

HB0460



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB0460

by Rep. David McSweeney

SYNOPSIS AS INTRODUCED:

35 ILCS 5/201

from Ch. 120, par. 2-201

Amends the Illinois Income Tax Act. Reduces the income tax rate for corporations to 2.625% for taxable years beginning on or after January 1, 2017 (currently, the rate is 5.25% for taxable years beginning prior to January 1, 2025 and 4.8% for taxable years beginning on or after January 1, 2025). Effective immediately.

LRB100 06741 HLH 16782 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 201 as follows:

6 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

7 Sec. 201. Tax Imposed.

8 (a) In general. A tax measured by net income is hereby
9 imposed on every individual, corporation, trust and estate for
10 each taxable year ending after July 31, 1969 on the privilege
11 of earning or receiving income in or as a resident of this
12 State. Such tax shall be in addition to all other occupation or
13 privilege taxes imposed by this State or by any municipal
14 corporation or political subdivision thereof.

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

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

22 (2) In the case of an individual, trust or estate, for
23 taxable years beginning prior to July 1, 1989 and ending

1 after June 30, 1989, an amount equal to the sum of (i) 2
2 1/2% of the taxpayer's net income for the period prior to
3 July 1, 1989, as calculated under Section 202.3, and (ii)
4 3% of the taxpayer's net income for the period after June
5 30, 1989, as calculated under Section 202.3.

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

10 (4) In the case of an individual, trust, or estate, for
11 taxable years beginning prior to January 1, 2011, and
12 ending after December 31, 2010, an amount equal to the sum
13 of (i) 3% of the taxpayer's net income for the period prior
14 to January 1, 2011, as calculated under Section 202.5, and
15 (ii) 5% of the taxpayer's net income for the period after
16 December 31, 2010, as calculated under Section 202.5.

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

21 (5.1) In the case of an individual, trust, or estate,
22 for taxable years beginning prior to January 1, 2015, and
23 ending after December 31, 2014, an amount equal to the sum
24 of (i) 5% of the taxpayer's net income for the period prior
25 to January 1, 2015, as calculated under Section 202.5, and
26 (ii) 3.75% of the taxpayer's net income for the period

1 after December 31, 2014, as calculated under Section 202.5.

2 (5.2) In the case of an individual, trust, or estate,
3 for taxable years beginning on or after January 1, 2015,
4 and ending prior to January 1, 2025, an amount equal to
5 3.75% of the taxpayer's net income for the taxable year.

6 (5.3) In the case of an individual, trust, or estate,
7 for taxable years beginning prior to January 1, 2025, and
8 ending after December 31, 2024, an amount equal to the sum
9 of (i) 3.75% of the taxpayer's net income for the period
10 prior to January 1, 2025, as calculated under Section
11 202.5, and (ii) 3.25% of the taxpayer's net income for the
12 period after December 31, 2024, as calculated under Section
13 202.5.

14 (5.4) In the case of an individual, trust, or estate,
15 for taxable years beginning on or after January 1, 2025, an
16 amount equal to 3.25% of the taxpayer's net income for the
17 taxable year.

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

21 (7) In the case of a corporation, for taxable years
22 beginning prior to July 1, 1989 and ending after June 30,
23 1989, an amount equal to the sum of (i) 4% of the
24 taxpayer's net income for the period prior to July 1, 1989,
25 as calculated under Section 202.3, and (ii) 4.8% of the
26 taxpayer's net income for the period after June 30, 1989,

1 as calculated under Section 202.3.

2 (8) In the case of a corporation, for taxable years
3 beginning after June 30, 1989, and ending prior to January
4 1, 2011, an amount equal to 4.8% of the taxpayer's net
5 income for the taxable year.

6 (9) In the case of a corporation, for taxable years
7 beginning prior to January 1, 2011, and ending after
8 December 31, 2010, an amount equal to the sum of (i) 4.8%
9 of the taxpayer's net income for the period prior to
10 January 1, 2011, as calculated under Section 202.5, and
11 (ii) 7% of the taxpayer's net income for the period after
12 December 31, 2010, as calculated under Section 202.5.

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

17 (11) In the case of a corporation, for taxable years
18 beginning prior to January 1, 2015, and ending after
19 December 31, 2014, an amount equal to the sum of (i) 7% of
20 the taxpayer's net income for the period prior to January
21 1, 2015, as calculated under Section 202.5, and (ii) 5.25%
22 of the taxpayer's net income for the period after December
23 31, 2014, as calculated under Section 202.5.

24 (12) In the case of a corporation, for taxable years
25 beginning on or after January 1, 2015, and ending prior to
26 January 1, 2017 ~~January 1, 2025~~, an amount equal to 5.25%

1 of the taxpayer's net income for the taxable year.

2 (13) In the case of a corporation, for taxable years
3 beginning prior to January 1, 2017 ~~January 1, 2025~~, and
4 ending after December 31, 2016 ~~December 31, 2024~~, an amount
5 equal to the sum of (i) 5.25% of the taxpayer's net income
6 for the period prior to January 1, 2017 ~~January 1, 2025~~, as
7 calculated under Section 202.5, and (ii) 2.625% ~~4.8%~~ of the
8 taxpayer's net income for the period after December 31,
9 2016 ~~December 31, 2024~~, as calculated under Section 202.5.

10 (14) In the case of a corporation, for taxable years
11 beginning on or after January 1, 2017 ~~January 1, 2025~~, an
12 amount equal to 2.625% ~~4.8%~~ of the taxpayer's net income
13 for the taxable year.

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

16 (c) Personal Property Tax Replacement Income Tax.
17 Beginning on July 1, 1979 and thereafter, in addition to such
18 income tax, there is also hereby imposed the Personal Property
19 Tax Replacement Income Tax measured by net income on every
20 corporation (including Subchapter S corporations), partnership
21 and trust, for each taxable year ending after June 30, 1979.
22 Such taxes are imposed on the privilege of earning or receiving
23 income in or as a resident of this State. The Personal Property
24 Tax Replacement Income Tax shall be in addition to the income
25 tax imposed by subsections (a) and (b) of this Section and in
26 addition to all other occupation or privilege taxes imposed by

1 this State or by any municipal corporation or political
2 subdivision thereof.

3 (d) Additional Personal Property Tax Replacement Income
4 Tax Rates. The personal property tax replacement income tax
5 imposed by this subsection and subsection (c) of this Section
6 in the case of a corporation, other than a Subchapter S
7 corporation and except as adjusted by subsection (d-1), shall
8 be an additional amount equal to 2.85% of such taxpayer's net
9 income for the taxable year, except that beginning on January
10 1, 1981, and thereafter, the rate of 2.85% specified in this
11 subsection shall be reduced to 2.5%, and in the case of a
12 partnership, trust or a Subchapter S corporation shall be an
13 additional amount equal to 1.5% of such taxpayer's net income
14 for the taxable year.

15 (d-1) Rate reduction for certain foreign insurers. In the
16 case of a foreign insurer, as defined by Section 35A-5 of the
17 Illinois Insurance Code, whose state or country of domicile
18 imposes on insurers domiciled in Illinois a retaliatory tax
19 (excluding any insurer whose premiums from reinsurance assumed
20 are 50% or more of its total insurance premiums as determined
21 under paragraph (2) of subsection (b) of Section 304, except
22 that for purposes of this determination premiums from
23 reinsurance do not include premiums from inter-affiliate
24 reinsurance arrangements), beginning with taxable years ending
25 on or after December 31, 1999, the sum of the rates of tax
26 imposed by subsections (b) and (d) shall be reduced (but not

1 increased) to the rate at which the total amount of tax imposed
2 under this Act, net of all credits allowed under this Act,
3 shall equal (i) the total amount of tax that would be imposed
4 on the foreign insurer's net income allocable to Illinois for
5 the taxable year by such foreign insurer's state or country of
6 domicile if that net income were subject to all income taxes
7 and taxes measured by net income imposed by such foreign
8 insurer's state or country of domicile, net of all credits
9 allowed or (ii) a rate of zero if no such tax is imposed on such
10 income by the foreign insurer's state of domicile. For the
11 purposes of this subsection (d-1), an inter-affiliate includes
12 a mutual insurer under common management.

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

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

19 (B) the privilege tax imposed by Section 409 of the
20 Illinois Insurance Code, the fire insurance company
21 tax imposed by Section 12 of the Fire Investigation
22 Act, and the fire department taxes imposed under
23 Section 11-10-1 of the Illinois Municipal Code,
24 equals 1.25% for taxable years ending prior to December 31,
25 2003, or 1.75% for taxable years ending on or after
26 December 31, 2003, of the net taxable premiums written for

1 the taxable year, as described by subsection (1) of Section
2 409 of the Illinois Insurance Code. This paragraph will in
3 no event increase the rates imposed under subsections (b)
4 and (d).

5 (2) Any reduction in the rates of tax imposed by this
6 subsection shall be applied first against the rates imposed
7 by subsection (b) and only after the tax imposed by
8 subsection (a) net of all credits allowed under this
9 Section other than the credit allowed under subsection (i)
10 has been reduced to zero, against the rates imposed by
11 subsection (d).

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

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

17 (1) A taxpayer shall be allowed a credit equal to .5%
18 of the basis of qualified property placed in service during
19 the taxable year, provided such property is placed in
20 service on or after July 1, 1984. There shall be allowed an
21 additional credit equal to .5% of the basis of qualified
22 property placed in service during the taxable year,
23 provided such property is placed in service on or after
24 July 1, 1986, and the taxpayer's base employment within
25 Illinois has increased by 1% or more over the preceding
26 year as determined by the taxpayer's employment records

1 filed with the Illinois Department of Employment Security.
2 Taxpayers who are new to Illinois shall be deemed to have
3 met the 1% growth in base employment for the first year in
4 which they file employment records with the Illinois
5 Department of Employment Security. The provisions added to
6 this Section by Public Act 85-1200 (and restored by Public
7 Act 87-895) shall be construed as declaratory of existing
8 law and not as a new enactment. If, in any year, the
9 increase in base employment within Illinois over the
10 preceding year is less than 1%, the additional credit shall
11 be limited to that percentage times a fraction, the
12 numerator of which is .5% and the denominator of which is
13 1%, but shall not exceed .5%. The investment credit shall
14 not be allowed to the extent that it would reduce a
15 taxpayer's liability in any tax year below zero, nor may
16 any credit for qualified property be allowed for any year
17 other than the year in which the property was placed in
18 service in Illinois. For tax years ending on or after
19 December 31, 1987, and on or before December 31, 1988, the
20 credit shall be allowed for the tax year in which the
21 property is placed in service, or, if the amount of the
22 credit exceeds the tax liability for that year, whether it
23 exceeds the original liability or the liability as later
24 amended, such excess may be carried forward and applied to
25 the tax liability of the 5 taxable years following the
26 excess credit years if the taxpayer (i) makes investments

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

23 (2) The term "qualified property" means property
24 which:

25 (A) is tangible, whether new or used, including
26 buildings and structural components of buildings and

1 signs that are real property, but not including land or
2 improvements to real property that are not a structural
3 component of a building such as landscaping, sewer
4 lines, local access roads, fencing, parking lots, and
5 other appurtenances;

6 (B) is depreciable pursuant to Section 167 of the
7 Internal Revenue Code, except that "3-year property"
8 as defined in Section 168(c)(2)(A) of that Code is not
9 eligible for the credit provided by this subsection
10 (e);

11 (C) is acquired by purchase as defined in Section
12 179(d) of the Internal Revenue Code;

13 (D) is used in Illinois by a taxpayer who is
14 primarily engaged in manufacturing, or in mining coal
15 or fluorite, or in retailing, or was placed in service
16 on or after July 1, 2006 in a River Edge Redevelopment
17 Zone established pursuant to the River Edge
18 Redevelopment Zone Act; and

19 (E) has not previously been used in Illinois in
20 such a manner and by such a person as would qualify for
21 the credit provided by this subsection (e) or
22 subsection (f).

23 (3) For purposes of this subsection (e),
24 "manufacturing" means the material staging and production
25 of tangible personal property by procedures commonly
26 regarded as manufacturing, processing, fabrication, or

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

16 (4) The basis of qualified property shall be the basis
17 used to compute the depreciation deduction for federal
18 income tax purposes.

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

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

26 (7) If during any taxable year, any property ceases to

1 be qualified property in the hands of the taxpayer within
2 48 months after being placed in service, or the situs of
3 any qualified property is moved outside Illinois within 48
4 months after being placed in service, the Personal Property
5 Tax Replacement Income Tax for such taxable year shall be
6 increased. Such increase shall be determined by (i)
7 recomputing the investment credit which would have been
8 allowed for the year in which credit for such property was
9 originally allowed by eliminating such property from such
10 computation and, (ii) subtracting such recomputed credit
11 from the amount of credit previously allowed. For the
12 purposes of this paragraph (7), a reduction of the basis of
13 qualified property resulting from a redetermination of the
14 purchase price shall be deemed a disposition of qualified
15 property to the extent of such reduction.

16 (8) Unless the investment credit is extended by law,
17 the basis of qualified property shall not include costs
18 incurred after December 31, 2018, except for costs incurred
19 pursuant to a binding contract entered into on or before
20 December 31, 2018.

21 (9) Each taxable year ending before December 31, 2000,
22 a partnership may elect to pass through to its partners the
23 credits to which the partnership is entitled under this
24 subsection (e) for the taxable year. A partner may use the
25 credit allocated to him or her under this paragraph only
26 against the tax imposed in subsections (c) and (d) of this

1 Section. If the partnership makes that election, those
2 credits shall be allocated among the partners in the
3 partnership in accordance with the rules set forth in
4 Section 704(b) of the Internal Revenue Code, and the rules
5 promulgated under that Section, and the allocated amount of
6 the credits shall be allowed to the partners for that
7 taxable year. The partnership shall make this election on
8 its Personal Property Tax Replacement Income Tax return for
9 that taxable year. The election to pass through the credits
10 shall be irrevocable.

11 For taxable years ending on or after December 31, 2000,
12 a partner that qualifies its partnership for a subtraction
13 under subparagraph (I) of paragraph (2) of subsection (d)
14 of Section 203 or a shareholder that qualifies a Subchapter
15 S corporation for a subtraction under subparagraph (S) of
16 paragraph (2) of subsection (b) of Section 203 shall be
17 allowed a credit under this subsection (e) equal to its
18 share of the credit earned under this subsection (e) during
19 the taxable year by the partnership or Subchapter S
20 corporation, determined in accordance with the
21 determination of income and distributive share of income
22 under Sections 702 and 704 and Subchapter S of the Internal
23 Revenue Code. This paragraph is exempt from the provisions
24 of Section 250.

25 (f) Investment credit; Enterprise Zone; River Edge
26 Redevelopment Zone.

1 (1) A taxpayer shall be allowed a credit against the
2 tax imposed by subsections (a) and (b) of this Section for
3 investment in qualified property which is placed in service
4 in an Enterprise Zone created pursuant to the Illinois
5 Enterprise Zone Act or, for property placed in service on
6 or after July 1, 2006, a River Edge Redevelopment Zone
7 established pursuant to the River Edge Redevelopment Zone
8 Act. For partners, shareholders of Subchapter S
9 corporations, and owners of limited liability companies,
10 if the liability company is treated as a partnership for
11 purposes of federal and State income taxation, there shall
12 be allowed a credit under this subsection (f) to be
13 determined in accordance with the determination of income
14 and distributive share of income under Sections 702 and 704
15 and Subchapter S of the Internal Revenue Code. The credit
16 shall be .5% of the basis for such property. The credit
17 shall be available only in the taxable year in which the
18 property is placed in service in the Enterprise Zone or
19 River Edge Redevelopment Zone and shall not be allowed to
20 the extent that it would reduce a taxpayer's liability for
21 the tax imposed by subsections (a) and (b) of this Section
22 to below zero. For tax years ending on or after December
23 31, 1985, the credit shall be allowed for the tax year in
24 which the property is placed in service, or, if the amount
25 of the credit exceeds the tax liability for that year,
26 whether it exceeds the original liability or the liability

1 as later amended, such excess may be carried forward and
2 applied to the tax liability of the 5 taxable years
3 following the excess credit year. The credit shall be
4 applied to the earliest year for which there is a
5 liability. If there is credit from more than one tax year
6 that is available to offset a liability, the credit
7 accruing first in time shall be applied first.

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

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

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

16 (C) is acquired by purchase as defined in Section
17 179(d) of the Internal Revenue Code;

18 (D) is used in the Enterprise Zone or River Edge
19 Redevelopment Zone by the taxpayer; and

20 (E) has not been previously used in Illinois in
21 such a manner and by such a person as would qualify for
22 the credit provided by this subsection (f) or
23 subsection (e).

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

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

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

9 (6) If during any taxable year, any property ceases to
10 be qualified property in the hands of the taxpayer within
11 48 months after being placed in service, or the situs of
12 any qualified property is moved outside the Enterprise Zone
13 or River Edge Redevelopment Zone within 48 months after
14 being placed in service, the tax imposed under subsections
15 (a) and (b) of this Section for such taxable year shall be
16 increased. Such increase shall be determined by (i)
17 recomputing the investment credit which would have been
18 allowed for the year in which credit for such property was
19 originally allowed by eliminating such property from such
20 computation, and (ii) subtracting such recomputed credit
21 from the amount of credit previously allowed. For the
22 purposes of this paragraph (6), a reduction of the basis of
23 qualified property resulting from a redetermination of the
24 purchase price shall be deemed a disposition of qualified
25 property to the extent of such reduction.

26 (7) There shall be allowed an additional credit equal

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

17 (g) (Blank).

18 (h) Investment credit; High Impact Business.

19 (1) Subject to subsections (b) and (b-5) of Section 5.5
20 of the Illinois Enterprise Zone Act, a taxpayer shall be
21 allowed a credit against the tax imposed by subsections (a)
22 and (b) of this Section for investment in qualified
23 property which is placed in service by a Department of
24 Commerce and Economic Opportunity designated High Impact
25 Business. The credit shall be .5% of the basis for such
26 property. The credit shall not be available (i) until the

1 minimum investments in qualified property set forth in
2 subdivision (a)(3)(A) of Section 5.5 of the Illinois
3 Enterprise Zone Act have been satisfied or (ii) until the
4 time authorized in subsection (b-5) of the Illinois
5 Enterprise Zone Act for entities designated as High Impact
6 Businesses under subdivisions (a)(3)(B), (a)(3)(C), and
7 (a)(3)(D) of Section 5.5 of the Illinois Enterprise Zone
8 Act, and shall not be allowed to the extent that it would
9 reduce a taxpayer's liability for the tax imposed by
10 subsections (a) and (b) of this Section to below zero. The
11 credit applicable to such investments shall be taken in the
12 taxable year in which such investments have been completed.
13 The credit for additional investments beyond the minimum
14 investment by a designated high impact business authorized
15 under subdivision (a)(3)(A) of Section 5.5 of the Illinois
16 Enterprise Zone Act shall be available only in the taxable
17 year in which the property is placed in service and shall
18 not be allowed to the extent that it would reduce a
19 taxpayer's liability for the tax imposed by subsections (a)
20 and (b) of this Section to below zero. For tax years ending
21 on or after December 31, 1987, the credit shall be allowed
22 for the tax year in which the property is placed in
23 service, or, if the amount of the credit exceeds the tax
24 liability for that year, whether it exceeds the original
25 liability or the liability as later amended, such excess
26 may be carried forward and applied to the tax liability of

1 the 5 taxable years following the excess credit year. The
2 credit shall be applied to the earliest year for which
3 there is a liability. If there is credit from more than one
4 tax year that is available to offset a liability, the
5 credit accruing first in time shall be applied first.

6 Changes made in this subdivision (h) (1) by Public Act
7 88-670 restore changes made by Public Act 85-1182 and
8 reflect existing law.

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

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

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

17 (C) is acquired by purchase as defined in Section
18 179(d) of the Internal Revenue Code; and

19 (D) is not eligible for the Enterprise Zone
20 Investment Credit provided by subsection (f) of this
21 Section.

22 (3) The basis of qualified property shall be the basis
23 used to compute the depreciation deduction for federal
24 income tax purposes.

25 (4) If the basis of the property for federal income tax
26 depreciation purposes is increased after it has been placed

1 in service in a federally designated Foreign Trade Zone or
2 Sub-Zone located in Illinois by the taxpayer, the amount of
3 such increase shall be deemed property placed in service on
4 the date of such increase in basis.

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

7 (6) If during any taxable year ending on or before
8 December 31, 1996, any property ceases to be qualified
9 property in the hands of the taxpayer within 48 months
10 after being placed in service, or the situs of any
11 qualified property is moved outside Illinois within 48
12 months after being placed in service, the tax imposed under
13 subsections (a) and (b) of this Section for such taxable
14 year shall be increased. Such increase shall be determined
15 by (i) recomputing the investment credit which would have
16 been allowed for the year in which credit for such property
17 was originally allowed by eliminating such property from
18 such computation, and (ii) subtracting such recomputed
19 credit from the amount of credit previously allowed. For
20 the purposes of this paragraph (6), a reduction of the
21 basis of qualified property resulting from a
22 redetermination of the purchase price shall be deemed a
23 disposition of qualified property to the extent of such
24 reduction.

25 (7) Beginning with tax years ending after December 31,
26 1996, if a taxpayer qualifies for the credit under this

1 subsection (h) and thereby is granted a tax abatement and
2 the taxpayer relocates its entire facility in violation of
3 the explicit terms and length of the contract under Section
4 18-183 of the Property Tax Code, the tax imposed under
5 subsections (a) and (b) of this Section shall be increased
6 for the taxable year in which the taxpayer relocated its
7 facility by an amount equal to the amount of credit
8 received by the taxpayer under this subsection (h).

9 (i) Credit for Personal Property Tax Replacement Income
10 Tax. For tax years ending prior to December 31, 2003, a credit
11 shall be allowed against the tax imposed by subsections (a) and
12 (b) of this Section for the tax imposed by subsections (c) and
13 (d) of this Section. This credit shall be computed by
14 multiplying the tax imposed by subsections (c) and (d) of this
15 Section by a fraction, the numerator of which is base income
16 allocable to Illinois and the denominator of which is Illinois
17 base income, and further multiplying the product by the tax
18 rate imposed by subsections (a) and (b) of this Section.

19 Any credit earned on or after December 31, 1986 under this
20 subsection which is unused in the year the credit is computed
21 because it exceeds the tax liability imposed by subsections (a)
22 and (b) for that year (whether it exceeds the original
23 liability or the liability as later amended) may be carried
24 forward and applied to the tax liability imposed by subsections
25 (a) and (b) of the 5 taxable years following the excess credit
26 year, provided that no credit may be carried forward to any

1 year ending on or after December 31, 2003. This credit shall be
2 applied first to the earliest year for which there is a
3 liability. If there is a credit under this subsection from more
4 than one tax year that is available to offset a liability the
5 earliest credit arising under this subsection shall be applied
6 first.

7 If, during any taxable year ending on or after December 31,
8 1986, the tax imposed by subsections (c) and (d) of this
9 Section for which a taxpayer has claimed a credit under this
10 subsection (i) is reduced, the amount of credit for such tax
11 shall also be reduced. Such reduction shall be determined by
12 recomputing the credit to take into account the reduced tax
13 imposed by subsections (c) and (d). If any portion of the
14 reduced amount of credit has been carried to a different
15 taxable year, an amended return shall be filed for such taxable
16 year to reduce the amount of credit claimed.

17 (j) Training expense credit. Beginning with tax years
18 ending on or after December 31, 1986 and prior to December 31,
19 2003, a taxpayer shall be allowed a credit against the tax
20 imposed by subsections (a) and (b) under this Section for all
21 amounts paid or accrued, on behalf of all persons employed by
22 the taxpayer in Illinois or Illinois residents employed outside
23 of Illinois by a taxpayer, for educational or vocational
24 training in semi-technical or technical fields or semi-skilled
25 or skilled fields, which were deducted from gross income in the
26 computation of taxable income. The credit against the tax

1 imposed by subsections (a) and (b) shall be 1.6% of such
2 training expenses. For partners, shareholders of subchapter S
3 corporations, and owners of limited liability companies, if the
4 liability company is treated as a partnership for purposes of
5 federal and State income taxation, there shall be allowed a
6 credit under this subsection (j) to be determined in accordance
7 with the determination of income and distributive share of
8 income under Sections 702 and 704 and subchapter S of the
9 Internal Revenue Code.

10 Any credit allowed under this subsection which is unused in
11 the year the credit is earned may be carried forward to each of
12 the 5 taxable years following the year for which the credit is
13 first computed until it is used. This credit shall be applied
14 first to the earliest year for which there is a liability. If
15 there is a credit under this subsection from more than one tax
16 year that is available to offset a liability the earliest
17 credit arising under this subsection shall be applied first. No
18 carryforward credit may be claimed in any tax year ending on or
19 after December 31, 2003.

20 (k) Research and development credit. For tax years ending
21 after July 1, 1990 and prior to December 31, 2003, and
22 beginning again for tax years ending on or after December 31,
23 2004, and ending prior to January 1, 2016, a taxpayer shall be
24 allowed a credit against the tax imposed by subsections (a) and
25 (b) of this Section for increasing research activities in this
26 State. The credit allowed against the tax imposed by

1 subsections (a) and (b) shall be equal to 6 1/2% of the
2 qualifying expenditures for increasing research activities in
3 this State. For partners, shareholders of subchapter S
4 corporations, and owners of limited liability companies, if the
5 liability company is treated as a partnership for purposes of
6 federal and State income taxation, there shall be allowed a
7 credit under this subsection to be determined in accordance
8 with the determination of income and distributive share of
9 income under Sections 702 and 704 and subchapter S of the
10 Internal Revenue Code.

11 For purposes of this subsection, "qualifying expenditures"
12 means the qualifying expenditures as defined for the federal
13 credit for increasing research activities which would be
14 allowable under Section 41 of the Internal Revenue Code and
15 which are conducted in this State, "qualifying expenditures for
16 increasing research activities in this State" means the excess
17 of qualifying expenditures for the taxable year in which
18 incurred over qualifying expenditures for the base period,
19 "qualifying expenditures for the base period" means the average
20 of the qualifying expenditures for each year in the base
21 period, and "base period" means the 3 taxable years immediately
22 preceding the taxable year for which the determination is being
23 made.

24 Any credit in excess of the tax liability for the taxable
25 year may be carried forward. A taxpayer may elect to have the
26 unused credit shown on its final completed return carried over

1 as a credit against the tax liability for the following 5
2 taxable years or until it has been fully used, whichever occurs
3 first; provided that no credit earned in a tax year ending
4 prior to December 31, 2003 may be carried forward to any year
5 ending on or after December 31, 2003.

6 If an unused credit is carried forward to a given year from
7 2 or more earlier years, that credit arising in the earliest
8 year will be applied first against the tax liability for the
9 given year. If a tax liability for the given year still
10 remains, the credit from the next earliest year will then be
11 applied, and so on, until all credits have been used or no tax
12 liability for the given year remains. Any remaining unused
13 credit or credits then will be carried forward to the next
14 following year in which a tax liability is incurred, except
15 that no credit can be carried forward to a year which is more
16 than 5 years after the year in which the expense for which the
17 credit is given was incurred.

18 No inference shall be drawn from this amendatory Act of the
19 91st General Assembly in construing this Section for taxable
20 years beginning before January 1, 1999.

21 (1) Environmental Remediation Tax Credit.

22 (i) For tax years ending after December 31, 1997 and on
23 or before December 31, 2001, a taxpayer shall be allowed a
24 credit against the tax imposed by subsections (a) and (b)
25 of this Section for certain amounts paid for unreimbursed
26 eligible remediation costs, as specified in this

1 subsection. For purposes of this Section, "unreimbursed
2 eligible remediation costs" means costs approved by the
3 Illinois Environmental Protection Agency ("Agency") under
4 Section 58.14 of the Environmental Protection Act that were
5 paid in performing environmental remediation at a site for
6 which a No Further Remediation Letter was issued by the
7 Agency and recorded under Section 58.10 of the
8 Environmental Protection Act. The credit must be claimed
9 for the taxable year in which Agency approval of the
10 eligible remediation costs is granted. The credit is not
11 available to any taxpayer if the taxpayer or any related
12 party caused or contributed to, in any material respect, a
13 release of regulated substances on, in, or under the site
14 that was identified and addressed by the remedial action
15 pursuant to the Site Remediation Program of the
16 Environmental Protection Act. After the Pollution Control
17 Board rules are adopted pursuant to the Illinois
18 Administrative Procedure Act for the administration and
19 enforcement of Section 58.9 of the Environmental
20 Protection Act, determinations as to credit availability
21 for purposes of this Section shall be made consistent with
22 those rules. For purposes of this Section, "taxpayer"
23 includes a person whose tax attributes the taxpayer has
24 succeeded to under Section 381 of the Internal Revenue Code
25 and "related party" includes the persons disallowed a
26 deduction for losses by paragraphs (b), (c), and (f) (1) of

1 Section 267 of the Internal Revenue Code by virtue of being
2 a related taxpayer, as well as any of its partners. The
3 credit allowed against the tax imposed by subsections (a)
4 and (b) shall be equal to 25% of the unreimbursed eligible
5 remediation costs in excess of \$100,000 per site, except
6 that the \$100,000 threshold shall not apply to any site
7 contained in an enterprise zone as determined by the
8 Department of Commerce and Community Affairs (now
9 Department of Commerce and Economic Opportunity). The
10 total credit allowed shall not exceed \$40,000 per year with
11 a maximum total of \$150,000 per site. For partners and
12 shareholders of subchapter S corporations, there shall be
13 allowed a credit under this subsection to be determined in
14 accordance with the determination of income and
15 distributive share of income under Sections 702 and 704 and
16 subchapter S of the Internal Revenue Code.

17 (ii) A credit allowed under this subsection that is
18 unused in the year the credit is earned may be carried
19 forward to each of the 5 taxable years following the year
20 for which the credit is first earned until it is used. The
21 term "unused credit" does not include any amounts of
22 unreimbursed eligible remediation costs in excess of the
23 maximum credit per site authorized under paragraph (i).
24 This credit shall be applied first to the earliest year for
25 which there is a liability. If there is a credit under this
26 subsection from more than one tax year that is available to

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

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

19 (m) Education expense credit. Beginning with tax years
20 ending after December 31, 1999, a taxpayer who is the custodian
21 of one or more qualifying pupils shall be allowed a credit
22 against the tax imposed by subsections (a) and (b) of this
23 Section for qualified education expenses incurred on behalf of
24 the qualifying pupils. The credit shall be equal to 25% of
25 qualified education expenses, but in no event may the total
26 credit under this subsection claimed by a family that is the

1 custodian of qualifying pupils exceed \$500. In no event shall a
2 credit under this subsection reduce the taxpayer's liability
3 under this Act to less than zero. This subsection is exempt
4 from the provisions of Section 250 of this Act.

5 For purposes of this subsection:

6 "Qualifying pupils" means individuals who (i) are
7 residents of the State of Illinois, (ii) are under the age of
8 21 at the close of the school year for which a credit is
9 sought, and (iii) during the school year for which a credit is
10 sought were full-time pupils enrolled in a kindergarten through
11 twelfth grade education program at any school, as defined in
12 this subsection.

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

17 "School" means any public or nonpublic elementary or
18 secondary school in Illinois that is in compliance with Title
19 VI of the Civil Rights Act of 1964 and attendance at which
20 satisfies the requirements of Section 26-1 of the School Code,
21 except that nothing shall be construed to require a child to
22 attend any particular public or nonpublic school to qualify for
23 the credit under this Section.

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

1 (n) River Edge Redevelopment Zone site remediation tax
2 credit.

3 (i) For tax years ending on or after December 31, 2006,
4 a taxpayer shall be allowed a credit against the tax
5 imposed by subsections (a) and (b) of this Section for
6 certain amounts paid for unreimbursed eligible remediation
7 costs, as specified in this subsection. For purposes of
8 this Section, "unreimbursed eligible remediation costs"
9 means costs approved by the Illinois Environmental
10 Protection Agency ("Agency") under Section 58.14a of the
11 Environmental Protection Act that were paid in performing
12 environmental remediation at a site within a River Edge
13 Redevelopment Zone for which a No Further Remediation
14 Letter was issued by the Agency and recorded under Section
15 58.10 of the Environmental Protection Act. The credit must
16 be claimed for the taxable year in which Agency approval of
17 the eligible remediation costs is granted. The credit is
18 not available to any taxpayer if the taxpayer or any
19 related party caused or contributed to, in any material
20 respect, a release of regulated substances on, in, or under
21 the site that was identified and addressed by the remedial
22 action pursuant to the Site Remediation Program of the
23 Environmental Protection Act. Determinations as to credit
24 availability for purposes of this Section shall be made
25 consistent with rules adopted by the Pollution Control
26 Board pursuant to the Illinois Administrative Procedure

1 Act for the administration and enforcement of Section 58.9
2 of the Environmental Protection Act. For purposes of this
3 Section, "taxpayer" includes a person whose tax attributes
4 the taxpayer has succeeded to under Section 381 of the
5 Internal Revenue Code and "related party" includes the
6 persons disallowed a deduction for losses by paragraphs
7 (b), (c), and (f) (1) of Section 267 of the Internal Revenue
8 Code by virtue of being a related taxpayer, as well as any
9 of its partners. The credit allowed against the tax imposed
10 by subsections (a) and (b) shall be equal to 25% of the
11 unreimbursed eligible remediation costs in excess of
12 \$100,000 per site.

13 (ii) A credit allowed under this subsection that is
14 unused in the year the credit is earned may be carried
15 forward to each of the 5 taxable years following the year
16 for which the credit is first earned until it is used. This
17 credit shall be applied first to the earliest year for
18 which there is a liability. If there is a credit under this
19 subsection from more than one tax year that is available to
20 offset a liability, the earliest credit arising under this
21 subsection shall be applied first. A credit allowed under
22 this subsection may be sold to a buyer as part of a sale of
23 all or part of the remediation site for which the credit
24 was granted. The purchaser of a remediation site and the
25 tax credit shall succeed to the unused credit and remaining
26 carry-forward period of the seller. To perfect the

1 transfer, the assignor shall record the transfer in the
2 chain of title for the site and provide written notice to
3 the Director of the Illinois Department of Revenue of the
4 assignor's intent to sell the remediation site and the
5 amount of the tax credit to be transferred as a portion of
6 the sale. In no event may a credit be transferred to any
7 taxpayer if the taxpayer or a related party would not be
8 eligible under the provisions of subsection (i).

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

12 (o) For each of taxable years during the Compassionate Use
13 of Medical Cannabis Pilot Program, a surcharge is imposed on
14 all taxpayers on income arising from the sale or exchange of
15 capital assets, depreciable business property, real property
16 used in the trade or business, and Section 197 intangibles of
17 an organization registrant under the Compassionate Use of
18 Medical Cannabis Pilot Program Act. The amount of the surcharge
19 is equal to the amount of federal income tax liability for the
20 taxable year attributable to those sales and exchanges. The
21 surcharge imposed does not apply if:

22 (1) the medical cannabis cultivation center
23 registration, medical cannabis dispensary registration, or
24 the property of a registration is transferred as a result
25 of any of the following:

26 (A) bankruptcy, a receivership, or a debt

1 adjustment initiated by or against the initial
2 registration or the substantial owners of the initial
3 registration;

4 (B) cancellation, revocation, or termination of
5 any registration by the Illinois Department of Public
6 Health;

7 (C) a determination by the Illinois Department of
8 Public Health that transfer of the registration is in
9 the best interests of Illinois qualifying patients as
10 defined by the Compassionate Use of Medical Cannabis
11 Pilot Program Act;

12 (D) the death of an owner of the equity interest in
13 a registrant;

14 (E) the acquisition of a controlling interest in
15 the stock or substantially all of the assets of a
16 publicly traded company;

17 (F) a transfer by a parent company to a wholly
18 owned subsidiary; or

19 (G) the transfer or sale to or by one person to
20 another person where both persons were initial owners
21 of the registration when the registration was issued;
22 or

23 (2) the cannabis cultivation center registration,
24 medical cannabis dispensary registration, or the
25 controlling interest in a registrant's property is
26 transferred in a transaction to lineal descendants in which

1 no gain or loss is recognized or as a result of a
2 transaction in accordance with Section 351 of the Internal
3 Revenue Code in which no gain or loss is recognized.

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

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