

# SB3786



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB3786

Introduced 2/14/2020, by Sen. Mattie Hunter

#### SYNOPSIS AS INTRODUCED:

New Act  
35 ILCS 5/232 new

Creates the Recovery and Mental Health Tax Credit Act. Provides that the Department of Human Services shall establish and administer a recovery tax credit program to provide tax incentives to qualified employers who employ eligible individuals in recovery from a substance use disorder or mental illness in part-time and full-time positions within Illinois. Creates the Advisory Council on Mental Illness and Substance Use Disorder Impacts on Employment Opportunities within Minority Communities. Sets forth the membership of the Council. Provides that the Council shall advise the Department of Human Services regarding employment of persons with mental illnesses and substance use disorders in minority communities. Amends the Illinois Income Tax Act to make conforming changes.

LRB101 17904 HLH 67340 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 1. Short title. This Act may be cited as the  
5 Recovery and Mental Health Tax Credit Act.

6 Section 5. Findings.

7 (a) In the interest of reducing stigma, the General  
8 Assembly finds and declares that those residents of Illinois  
9 diagnosed with mental illness and substance use disorders  
10 should be eligible for and encouraged to seek gainful  
11 employment.

12 (b) The General Assembly finds and declares that minority  
13 communities in the State have been more negatively impacted in  
14 employment opportunities for minority residents diagnosed with  
15 mental illness and substance use disorders and should receive  
16 additional employment opportunities and incentives for  
17 employing minority residents diagnosed with mental illness or  
18 substance use disorders.

19 (c) In the interest of providing additional employment  
20 opportunities for those residents of Illinois diagnosed with  
21 mental illness or substance use disorders, the General Assembly  
22 finds and declares that certain qualified employers who employ  
23 eligible individuals should be eligible for a tax credit.

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

2 "Department" means the Department of Human Services.

3 "Eligible individual" means an individual with a substance  
4 use disorder, as that term is defined under Section 1-10 of the  
5 Substance Use Disorder Act, or an individual with a mental  
6 illness as that term is defined under Section 1-129 of the  
7 Mental Health and Developmental Disabilities Code, who is in a  
8 state of wellness and recovery where there is an abatement of  
9 signs and symptoms that characterize active substance use  
10 disorder or mental illness and has demonstrated to the  
11 qualified employer's satisfaction, pursuant to regulations  
12 promulgated by the Department, that he or she has completed a  
13 course of treatment or is currently in receipt of treatment for  
14 such substance use disorder or mental illness. A relapse in an  
15 individual's state of wellness shall not make the individual  
16 ineligible, so long as the individual shows a continued  
17 commitment to recovery that aligns with an individual's relapse  
18 prevention plan discharge plan or recovery plan.

19 "Qualified employer" means an employer operating within  
20 the State that has received a certificate of tax credit from  
21 the Department after the Department has determined that the  
22 employer:

23 (1) provides a recovery supportive environment for  
24 their employees evidenced by a formal working relationship  
25 with a substance use disorder treatment provider or

1 facility or mental health provider or facility, each as may  
2 be licensed or certified within the State of Illinois, and  
3 providing reasonable accommodation to the employees to  
4 address their substance use disorder or mental illness, all  
5 at no cost or expense to the eligible individual; and

6 (2) satisfies all other criteria in this Section and  
7 established by the Department to participate in the  
8 recovery tax program created hereunder.

9 "Taxpayer" means any individual, corporation, partnership,  
10 trust, or other entity subject to the Illinois income tax. For  
11 the purposes of this Act, 2 individuals filing a joint return  
12 shall be considered one taxpayer.

13 Section 15. Authorization of tax credit program for  
14 individuals in recovery from substance use disorders or mental  
15 illness.

16 (a) For taxable years beginning on or after January 1,  
17 2021, the Department is authorized to and shall establish and  
18 administer a recovery tax credit program to provide tax  
19 incentives to qualified employers who employ eligible  
20 individuals in recovery from a substance use disorder or mental  
21 illness in part-time and full-time positions within Illinois.  
22 The Department shall award the tax credit by issuance of a  
23 certificate of tax credit to the qualified employer, who will  
24 present the certificate of tax credit to the Department of  
25 Revenue as a credit against the qualified employer's tax

1 obligation in accordance with this Act.

2 (b) To be a qualified employer, an employer must apply  
3 annually to the Department to claim a credit based upon  
4 eligible individuals employed during the preceding calendar  
5 year, using the forms prescribed by the Department. To be  
6 approved for a credit under this Act, the employer must:

7 (1) agree to provide to the Department the information  
8 necessary to demonstrate that the employer has satisfied  
9 program eligibility requirements and provided all  
10 information requested or needed by the Department,  
11 including the number of hours worked by the eligible  
12 individual and other information necessary for the  
13 Department to calculate the amount of credit permitted; and

14 (2) agree to provide names, employer identification  
15 numbers, amounts that the employer may claim, and other  
16 information necessary for the Department to calculate any  
17 tax credit.

18 (c) To be an eligible individual, the individual must be  
19 diagnosed with or have been diagnosed with a substance use  
20 disorder or mental illness. Disclosure by the eligible  
21 individual of his or her mental illness or substance use  
22 disorder shall be completely voluntary and his or her health  
23 information may not be shared or disclosed under this Act  
24 without the eligible individual's express written consent. The  
25 eligible individual must have been employed by the qualified  
26 employer in the State for a minimum of 500 hours during the

1 applicable calendar year and the tax credit may only begin on  
2 the date the eligible individual is hired by the qualified  
3 employer and ending on December 31 of that calendar year or the  
4 date that the eligible individual's employment with the  
5 qualified employer ends, whichever occurs first. Only one tax  
6 credit may be awarded for any eligible individual while  
7 employed by the same or related qualified employer. The hours  
8 of employment of 2 or more eligible individuals may not be  
9 aggregated to reach the minimum number of hours. If an eligible  
10 individual has worked in excess of 500 hours between the date  
11 of hiring and December 31 of that year, a qualified employer  
12 can elect to compute and claim a credit for such eligible  
13 individual in that year based on the hours worked by December  
14 31. Alternatively, the qualified employer may elect to include  
15 such individual in the computation of the credit in the year  
16 immediately succeeding the year in which the eligible  
17 individual was hired. In that case, the credit shall be  
18 computed on the basis of all hours worked by the eligible  
19 individual from the date of hire to the earlier of the last day  
20 of employment or December 31 of the succeeding year.

21 (d) The aggregate amount of all credits the Department may  
22 award under this Act in any calendar year may not exceed  
23 \$2,000,000.

24 (e) If the qualified employer's taxable year is a calendar  
25 year, the employer shall be entitled to claim the credit as  
26 shown on the certificate of tax credit on the calendar year

1 return for which the certificate of tax credit was issued. If  
2 the certified employer's taxable year is a fiscal year, the  
3 qualified employer shall be entitled to claim the credit as  
4 shown on the certificate of tax credit on the return for the  
5 fiscal year that includes the last day of the calendar year  
6 covered by the certificate of tax credit.

7 (f) If Department criteria and all other requirements are  
8 met, a qualified employer shall be entitled to a tax credit  
9 equal to the product of \$1 and the number of hours worked by  
10 each eligible individual during the eligible individual's  
11 period of employment with the qualified employer. The tax  
12 credit awarded hereunder may not exceed \$2,000 per eligible  
13 individual employed by the qualified employer in the State. In  
14 determining the amount of tax credit that any qualified  
15 employer may claim, the Department shall review all claims  
16 submitted for credit by all employers and, to the extent that  
17 the total amount claimed by employers exceeds the amount  
18 allocated for this program in that calendar year, shall issue  
19 tax credits on a pro-rata basis corresponding to each qualified  
20 employer's share of the total amount claimed.

21 (g) No credit shall be taken under this Act if the taxpayer  
22 claims a federal income tax deduction for the employment of the  
23 eligible individual by a qualified employer.

24 (h) No tax credit awarded under this Act may reduce a  
25 qualified employer's tax obligation to less than zero.

26 (i) The Department of Revenue shall review and accept the

1 tax credit certificates issued by the Department and apply the  
2 tax credit towards the qualified employer's income tax  
3 obligation. A taxpayer that is a qualified employer that has  
4 received a certificate of tax credit from the Department shall  
5 be allowed a credit against the tax imposed equal to the amount  
6 shown on such certificate of tax credit. If the taxpayer is (i)  
7 a corporation having an election in effect under Subchapter S  
8 of the federal Internal Revenue Code, (ii) a partnership, or  
9 (iii) a limited liability company, the credit provided under  
10 this Act may be claimed by the shareholders of the corporation,  
11 the partners of the partnership, or the members of the limited  
12 liability company in the same manner as those shareholders,  
13 partners, or members account for their proportionate shares of  
14 the income or losses of the corporation, partnership, or  
15 limited liability company, or as provided in the bylaws or  
16 other executed agreement of the corporation, partnership, or  
17 limited liability company. In carrying out this Act, no  
18 patient-specific information shall be shared or disclosed. Any  
19 information collected by the Department or the Department of  
20 Revenue shall not be subject to public disclosure or Freedom of  
21 Information Act requests.

22 (j) The credit under this Act is exempt from the provisions  
23 of Section 250 of the Illinois Income Tax Act.

24 Section 20. Advisory Council on Mental Illness and  
25 Substance Use Disorder Impacts on Employment Opportunities



1 within Minority Communities. The Secretary of the Department  
2 shall appoint the Advisory Council on Mental Illness and  
3 Substance Use Disorder Impacts on Employment Opportunities  
4 within Minority Communities, to be composed of 15 members,  
5 which shall include a balanced representation of recipients,  
6 services providers, employers, local governmental units,  
7 community and welfare advocacy groups, academia, and the  
8 general public. The Advisory Council shall advise the  
9 Department regarding all aspects of employment impacts  
10 resulting from mental illnesses and substance use disorders  
11 within minority communities, tax credits, outreach, marketing,  
12 and education about the tax credit and employment  
13 opportunities, and other areas as deemed appropriate by the  
14 Secretary. In appointing the first Council, the Secretary shall  
15 name 8 members to 2-year terms and 7 members to serve 4-year  
16 terms, all of whom shall be appointed within 6 months of the  
17 effective date of this Act. All members appointed thereafter  
18 shall serve 4 year terms. Members shall serve without  
19 compensation other than reimbursement of expenses actually  
20 incurred in the performance of their official duties. At its  
21 first meeting, the Advisory Council shall select a chair from  
22 among its members. The Advisory Council shall meet at least  
23 quarterly and at other times at the call of the chair.

24 Section 25. Powers. The Department shall adopt rules for  
25 the administration of this Act. The Department may enter into

1 an intergovernmental agreement with the Department of Revenue  
2 for the administration of this Act.

3 Section 90. The Illinois Income Tax Act is amended by  
4 adding Section 232 as follows:

5 (35 ILCS 5/232 new)

6 Sec. 232. Recovery and Mental Health Tax Credit Act. A  
7 taxpayer who has been awarded a credit under the Recovery and  
8 Mental Health Tax Credit Act is entitled to a credit against  
9 the tax imposed by subsections (a) and (b) of Section 201 as  
10 provided in that Act. This Section is exempt from the  
11 provisions of Section 250.