3 ending prior to July 1, 1989, an amount equal to 4% of the
4 taxpayer's net income for the taxable year.

5 (7) In the case of a corporation, for taxable years
6 beginning prior to July 1, 1989 and ending after June 30,
7 1989, an amount equal to the sum of (i) 4% of the
8 taxpayer's net income for the period prior to July 1, 1989,
9 as calculated under Section 202.3, and (ii) 4.8% of the
10 taxpayer's net income for the period after June 30, 1989,
11 as calculated under Section 202.3.

12 (8) In the case of a corporation, for taxable years
13 beginning after June 30, 1989, and ending prior to January
14 1, 2011, an amount equal to 4.8% of the taxpayer's net
15 income for the taxable year.

16 (9) In the case of a corporation, for taxable years
17 beginning prior to January 1, 2011, and ending after
18 December 31, 2010, an amount equal to the sum of (i) 4.8%
19 of the taxpayer's net income for the period prior to
20 January 1, 2011, as calculated under Section 202.5, and
21 (ii) 7% of the taxpayer's net income for the period after
22 December 31, 2010, as calculated under Section 202.5.

23 (10) In the case of a corporation, for taxable years
24 beginning on or after January 1, 2011, and ending prior to
25 January 1, 2015, an amount equal to 7% of the taxpayer's
26 net income for the taxable year.

1 (11) In the case of a corporation, for taxable years
2 beginning prior to January 1, 2015, and ending after
3 December 31, 2014, an amount equal to the sum of (i) 7% of
4 the taxpayer's net income for the period prior to January
5 1, 2015, as calculated under Section 202.5, and (ii) 5.25%
6 of the taxpayer's net income for the period after December
7 31, 2014, as calculated under Section 202.5.

8 (12) In the case of a corporation, for taxable years
9 beginning on or after January 1, 2015, and ending prior to
10 January 1, 2025, an amount equal to 5.25% of the taxpayer's
11 net income for the taxable year.

12 (13) In the case of a corporation, for taxable years
13 beginning prior to January 1, 2025, and ending after
14 December 31, 2024, an amount equal to the sum of (i) 5.25%
15 of the taxpayer's net income for the period prior to
16 January 1, 2025, as calculated under Section 202.5, and
17 (ii) 4.8% of the taxpayer's net income for the period after
18 December 31, 2024, as calculated under Section 202.5.

19 (14) In the case of a corporation, for taxable years
20 beginning on or after January 1, 2025, an amount equal to
21 4.8% of the taxpayer's net income for the taxable year.

22 The rates under this subsection (b) are subject to the
23 provisions of Section 201.5.

24 (c) Personal Property Tax Replacement Income Tax.
25 Beginning on July 1, 1979 and thereafter, in addition to such
26 income tax, there is also hereby imposed the Personal Property

1 Tax Replacement Income Tax measured by net income on every
2 corporation (including Subchapter S corporations), partnership
3 and trust, for each taxable year ending after June 30, 1979.
4 Such taxes are imposed on the privilege of earning or receiving
5 income in or as a resident of this State. The Personal Property
6 Tax Replacement Income Tax shall be in addition to the income
7 tax imposed by subsections (a) and (b) of this Section and in
8 addition to all other occupation or privilege taxes imposed by
9 this State or by any municipal corporation or political
10 subdivision thereof.

11 (d) Additional Personal Property Tax Replacement Income
12 Tax Rates. The personal property tax replacement income tax
13 imposed by this subsection and subsection (c) of this Section
14 in the case of a corporation, other than a Subchapter S
15 corporation and except as adjusted by subsection (d-1), shall
16 be an additional amount equal to 2.85% of such taxpayer's net
17 income for the taxable year, except that beginning on January
18 1, 1981, and thereafter, the rate of 2.85% specified in this
19 subsection shall be reduced to 2.5%, and in the case of a
20 partnership, trust or a Subchapter S corporation shall be an
21 additional amount equal to 1.5% of such taxpayer's net income
22 for the taxable year.

23 (d-1) Rate reduction for certain foreign insurers. In the
24 case of a foreign insurer, as defined by Section 35A-5 of the
25 Illinois Insurance Code, whose state or country of domicile
26 imposes on insurers domiciled in Illinois a retaliatory tax

1 (excluding any insurer whose premiums from reinsurance assumed
2 are 50% or more of its total insurance premiums as determined
3 under paragraph (2) of subsection (b) of Section 304, except
4 that for purposes of this determination premiums from
5 reinsurance do not include premiums from inter-affiliate
6 reinsurance arrangements), beginning with taxable years ending
7 on or after December 31, 1999, the sum of the rates of tax
8 imposed by subsections (b) and (d) shall be reduced (but not
9 increased) to the rate at which the total amount of tax imposed
10 under this Act, net of all credits allowed under this Act,
11 shall equal (i) the total amount of tax that would be imposed
12 on the foreign insurer's net income allocable to Illinois for
13 the taxable year by such foreign insurer's state or country of
14 domicile if that net income were subject to all income taxes
15 and taxes measured by net income imposed by such foreign
16 insurer's state or country of domicile, net of all credits
17 allowed or (ii) a rate of zero if no such tax is imposed on such
18 income by the foreign insurer's state of domicile. For the
19 purposes of this subsection (d-1), an inter-affiliate includes
20 a mutual insurer under common management.

21 (1) For the purposes of subsection (d-1), in no event
22 shall the sum of the rates of tax imposed by subsections
23 (b) and (d) be reduced below the rate at which the sum of:

24 (A) the total amount of tax imposed on such foreign
25 insurer under this Act for a taxable year, net of all
26 credits allowed under this Act, plus

1 (B) the privilege tax imposed by Section 409 of the
2 Illinois Insurance Code, the fire insurance company
3 tax imposed by Section 12 of the Fire Investigation
4 Act, and the fire department taxes imposed under
5 Section 11-10-1 of the Illinois Municipal Code,
6 equals 1.25% for taxable years ending prior to December 31,
7 2003, or 1.75% for taxable years ending on or after
8 December 31, 2003, of the net taxable premiums written for
9 the taxable year, as described by subsection (1) of Section
10 409 of the Illinois Insurance Code. This paragraph will in
11 no event increase the rates imposed under subsections (b)
12 and (d).

13 (2) Any reduction in the rates of tax imposed by this
14 subsection shall be applied first against the rates imposed
15 by subsection (b) and only after the tax imposed by
16 subsection (a) net of all credits allowed under this
17 Section other than the credit allowed under subsection (i)
18 has been reduced to zero, against the rates imposed by
19 subsection (d).

20 This subsection (d-1) is exempt from the provisions of
21 Section 250.

22 (e) Investment credit. A taxpayer shall be allowed a credit
23 against the Personal Property Tax Replacement Income Tax for
24 investment in qualified property.

25 (1) A taxpayer shall be allowed a credit equal to .5%
26 of the basis of qualified property placed in service during

1 the taxable year, provided such property is placed in
2 service on or after July 1, 1984. There shall be allowed an
3 additional credit equal to .5% of the basis of qualified
4 property placed in service during the taxable year,
5 provided such property is placed in service on or after
6 July 1, 1986, and the taxpayer's base employment within
7 Illinois has increased by 1% or more over the preceding
8 year as determined by the taxpayer's employment records
9 filed with the Illinois Department of Employment Security.
10 Taxpayers who are new to Illinois shall be deemed to have
11 met the 1% growth in base employment for the first year in
12 which they file employment records with the Illinois
13 Department of Employment Security. The provisions added to
14 this Section by Public Act 85-1200 (and restored by Public
15 Act 87-895) shall be construed as declaratory of existing
16 law and not as a new enactment. If, in any year, the
17 increase in base employment within Illinois over the
18 preceding year is less than 1%, the additional credit shall
19 be limited to that percentage times a fraction, the
20 numerator of which is .5% and the denominator of which is
21 1%, but shall not exceed .5%. The investment credit shall
22 not be allowed to the extent that it would reduce a
23 taxpayer's liability in any tax year below zero, nor may
24 any credit for qualified property be allowed for any year
25 other than the year in which the property was placed in
26 service in Illinois. For tax years ending on or after

1 December 31, 1987, and on or before December 31, 1988, the
2 credit shall be allowed for the tax year in which the
3 property is placed in service, or, if the amount of the
4 credit exceeds the tax liability for that year, whether it
5 exceeds the original liability or the liability as later
6 amended, such excess may be carried forward and applied to
7 the tax liability of the 5 taxable years following the
8 excess credit years if the taxpayer (i) makes investments
9 which cause the creation of a minimum of 2,000 full-time
10 equivalent jobs in Illinois, (ii) is located in an
11 enterprise zone established pursuant to the Illinois
12 Enterprise Zone Act and (iii) is certified by the
13 Department of Commerce and Community Affairs (now
14 Department of Commerce and Economic Opportunity) as
15 complying with the requirements specified in clause (i) and
16 (ii) by July 1, 1986. The Department of Commerce and
17 Community Affairs (now Department of Commerce and Economic
18 Opportunity) shall notify the Department of Revenue of all
19 such certifications immediately. For tax years ending
20 after December 31, 1988, the credit shall be allowed for
21 the tax year in which the property is placed in service,
22 or, if the amount of the credit exceeds the tax liability
23 for that year, whether it exceeds the original liability or
24 the liability as later amended, such excess may be carried
25 forward and applied to the tax liability of the 5 taxable
26 years following the excess credit years. The credit shall

1 be applied to the earliest year for which there is a
2 liability. If there is credit from more than one tax year
3 that is available to offset a liability, earlier credit
4 shall be applied first.

5 (2) The term "qualified property" means property
6 which:

7 (A) is tangible, whether new or used, including
8 buildings and structural components of buildings and
9 signs that are real property, but not including land or
10 improvements to real property that are not a structural
11 component of a building such as landscaping, sewer
12 lines, local access roads, fencing, parking lots, and
13 other appurtenances;

14 (B) is depreciable pursuant to Section 167 of the
15 Internal Revenue Code, except that "3-year property"
16 as defined in Section 168(c)(2)(A) of that Code is not
17 eligible for the credit provided by this subsection
18 (e);

19 (C) is acquired by purchase as defined in Section
20 179(d) of the Internal Revenue Code;

21 (D) is used in Illinois by a taxpayer who is
22 primarily engaged in manufacturing, or in mining coal
23 or fluorite, or in retailing, or was placed in service
24 on or after July 1, 2006 in a River Edge Redevelopment
25 Zone established pursuant to the River Edge
26 Redevelopment Zone Act; and

1 (E) has not previously been used in Illinois in
2 such a manner and by such a person as would qualify for
3 the credit provided by this subsection (e) or
4 subsection (f).

5 (3) For purposes of this subsection (e),
6 "manufacturing" means the material staging and production
7 of tangible personal property by procedures commonly
8 regarded as manufacturing, processing, fabrication, or
9 assembling which changes some existing material into new
10 shapes, new qualities, or new combinations. For purposes of
11 this subsection (e) the term "mining" shall have the same
12 meaning as the term "mining" in Section 613(c) of the
13 Internal Revenue Code. For purposes of this subsection (e),
14 the term "retailing" means the sale of tangible personal
15 property for use or consumption and not for resale, or
16 services rendered in conjunction with the sale of tangible
17 personal property for use or consumption and not for
18 resale. For purposes of this subsection (e), "tangible
19 personal property" has the same meaning as when that term
20 is used in the Retailers' Occupation Tax Act, and, for
21 taxable years ending after December 31, 2008, does not
22 include the generation, transmission, or distribution of
23 electricity.

24 (4) The basis of qualified property shall be the basis
25 used to compute the depreciation deduction for federal
26 income tax purposes.

1 (5) If the basis of the property for federal income tax
2 depreciation purposes is increased after it has been placed
3 in service in Illinois by the taxpayer, the amount of such
4 increase shall be deemed property placed in service on the
5 date of such increase in basis.

6 (6) The term "placed in service" shall have the same
7 meaning as under Section 46 of the Internal Revenue Code.

8 (7) If during any taxable year, any property ceases to
9 be qualified property in the hands of the taxpayer within
10 48 months after being placed in service, or the situs of
11 any qualified property is moved outside Illinois within 48
12 months after being placed in service, the Personal Property
13 Tax Replacement Income Tax for such taxable year shall be
14 increased. Such increase shall be determined by (i)
15 recomputing the investment credit which would have been
16 allowed for the year in which credit for such property was
17 originally allowed by eliminating such property from such
18 computation and, (ii) subtracting such recomputed credit
19 from the amount of credit previously allowed. For the
20 purposes of this paragraph (7), a reduction of the basis of
21 qualified property resulting from a redetermination of the
22 purchase price shall be deemed a disposition of qualified
23 property to the extent of such reduction.

24 (8) Unless the investment credit is extended by law,
25 the basis of qualified property shall not include costs
26 incurred after December 31, 2018, except for costs incurred

1 pursuant to a binding contract entered into on or before
2 December 31, 2018.

3 (9) Each taxable year ending before December 31, 2000,
4 a partnership may elect to pass through to its partners the
5 credits to which the partnership is entitled under this
6 subsection (e) for the taxable year. A partner may use the
7 credit allocated to him or her under this paragraph only
8 against the tax imposed in subsections (c) and (d) of this
9 Section. If the partnership makes that election, those
10 credits shall be allocated among the partners in the
11 partnership in accordance with the rules set forth in
12 Section 704(b) of the Internal Revenue Code, and the rules
13 promulgated under that Section, and the allocated amount of
14 the credits shall be allowed to the partners for that
15 taxable year. The partnership shall make this election on
16 its Personal Property Tax Replacement Income Tax return for
17 that taxable year. The election to pass through the credits
18 shall be irrevocable.

19 For taxable years ending on or after December 31, 2000,
20 a partner that qualifies its partnership for a subtraction
21 under subparagraph (I) of paragraph (2) of subsection (d)
22 of Section 203 or a shareholder that qualifies a Subchapter
23 S corporation for a subtraction under subparagraph (S) of
24 paragraph (2) of subsection (b) of Section 203 shall be
25 allowed a credit under this subsection (e) equal to its
26 share of the credit earned under this subsection (e) during

1 the taxable year by the partnership or Subchapter S
2 corporation, determined in accordance with the
3 determination of income and distributive share of income
4 under Sections 702 and 704 and Subchapter S of the Internal
5 Revenue Code. This paragraph is exempt from the provisions
6 of Section 250.

7 (f) Investment credit; Enterprise Zone; River Edge
8 Redevelopment Zone.

9 (1) A taxpayer shall be allowed a credit against the
10 tax imposed by subsections (a) and (b) of this Section for
11 investment in qualified property which is placed in service
12 in an Enterprise Zone created pursuant to the Illinois
13 Enterprise Zone Act or, for property placed in service on
14 or after July 1, 2006, a River Edge Redevelopment Zone
15 established pursuant to the River Edge Redevelopment Zone
16 Act. For partners, shareholders of Subchapter S
17 corporations, and owners of limited liability companies,
18 if the liability company is treated as a partnership for
19 purposes of federal and State income taxation, there shall
20 be allowed a credit under this subsection (f) to be
21 determined in accordance with the determination of income
22 and distributive share of income under Sections 702 and 704
23 and Subchapter S of the Internal Revenue Code. The credit
24 shall be .5% of the basis for such property. The credit
25 shall be available only in the taxable year in which the
26 property is placed in service in the Enterprise Zone or

1 River Edge Redevelopment Zone and shall not be allowed to
2 the extent that it would reduce a taxpayer's liability for
3 the tax imposed by subsections (a) and (b) of this Section
4 to below zero. For tax years ending on or after December
5 31, 1985, the credit shall be allowed for the tax year in
6 which the property is placed in service, or, if the amount
7 of the credit exceeds the tax liability for that year,
8 whether it exceeds the original liability or the liability
9 as later amended, such excess may be carried forward and
10 applied to the tax liability of the 5 taxable years
11 following the excess credit year. The credit shall be
12 applied to the earliest year for which there is a
13 liability. If there is credit from more than one tax year
14 that is available to offset a liability, the credit
15 accruing first in time shall be applied first.

16 (2) The term qualified property means property which:

17 (A) is tangible, whether new or used, including
18 buildings and structural components of buildings;

19 (B) is depreciable pursuant to Section 167 of the
20 Internal Revenue Code, except that "3-year property"
21 as defined in Section 168(c)(2)(A) of that Code is not
22 eligible for the credit provided by this subsection
23 (f);

24 (C) is acquired by purchase as defined in Section
25 179(d) of the Internal Revenue Code;

26 (D) is used in the Enterprise Zone or River Edge

1 Redevelopment Zone by the taxpayer; and

2 (E) has not been previously used in Illinois in
3 such a manner and by such a person as would qualify for
4 the credit provided by this subsection (f) or
5 subsection (e).

6 (3) The basis of qualified property shall be the basis
7 used to compute the depreciation deduction for federal
8 income tax purposes.

9 (4) If the basis of the property for federal income tax
10 depreciation purposes is increased after it has been placed
11 in service in the Enterprise Zone or River Edge
12 Redevelopment Zone by the taxpayer, the amount of such
13 increase shall be deemed property placed in service on the
14 date of such increase in basis.

15 (5) The term "placed in service" shall have the same
16 meaning as under Section 46 of the Internal Revenue Code.

17 (6) If during any taxable year, any property ceases to
18 be qualified property in the hands of the taxpayer within
19 48 months after being placed in service, or the situs of
20 any qualified property is moved outside the Enterprise Zone
21 or River Edge Redevelopment Zone within 48 months after
22 being placed in service, the tax imposed under subsections
23 (a) and (b) of this Section for such taxable year shall be
24 increased. Such increase shall be determined by (i)
25 recomputing the investment credit which would have been
26 allowed for the year in which credit for such property was

1 originally allowed by eliminating such property from such
2 computation, and (ii) subtracting such recomputed credit
3 from the amount of credit previously allowed. For the
4 purposes of this paragraph (6), a reduction of the basis of
5 qualified property resulting from a redetermination of the
6 purchase price shall be deemed a disposition of qualified
7 property to the extent of such reduction.

8 (7) There shall be allowed an additional credit equal
9 to 0.5% of the basis of qualified property placed in
10 service during the taxable year in a River Edge
11 Redevelopment Zone, provided such property is placed in
12 service on or after July 1, 2006, and the taxpayer's base
13 employment within Illinois has increased by 1% or more over
14 the preceding year as determined by the taxpayer's
15 employment records filed with the Illinois Department of
16 Employment Security. Taxpayers who are new to Illinois
17 shall be deemed to have met the 1% growth in base
18 employment for the first year in which they file employment
19 records with the Illinois Department of Employment
20 Security. If, in any year, the increase in base employment
21 within Illinois over the preceding year is less than 1%,
22 the additional credit shall be limited to that percentage
23 times a fraction, the numerator of which is 0.5% and the
24 denominator of which is 1%, but shall not exceed 0.5%.

25 (g) (Blank).

26 (h) Investment credit; High Impact Business.

1 (1) Subject to subsections (b) and (b-5) of Section 5.5
2 of the Illinois Enterprise Zone Act, a taxpayer shall be
3 allowed a credit against the tax imposed by subsections (a)
4 and (b) of this Section for investment in qualified
5 property which is placed in service by a Department of
6 Commerce and Economic Opportunity designated High Impact
7 Business. The credit shall be .5% of the basis for such
8 property. The credit shall not be available (i) until the
9 minimum investments in qualified property set forth in
10 subdivision (a)(3)(A) of Section 5.5 of the Illinois
11 Enterprise Zone Act have been satisfied or (ii) until the
12 time authorized in subsection (b-5) of the Illinois
13 Enterprise Zone Act for entities designated as High Impact
14 Businesses under subdivisions (a)(3)(B), (a)(3)(C), and
15 (a)(3)(D) of Section 5.5 of the Illinois Enterprise Zone
16 Act, and shall not be allowed to the extent that it would
17 reduce a taxpayer's liability for the tax imposed by
18 subsections (a) and (b) of this Section to below zero. The
19 credit applicable to such investments shall be taken in the
20 taxable year in which such investments have been completed.
21 The credit for additional investments beyond the minimum
22 investment by a designated high impact business authorized
23 under subdivision (a)(3)(A) of Section 5.5 of the Illinois
24 Enterprise Zone Act shall be available only in the taxable
25 year in which the property is placed in service and shall
26 not be allowed to the extent that it would reduce a

1 taxpayer's liability for the tax imposed by subsections (a)
2 and (b) of this Section to below zero. For tax years ending
3 on or after December 31, 1987, the credit shall be allowed
4 for the tax year in which the property is placed in
5 service, or, if the amount of the credit exceeds the tax
6 liability for that year, whether it exceeds the original
7 liability or the liability as later amended, such excess
8 may be carried forward and applied to the tax liability of
9 the 5 taxable years following the excess credit year. The
10 credit shall be applied to the earliest year for which
11 there is a liability. If there is credit from more than one
12 tax year that is available to offset a liability, the
13 credit accruing first in time shall be applied first.

14 Changes made in this subdivision (h) (1) by Public Act
15 88-670 restore changes made by Public Act 85-1182 and
16 reflect existing law.

17 (2) The term qualified property means property which:

18 (A) is tangible, whether new or used, including
19 buildings and structural components of buildings;

20 (B) is depreciable pursuant to Section 167 of the
21 Internal Revenue Code, except that "3-year property"
22 as defined in Section 168(c) (2) (A) of that Code is not
23 eligible for the credit provided by this subsection
24 (h);

25 (C) is acquired by purchase as defined in Section
26 179(d) of the Internal Revenue Code; and

1 (D) is not eligible for the Enterprise Zone
2 Investment Credit provided by subsection (f) of this
3 Section.

4 (3) The basis of qualified property shall be the basis
5 used to compute the depreciation deduction for federal
6 income tax purposes.

7 (4) If the basis of the property for federal income tax
8 depreciation purposes is increased after it has been placed
9 in service in a federally designated Foreign Trade Zone or
10 Sub-Zone located in Illinois by the taxpayer, the amount of
11 such increase shall be deemed property placed in service on
12 the date of such increase in basis.

13 (5) The term "placed in service" shall have the same
14 meaning as under Section 46 of the Internal Revenue Code.

15 (6) If during any taxable year ending on or before
16 December 31, 1996, any property ceases to be qualified
17 property in the hands of the taxpayer within 48 months
18 after being placed in service, or the situs of any
19 qualified property is moved outside Illinois within 48
20 months after being placed in service, the tax imposed under
21 subsections (a) and (b) of this Section for such taxable
22 year shall be increased. Such increase shall be determined
23 by (i) recomputing the investment credit which would have
24 been allowed for the year in which credit for such property
25 was originally allowed by eliminating such property from
26 such computation, and (ii) subtracting such recomputed

1 credit from the amount of credit previously allowed. For
2 the purposes of this paragraph (6), a reduction of the
3 basis of qualified property resulting from a
4 redetermination of the purchase price shall be deemed a
5 disposition of qualified property to the extent of such
6 reduction.

7 (7) Beginning with tax years ending after December 31,
8 1996, if a taxpayer qualifies for the credit under this
9 subsection (h) and thereby is granted a tax abatement and
10 the taxpayer relocates its entire facility in violation of
11 the explicit terms and length of the contract under Section
12 18-183 of the Property Tax Code, the tax imposed under
13 subsections (a) and (b) of this Section shall be increased
14 for the taxable year in which the taxpayer relocated its
15 facility by an amount equal to the amount of credit
16 received by the taxpayer under this subsection (h).

17 (i) Credit for Personal Property Tax Replacement Income
18 Tax. For tax years ending prior to December 31, 2003, a credit
19 shall be allowed against the tax imposed by subsections (a) and
20 (b) of this Section for the tax imposed by subsections (c) and
21 (d) of this Section. This credit shall be computed by
22 multiplying the tax imposed by subsections (c) and (d) of this
23 Section by a fraction, the numerator of which is base income
24 allocable to Illinois and the denominator of which is Illinois
25 base income, and further multiplying the product by the tax
26 rate imposed by subsections (a) and (b) of this Section.

1 Any credit earned on or after December 31, 1986 under this
2 subsection which is unused in the year the credit is computed
3 because it exceeds the tax liability imposed by subsections (a)
4 and (b) for that year (whether it exceeds the original
5 liability or the liability as later amended) may be carried
6 forward and applied to the tax liability imposed by subsections
7 (a) and (b) of the 5 taxable years following the excess credit
8 year, provided that no credit may be carried forward to any
9 year ending on or after December 31, 2003. This credit shall be
10 applied first to the earliest year for which there is a
11 liability. If there is a credit under this subsection from more
12 than one tax year that is available to offset a liability the
13 earliest credit arising under this subsection shall be applied
14 first.

15 If, during any taxable year ending on or after December 31,
16 1986, the tax imposed by subsections (c) and (d) of this
17 Section for which a taxpayer has claimed a credit under this
18 subsection (i) is reduced, the amount of credit for such tax
19 shall also be reduced. Such reduction shall be determined by
20 recomputing the credit to take into account the reduced tax
21 imposed by subsections (c) and (d). If any portion of the
22 reduced amount of credit has been carried to a different
23 taxable year, an amended return shall be filed for such taxable
24 year to reduce the amount of credit claimed.

25 (j) Training expense credit. Beginning with tax years
26 ending on or after December 31, 1986 and prior to December 31,

1 2003, a taxpayer shall be allowed a credit against the tax
2 imposed by subsections (a) and (b) under this Section for all
3 amounts paid or accrued, on behalf of all persons employed by
4 the taxpayer in Illinois or Illinois residents employed outside
5 of Illinois by a taxpayer, for educational or vocational
6 training in semi-technical or technical fields or semi-skilled
7 or skilled fields, which were deducted from gross income in the
8 computation of taxable income. The credit against the tax
9 imposed by subsections (a) and (b) shall be 1.6% of such
10 training expenses. For partners, shareholders of subchapter S
11 corporations, and owners of limited liability companies, if the
12 liability company is treated as a partnership for purposes of
13 federal and State income taxation, there shall be allowed a
14 credit under this subsection (j) to be determined in accordance
15 with the determination of income and distributive share of
16 income under Sections 702 and 704 and subchapter S of the
17 Internal Revenue Code.

18 Any credit allowed under this subsection which is unused in
19 the year the credit is earned may be carried forward to each of
20 the 5 taxable years following the year for which the credit is
21 first computed until it is used. This credit shall be applied
22 first to the earliest year for which there is a liability. If
23 there is a credit under this subsection from more than one tax
24 year that is available to offset a liability the earliest
25 credit arising under this subsection shall be applied first. No
26 carryforward credit may be claimed in any tax year ending on or

1 after December 31, 2003.

2 (k) Research and development credit. For tax years ending
3 after July 1, 1990 and prior to December 31, 2003, and
4 beginning again for tax years ending on or after December 31,
5 2004, and ending prior to January 1, 2016, a taxpayer shall be
6 allowed a credit against the tax imposed by subsections (a) and
7 (b) of this Section for increasing research activities in this
8 State. The credit allowed against the tax imposed by
9 subsections (a) and (b) shall be equal to 6 1/2% of the
10 qualifying expenditures for increasing research activities in
11 this State. For partners, shareholders of subchapter S
12 corporations, and owners of limited liability companies, if the
13 liability company is treated as a partnership for purposes of
14 federal and State income taxation, there shall be allowed a
15 credit under this subsection to be determined in accordance
16 with the determination of income and distributive share of
17 income under Sections 702 and 704 and subchapter S of the
18 Internal Revenue Code.

19 For purposes of this subsection, "qualifying expenditures"
20 means the qualifying expenditures as defined for the federal
21 credit for increasing research activities which would be
22 allowable under Section 41 of the Internal Revenue Code and
23 which are conducted in this State, "qualifying expenditures for
24 increasing research activities in this State" means the excess
25 of qualifying expenditures for the taxable year in which
26 incurred over qualifying expenditures for the base period,

1 "qualifying expenditures for the base period" means the average
2 of the qualifying expenditures for each year in the base
3 period, and "base period" means the 3 taxable years immediately
4 preceding the taxable year for which the determination is being
5 made.

6 Any credit in excess of the tax liability for the taxable
7 year may be carried forward. A taxpayer may elect to have the
8 unused credit shown on its final completed return carried over
9 as a credit against the tax liability for the following 5
10 taxable years or until it has been fully used, whichever occurs
11 first; provided that no credit earned in a tax year ending
12 prior to December 31, 2003 may be carried forward to any year
13 ending on or after December 31, 2003.

14 If an unused credit is carried forward to a given year from
15 2 or more earlier years, that credit arising in the earliest
16 year will be applied first against the tax liability for the
17 given year. If a tax liability for the given year still
18 remains, the credit from the next earliest year will then be
19 applied, and so on, until all credits have been used or no tax
20 liability for the given year remains. Any remaining unused
21 credit or credits then will be carried forward to the next
22 following year in which a tax liability is incurred, except
23 that no credit can be carried forward to a year which is more
24 than 5 years after the year in which the expense for which the
25 credit is given was incurred.

26 No inference shall be drawn from this amendatory Act of the

1 91st General Assembly in construing this Section for taxable
2 years beginning before January 1, 1999.

3 (1) Environmental Remediation Tax Credit.

4 (i) For tax years ending after December 31, 1997 and on
5 or before December 31, 2001, a taxpayer shall be allowed a
6 credit against the tax imposed by subsections (a) and (b)
7 of this Section for certain amounts paid for unreimbursed
8 eligible remediation costs, as specified in this
9 subsection. For purposes of this Section, "unreimbursed
10 eligible remediation costs" means costs approved by the
11 Illinois Environmental Protection Agency ("Agency") under
12 Section 58.14 of the Environmental Protection Act that were
13 paid in performing environmental remediation at a site for
14 which a No Further Remediation Letter was issued by the
15 Agency and recorded under Section 58.10 of the
16 Environmental Protection Act. The credit must be claimed
17 for the taxable year in which Agency approval of the
18 eligible remediation costs is granted. The credit is not
19 available to any taxpayer if the taxpayer or any related
20 party caused or contributed to, in any material respect, a
21 release of regulated substances on, in, or under the site
22 that was identified and addressed by the remedial action
23 pursuant to the Site Remediation Program of the
24 Environmental Protection Act. After the Pollution Control
25 Board rules are adopted pursuant to the Illinois
26 Administrative Procedure Act for the administration and

1 enforcement of Section 58.9 of the Environmental
2 Protection Act, determinations as to credit availability
3 for purposes of this Section shall be made consistent with
4 those rules. For purposes of this Section, "taxpayer"
5 includes a person whose tax attributes the taxpayer has
6 succeeded to under Section 381 of the Internal Revenue Code
7 and "related party" includes the persons disallowed a
8 deduction for losses by paragraphs (b), (c), and (f) (1) of
9 Section 267 of the Internal Revenue Code by virtue of being
10 a related taxpayer, as well as any of its partners. The
11 credit allowed against the tax imposed by subsections (a)
12 and (b) shall be equal to 25% of the unreimbursed eligible
13 remediation costs in excess of \$100,000 per site, except
14 that the \$100,000 threshold shall not apply to any site
15 contained in an enterprise zone as determined by the
16 Department of Commerce and Community Affairs (now
17 Department of Commerce and Economic Opportunity). The
18 total credit allowed shall not exceed \$40,000 per year with
19 a maximum total of \$150,000 per site. For partners and
20 shareholders of subchapter S corporations, there shall be
21 allowed a credit under this subsection to be determined in
22 accordance with the determination of income and
23 distributive share of income under Sections 702 and 704 and
24 subchapter S of the Internal Revenue Code.

25 (ii) A credit allowed under this subsection that is
26 unused in the year the credit is earned may be carried

1 forward to each of the 5 taxable years following the year
2 for which the credit is first earned until it is used. The
3 term "unused credit" does not include any amounts of
4 unreimbursed eligible remediation costs in excess of the
5 maximum credit per site authorized under paragraph (i).
6 This credit shall be applied first to the earliest year for
7 which there is a liability. If there is a credit under this
8 subsection from more than one tax year that is available to
9 offset a liability, the earliest credit arising under this
10 subsection shall be applied first. A credit allowed under
11 this subsection may be sold to a buyer as part of a sale of
12 all or part of the remediation site for which the credit
13 was granted. The purchaser of a remediation site and the
14 tax credit shall succeed to the unused credit and remaining
15 carry-forward period of the seller. To perfect the
16 transfer, the assignor shall record the transfer in the
17 chain of title for the site and provide written notice to
18 the Director of the Illinois Department of Revenue of the
19 assignor's intent to sell the remediation site and the
20 amount of the tax credit to be transferred as a portion of
21 the sale. In no event may a credit be transferred to any
22 taxpayer if the taxpayer or a related party would not be
23 eligible under the provisions of subsection (i).

24 (iii) For purposes of this Section, the term "site"
25 shall have the same meaning as under Section 58.2 of the
26 Environmental Protection Act.

1 (m) Education expense credit. Beginning with tax years
2 ending after December 31, 1999, a taxpayer who is the custodian
3 of one or more qualifying pupils shall be allowed a credit
4 against the tax imposed by subsections (a) and (b) of this
5 Section for qualified education expenses incurred on behalf of
6 the qualifying pupils. The credit shall be equal to 25% of
7 qualified education expenses, but in no event may the total
8 credit under this subsection claimed by a family that is the
9 custodian of qualifying pupils exceed \$500. In no event shall a
10 credit under this subsection reduce the taxpayer's liability
11 under this Act to less than zero. This subsection is exempt
12 from the provisions of Section 250 of this Act.

13 For purposes of this subsection:

14 "Qualifying pupils" means individuals who (i) are
15 residents of the State of Illinois, (ii) are under the age of
16 21 at the close of the school year for which a credit is
17 sought, and (iii) during the school year for which a credit is
18 sought were full-time pupils enrolled in a kindergarten through
19 twelfth grade education program at any school, as defined in
20 this subsection.

21 "Qualified education expense" means the amount incurred on
22 behalf of a qualifying pupil in excess of \$250 for tuition,
23 book fees, and lab fees at the school in which the pupil is
24 enrolled during the regular school year.

25 "School" means any public or nonpublic elementary or
26 secondary school in Illinois that is in compliance with Title

1 VI of the Civil Rights Act of 1964 and attendance at which
2 satisfies the requirements of Section 26-1 of the School Code,
3 except that nothing shall be construed to require a child to
4 attend any particular public or nonpublic school to qualify for
5 the credit under this Section.

6 "Custodian" means, with respect to qualifying pupils, an
7 Illinois resident who is a parent, the parents, a legal
8 guardian, or the legal guardians of the qualifying pupils.

9 (n) River Edge Redevelopment Zone site remediation tax
10 credit.

11 (i) For tax years ending on or after December 31, 2006,
12 a taxpayer shall be allowed a credit against the tax
13 imposed by subsections (a) and (b) of this Section for
14 certain amounts paid for unreimbursed eligible remediation
15 costs, as specified in this subsection. For purposes of
16 this Section, "unreimbursed eligible remediation costs"
17 means costs approved by the Illinois Environmental
18 Protection Agency ("Agency") under Section 58.14a of the
19 Environmental Protection Act that were paid in performing
20 environmental remediation at a site within a River Edge
21 Redevelopment Zone for which a No Further Remediation
22 Letter was issued by the Agency and recorded under Section
23 58.10 of the Environmental Protection Act. The credit must
24 be claimed for the taxable year in which Agency approval of
25 the eligible remediation costs is granted. The credit is
26 not available to any taxpayer if the taxpayer or any

1 related party caused or contributed to, in any material
2 respect, a release of regulated substances on, in, or under
3 the site that was identified and addressed by the remedial
4 action pursuant to the Site Remediation Program of the
5 Environmental Protection Act. Determinations as to credit
6 availability for purposes of this Section shall be made
7 consistent with rules adopted by the Pollution Control
8 Board pursuant to the Illinois Administrative Procedure
9 Act for the administration and enforcement of Section 58.9
10 of the Environmental Protection Act. For purposes of this
11 Section, "taxpayer" includes a person whose tax attributes
12 the taxpayer has succeeded to under Section 381 of the
13 Internal Revenue Code and "related party" includes the
14 persons disallowed a deduction for losses by paragraphs
15 (b), (c), and (f) (1) of Section 267 of the Internal Revenue
16 Code by virtue of being a related taxpayer, as well as any
17 of its partners. The credit allowed against the tax imposed
18 by subsections (a) and (b) shall be equal to 25% of the
19 unreimbursed eligible remediation costs in excess of
20 \$100,000 per site.

21 (ii) A credit allowed under this subsection that is
22 unused in the year the credit is earned may be carried
23 forward to each of the 5 taxable years following the year
24 for which the credit is first earned until it is used. This
25 credit shall be applied first to the earliest year for
26 which there is a liability. If there is a credit under this

1 subsection from more than one tax year that is available to
2 offset a liability, the earliest credit arising under this
3 subsection shall be applied first. A credit allowed under
4 this subsection may be sold to a buyer as part of a sale of
5 all or part of the remediation site for which the credit
6 was granted. The purchaser of a remediation site and the
7 tax credit shall succeed to the unused credit and remaining
8 carry-forward period of the seller. To perfect the
9 transfer, the assignor shall record the transfer in the
10 chain of title for the site and provide written notice to
11 the Director of the Illinois Department of Revenue of the
12 assignor's intent to sell the remediation site and the
13 amount of the tax credit to be transferred as a portion of
14 the sale. In no event may a credit be transferred to any
15 taxpayer if the taxpayer or a related party would not be
16 eligible under the provisions of subsection (i).

17 (iii) For purposes of this Section, the term "site"
18 shall have the same meaning as under Section 58.2 of the
19 Environmental Protection Act.

20 (o) For each of taxable years during the Compassionate Use
21 of Medical Cannabis Pilot Program, a surcharge is imposed on
22 all taxpayers on income arising from the sale or exchange of
23 capital assets, depreciable business property, real property
24 used in the trade or business, and Section 197 intangibles of
25 an organization registrant under the Compassionate Use of
26 Medical Cannabis Pilot Program Act. The amount of the surcharge

1 is equal to the amount of federal income tax liability for the
2 taxable year attributable to those sales and exchanges. The
3 surcharge imposed does not apply if:

4 (1) the medical cannabis cultivation center
5 registration, medical cannabis dispensary registration, or
6 the property of a registration is transferred as a result
7 of any of the following:

8 (A) bankruptcy, a receivership, or a debt
9 adjustment initiated by or against the initial
10 registration or the substantial owners of the initial
11 registration;

12 (B) cancellation, revocation, or termination of
13 any registration by the Illinois Department of Public
14 Health;

15 (C) a determination by the Illinois Department of
16 Public Health that transfer of the registration is in
17 the best interests of Illinois qualifying patients as
18 defined by the Compassionate Use of Medical Cannabis
19 Pilot Program Act;

20 (D) the death of an owner of the equity interest in
21 a registrant;

22 (E) the acquisition of a controlling interest in
23 the stock or substantially all of the assets of a
24 publicly traded company;

25 (F) a transfer by a parent company to a wholly
26 owned subsidiary; or

1 (G) the transfer or sale to or by one person to
2 another person where both persons were initial owners
3 of the registration when the registration was issued;
4 or

5 (2) the cannabis cultivation center registration,
6 medical cannabis dispensary registration, or the
7 controlling interest in a registrant's property is
8 transferred in a transaction to lineal descendants in which
9 no gain or loss is recognized or as a result of a
10 transaction in accordance with Section 351 of the Internal
11 Revenue Code in which no gain or loss is recognized.

12 (Source: P.A. 97-2, eff. 5-6-11; 97-636, eff. 6-1-12; 97-905,
13 eff. 8-7-12; 98-109, eff. 7-25-13; 98-122, eff. 1-1-14; 98-756,
14 eff. 7-16-14.)