



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

**HB4492**

Introduced 1/21/2022, by Rep. Tony McCombie

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/201

Amends the Illinois Income Tax Act. Increases the research and development credit by providing that the increase in research and development activities shall be based on an increase over 50% of the average of the qualifying expenditures for each year in the base period (instead of 100% of the average of the qualifying expenditures for each year in the base period). Provides that the research and development credit applies on a permanent basis. Effective immediately.

LRB102 22503 HLH 31644 b

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)

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  
20 equal to 2 1/2% of the taxpayer's net income for the  
21 taxable 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,  
11 for 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,  
18 for taxable years beginning on or after January 1, 2011,  
19 and ending prior to January 1, 2015, an amount equal to 5%  
20 of 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  
2 202.5.

3 (5.2) In the case of an individual, trust, or estate,  
4 for taxable years beginning on or after January 1, 2015,  
5 and ending prior to July 1, 2017, an amount equal to 3.75%  
6 of the taxpayer's net income for the taxable year.

7 (5.3) In the case of an individual, trust, or estate,  
8 for taxable years beginning prior to July 1, 2017, and  
9 ending after June 30, 2017, an amount equal to the sum of  
10 (i) 3.75% of the taxpayer's net income for the period  
11 prior to July 1, 2017, as calculated under Section 202.5,  
12 and (ii) 4.95% of the taxpayer's net income for the period  
13 after June 30, 2017, as calculated under Section 202.5.

14 (5.4) In the case of an individual, trust, or estate,  
15 for taxable years beginning on or after July 1, 2017, an  
16 amount equal to 4.95% 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,  
25 1989, as calculated under Section 202.3, and (ii) 4.8% of  
26 the taxpayer's net income for the period after June 30,

1 1989, 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 July 1, 2017, an amount equal to 5.25% of the taxpayer's

1 net income for the taxable year.

2 (13) In the case of a corporation, for taxable years  
3 beginning prior to July 1, 2017, and ending after June 30,  
4 2017, an amount equal to the sum of (i) 5.25% of the  
5 taxpayer's net income for the period prior to July 1,  
6 2017, as calculated under Section 202.5, and (ii) 7% of  
7 the taxpayer's net income for the period after June 30,  
8 2017, as calculated under Section 202.5.

9 (14) In the case of a corporation, for taxable years  
10 beginning on or after July 1, 2017, an amount equal to 7%  
11 of the taxpayer's net income for the taxable year.

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

14 (b-5) Surcharge; sale or exchange of assets, properties,  
15 and intangibles of organization gaming licensees. For each of  
16 taxable years 2019 through 2027, a surcharge is imposed on all  
17 taxpayers on income arising from the sale or exchange of  
18 capital assets, depreciable business property, real property  
19 used in the trade or business, and Section 197 intangibles (i)  
20 of an organization licensee under the Illinois Horse Racing  
21 Act of 1975 and (ii) of an organization gaming licensee under  
22 the Illinois Gambling Act. The amount of the surcharge is  
23 equal to the amount of federal income tax liability for the  
24 taxable year attributable to those sales and exchanges. The  
25 surcharge imposed shall not apply if:

26 (1) the organization gaming license, organization

1 license, or racetrack property is transferred as a result  
2 of any of the following:

3 (A) bankruptcy, a receivership, or a debt  
4 adjustment initiated by or against the initial  
5 licensee or the substantial owners of the initial  
6 licensee;

7 (B) cancellation, revocation, or termination of  
8 any such license by the Illinois Gaming Board or the  
9 Illinois Racing Board;

10 (C) a determination by the Illinois Gaming Board  
11 that transfer of the license is in the best interests  
12 of Illinois gaming;

13 (D) the death of an owner of the equity interest in  
14 a licensee;

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

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

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

23 (2) the controlling interest in the organization  
24 gaming license, organization license, or racetrack  
25 property is transferred in a transaction to lineal  
26 descendants in which no gain or loss is recognized or as a

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

4 (3) live horse racing was not conducted in 2010 at a  
5 racetrack located within 3 miles of the Mississippi River  
6 under a license issued pursuant to the Illinois Horse  
7 Racing Act of 1975.

8 The transfer of an organization gaming license,  
9 organization license, or racetrack property by a person other  
10 than the initial licensee to receive the organization gaming  
11 license is not subject to a surcharge. The Department shall  
12 adopt rules necessary to implement and administer this  
13 subsection.

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



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

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

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

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

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

17 (B) the privilege tax imposed by Section 409 of  
18 the Illinois Insurance Code, the fire insurance  
19 company tax imposed by Section 12 of the Fire  
20 Investigation Act, and the fire department taxes  
21 imposed under Section 11-10-1 of the Illinois  
22 Municipal Code,

23 equals 1.25% for taxable years ending prior to December  
24 31, 2003, or 1.75% for taxable years ending on or after  
25 December 31, 2003, of the net taxable premiums written for  
26 the taxable year, as described by subsection (1) of

1 Section 409 of the Illinois Insurance Code. This paragraph  
2 will in no event increase the rates imposed under  
3 subsections (b) and (d).

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

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

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

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

1 Security. Taxpayers who are new to Illinois shall be  
2 deemed to have met the 1% growth in base employment for the  
3 first year in which they file employment records with the  
4 Illinois Department of Employment Security. The provisions  
5 added to this Section by Public Act 85-1200 (and restored  
6 by Public Act 87-895) shall be construed as declaratory of  
7 existing law and not as a new enactment. If, in any year,  
8 the increase in base employment within Illinois over the  
9 preceding year is less than 1%, the additional credit  
10 shall be limited to that percentage times a fraction, the  
11 numerator of which is .5% and the denominator of which is  
12 1%, but shall not exceed .5%. The investment credit shall  
13 not be allowed to the extent that it would reduce a  
14 taxpayer's liability in any tax year below zero, nor may  
15 any credit for qualified property be allowed for any year  
16 other than the year in which the property was placed in  
17 service in Illinois. For tax years ending on or after  
18 December 31, 1987, and on or before December 31, 1988, the  
19 credit shall be allowed for the tax year in which the  
20 property is placed in service, or, if the amount of the  
21 credit exceeds the tax liability for that year, whether it  
22 exceeds the original liability or the liability as later  
23 amended, such excess may be carried forward and applied to  
24 the tax liability of the 5 taxable years following the  
25 excess credit years if the taxpayer (i) makes investments  
26 which cause the creation of a minimum of 2,000 full-time

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

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

24 (A) is tangible, whether new or used, including  
25 buildings and structural components of buildings and  
26 signs that are real property, but not including land

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

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

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

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

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

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

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

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

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

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

25 (7) If during any taxable year, any property ceases to  
26 be qualified property in the hands of the taxpayer within

1 48 months after being placed in service, or the situs of  
2 any qualified property is moved outside Illinois within 48  
3 months after being placed in service, the Personal  
4 Property Tax Replacement Income Tax for such taxable year  
5 shall be increased. Such increase shall be determined by  
6 (i) recomputing the investment credit which would have  
7 been allowed for the year in which credit for such  
8 property was originally allowed by eliminating such  
9 property from such computation and, (ii) subtracting such  
10 recomputed credit from the amount of credit previously  
11 allowed. For the purposes of this paragraph (7), a  
12 reduction of the basis of qualified property resulting  
13 from a redetermination of the purchase price shall be  
14 deemed a disposition of qualified property to the extent  
15 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  
19 incurred pursuant to a binding contract entered into on or  
20 before December 31, 2018.

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



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

11 For taxable years ending on or after December 31,  
12 2000, a partner that qualifies its partnership for a  
13 subtraction under subparagraph (I) of paragraph (2) of  
14 subsection (d) of Section 203 or a shareholder that  
15 qualifies a Subchapter S corporation for a subtraction  
16 under subparagraph (S) of paragraph (2) of subsection (b)  
17 of Section 203 shall be allowed a credit under this  
18 subsection (e) equal to its share of the credit earned  
19 under this subsection (e) during the taxable year by the  
20 partnership or Subchapter S corporation, determined in  
21 accordance with the determination of income and  
22 distributive share of income under Sections 702 and 704  
23 and Subchapter S of the Internal Revenue Code. This  
24 paragraph is exempt from the provisions 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  
4 service in an Enterprise Zone created pursuant to the  
5 Illinois Enterprise Zone Act or, for property placed in  
6 service on or after July 1, 2006, a River Edge  
7 Redevelopment Zone established pursuant to the River Edge  
8 Redevelopment Zone Act. For partners, shareholders of  
9 Subchapter S corporations, and owners of limited liability  
10 companies, if the liability company is treated as a  
11 partnership for purposes of federal and State income  
12 taxation, there shall be allowed a credit under this  
13 subsection (f) to be determined in accordance with the  
14 determination of income and distributive share of income  
15 under Sections 702 and 704 and Subchapter S of the  
16 Internal Revenue Code. The credit shall be .5% of the  
17 basis for such property. The credit shall be available  
18 only in the taxable year in which the property is placed in  
19 service in the Enterprise Zone or River Edge Redevelopment  
20 Zone and shall not be allowed to the extent that it would  
21 reduce a taxpayer's liability for the tax imposed by  
22 subsections (a) and (b) of this Section to below zero. For  
23 tax years ending on or after December 31, 1985, the credit  
24 shall be allowed for the tax year in which the property is  
25 placed in service, or, if the amount of the credit exceeds  
26 the tax liability for that year, whether it exceeds the

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

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 (f);

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

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

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

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

1 income tax purposes.

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

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

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

1 of such reduction.

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

20 (8) For taxable years beginning on or after January 1,  
21 2021, there shall be allowed an Enterprise Zone  
22 construction jobs credit against the taxes imposed under  
23 subsections (a) and (b) of this Section as provided in  
24 Section 13 of the Illinois Enterprise Zone Act.

25 The credit or credits may not reduce the taxpayer's  
26 liability to less than zero. If the amount of the credit or

1 credits exceeds the taxpayer's liability, the excess may  
2 be carried forward and applied against the taxpayer's  
3 liability in succeeding calendar years in the same manner  
4 provided under paragraph (4) of Section 211 of this Act.  
5 The credit or credits shall be applied to the earliest  
6 year for which there is a tax liability. If there are  
7 credits from more than one taxable year that are available  
8 to offset a liability, the earlier credit shall be applied  
9 first.

10 For partners, shareholders of Subchapter S  
11 corporations, and owners of limited liability companies,  
12 if the liability company is treated as a partnership for  
13 the purposes of federal and State income taxation, there  
14 shall be allowed a credit under this Section to be  
15 determined in accordance with the determination of income  
16 and distributive share of income under Sections 702 and  
17 704 and Subchapter S of the Internal Revenue Code.

18 The total aggregate amount of credits awarded under  
19 the Blue Collar Jobs Act (Article 20 of Public Act 101-9)  
20 shall not exceed \$20,000,000 in any State fiscal year.

21 This paragraph (8) is exempt from the provisions of  
22 Section 250.

23 (g) (Blank).

24 (h) Investment credit; High Impact Business.

25 (1) Subject to subsections (b) and (b-5) of Section  
26 5.5 of the Illinois Enterprise Zone Act, a taxpayer shall

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

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

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

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 (h);

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

26 (D) is not eligible for the Enterprise Zone



1 Investment Credit provided by subsection (f) of this  
2 Section.

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

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

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

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

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

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

16          (h-5) High Impact Business construction jobs credit. For  
17          taxable years beginning on or after January 1, 2021, there  
18          shall also be allowed a High Impact Business construction jobs  
19          credit against the tax imposed under subsections (a) and (b)  
20          of this Section as provided in subsections (i) and (j) of  
21          Section 5.5 of the Illinois Enterprise Zone Act.

22          The credit or credits may not reduce the taxpayer's  
23          liability to less than zero. If the amount of the credit or  
24          credits exceeds the taxpayer's liability, the excess may be  
25          carried forward and applied against the taxpayer's liability  
26          in succeeding calendar years in the manner provided under

1 paragraph (4) of Section 211 of this Act. The credit or credits  
2 shall be applied to the earliest year for which there is a tax  
3 liability. If there are credits from more than one taxable  
4 year that are available to offset a liability, the earlier  
5 credit shall be applied first.

6 For partners, shareholders of Subchapter S corporations,  
7 and owners of limited liability companies, if the liability  
8 company is treated as a partnership for the purposes of  
9 federal and State income taxation, there shall be allowed a  
10 credit under this Section to be determined in accordance with  
11 the determination of income and distributive share of income  
12 under Sections 702 and 704 and Subchapter S of the Internal  
13 Revenue Code.

14 The total aggregate amount of credits awarded under the  
15 Blue Collar Jobs Act (Article 20 of Public Act 101-9) shall not  
16 exceed \$20,000,000 in any State fiscal year.

17 This subsection (h-5) is exempt from the provisions of  
18 Section 250.

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

1 base income, and further multiplying the product by the tax  
2 rate imposed by subsections (a) and (b) of this Section.

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

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

1           (j) Training expense credit. Beginning with tax years  
2 ending on or after December 31, 1986 and prior to December 31,  
3 2003, a taxpayer shall be allowed a credit against the tax  
4 imposed by subsections (a) and (b) under this Section for all  
5 amounts paid or accrued, on behalf of all persons employed by  
6 the taxpayer in Illinois or Illinois residents employed  
7 outside of Illinois by a taxpayer, for educational or  
8 vocational training in semi-technical or technical fields or  
9 semi-skilled or skilled fields, which were deducted from gross  
10 income in the computation of taxable income. The credit  
11 against the tax imposed by subsections (a) and (b) shall be  
12 1.6% of such training expenses. For partners, shareholders of  
13 subchapter S corporations, and owners of limited liability  
14 companies, if the liability company is treated as a  
15 partnership for purposes of federal and State income taxation,  
16 there shall be allowed a credit under this subsection (j) to be  
17 determined in accordance with the determination of income and  
18 distributive share of income under Sections 702 and 704 and  
19 subchapter S of the Internal Revenue Code.

20           Any credit allowed under this subsection which is unused  
21 in the year the credit is earned may be carried forward to each  
22 of the 5 taxable years following the year for which the credit  
23 is first computed until it is used. This credit shall be  
24 applied first to the earliest year for which there is a  
25 liability. If there is a credit under this subsection from  
26 more than one tax year that is available to offset a liability,

1 the earliest credit arising under this subsection shall be  
2 applied first. No carryforward credit may be claimed in any  
3 tax year ending on or after December 31, 2003.

4 (k) Research and development credit. For tax years ending  
5 after July 1, 1990 and prior to December 31, 2003, and  
6 beginning again for tax years ending on or after December 31,  
7 2004, ~~and ending prior to January 1, 2027,~~ a taxpayer shall be  
8 allowed a credit against the tax imposed by subsections (a)  
9 and (b) of this Section for increasing research activities in  
10 this State. The credit allowed against the tax imposed by  
11 subsections (a) and (b) shall be equal to 6 1/2% of the  
12 qualifying expenditures for increasing research activities in  
13 this State. For partners, shareholders of subchapter S  
14 corporations, and owners of limited liability companies, if  
15 the liability company is treated as a partnership for purposes  
16 of federal and State income taxation, there shall be allowed a  
17 credit under this subsection to be determined in accordance  
18 with the determination of income and distributive share of  
19 income under Sections 702 and 704 and subchapter S of the  
20 Internal Revenue Code.

21 For purposes of this subsection, the following terms have  
22 the following meanings:

23 "Qualifying ~~"qualifying~~ expenditures" means the  
24 qualifying expenditures as defined for the federal credit  
25 for increasing research activities which would be  
26 allowable under Section 41 of the Internal Revenue Code

1 and which are conducted in this State.

2 "Qualifying ~~,"qualifying~~ expenditures for increasing  
3 research activities in this State" means the excess of  
4 qualifying expenditures for the taxable year in which  
5 incurred over qualifying expenditures for the base period.

6 "Qualifying ~~,"qualifying~~ expenditures for the base  
7 period" means: (1) for taxable years ending prior to  
8 December 31, 2021, the average of the qualifying  
9 expenditures for each year in the base period; and (2) for  
10 taxable years ending on or after December 31, 2021, 50% of  
11 the average of the qualifying expenditures for each year  
12 in the base period.

13 "Base ~~, and "base~~ period" means the 3 taxable years  
14 immediately preceding the taxable year for which the  
15 determination is being made.

16 Any credit in excess of the tax liability for the taxable  
17 year may be carried forward. A taxpayer may elect to have the  
18 unused credit shown on its final completed return carried over  
19 as a credit against the tax liability for the following 5  
20 taxable years or until it has been fully used, whichever  
21 occurs first; provided that no credit earned in a tax year  
22 ending prior to December 31, 2003 may be carried forward to any  
23 year ending on or after December 31, 2003.

24 If an unused credit is carried forward to a given year from  
25 2 or more earlier years, that credit arising in the earliest  
26 year will be applied first against the tax liability for the

1 given year. If a tax liability for the given year still  
2 remains, the credit from the next earliest year will then be  
3 applied, and so on, until all credits have been used or no tax  
4 liability for the given year remains. Any remaining unused  
5 credit or credits then will be carried forward to the next  
6 following year in which a tax liability is incurred, except  
7 that no credit can be carried forward to a year which is more  
8 than 5 years after the year in which the expense for which the  
9 credit is given was incurred.

10 No inference shall be drawn from Public Act 91-644 in  
11 construing this Section for taxable years beginning before  
12 January 1, 1999.

13 It is the intent of the General Assembly that the research  
14 and development credit under this subsection (k) shall apply  
15 continuously for all tax years ending on or after December 31,  
16 2004 and ending prior to January 1, 2027, including, but not  
17 limited to, the period beginning on January 1, 2016 and ending  
18 on July 6, 2017 (the effective date of Public Act 100-22). All  
19 actions taken in reliance on the continuation of the credit  
20 under this subsection (k) by any taxpayer are hereby  
21 validated.

22 This subsection (k) is exempt from the provisions of  
23 Section 250.

24 (1) Environmental Remediation Tax Credit.

25 (i) For tax years ending after December 31, 1997 and  
26 on or before December 31, 2001, a taxpayer shall be



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

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

20 (ii) A credit allowed under this subsection that is  
21 unused in the year the credit is earned may be carried  
22 forward to each of the 5 taxable years following the year  
23 for which the credit is first earned until it is used. The  
24 term "unused credit" does not include any amounts of  
25 unreimbursed eligible remediation costs in excess of the  
26 maximum credit per site authorized under paragraph (i).

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

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

23 (m) Education expense credit. Beginning with tax years  
24 ending after December 31, 1999, a taxpayer who is the  
25 custodian of one or more qualifying pupils shall be allowed a  
26 credit against the tax imposed by subsections (a) and (b) of

1 this Section for qualified education expenses incurred on  
2 behalf of the qualifying pupils. The credit shall be equal to  
3 25% of qualified education expenses, but in no event may the  
4 total credit under this subsection claimed by a family that is  
5 the custodian of qualifying pupils exceed (i) \$500 for tax  
6 years ending prior to December 31, 2017, and (ii) \$750 for tax  
7 years ending on or after December 31, 2017. In no event shall a  
8 credit under this subsection reduce the taxpayer's liability  
9 under this Act to less than zero. Notwithstanding any other  
10 provision of law, for taxable years beginning on or after  
11 January 1, 2017, no taxpayer may claim a credit under this  
12 subsection (m) if the taxpayer's adjusted gross income for the  
13 taxable year exceeds (i) \$500,000, in the case of spouses  
14 filing a joint federal tax return or (ii) \$250,000, in the case  
15 of all other taxpayers. This subsection is exempt from the  
16 provisions of Section 250 of this Act.

17 For purposes of this subsection:

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

25 "Qualified education expense" means the amount incurred on  
26 behalf of a qualifying pupil in excess of \$250 for tuition,

1 book fees, and lab fees at the school in which the pupil is  
2 enrolled during the regular school year.

3 "School" means any public or nonpublic elementary or  
4 secondary school in Illinois that is in compliance with Title  
5 VI of the Civil Rights Act of 1964 and attendance at which  
6 satisfies the requirements of Section 26-1 of the School Code,  
7 except that nothing shall be construed to require a child to  
8 attend any particular public or nonpublic school to qualify  
9 for the credit under this Section.

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

13 (n) River Edge Redevelopment Zone site remediation tax  
14 credit.

15 (i) For tax years ending on or after December 31,  
16 2006, a taxpayer shall be allowed a credit against the tax  
17 imposed by subsections (a) and (b) of this Section for  
18 certain amounts paid for unreimbursed eligible remediation  
19 costs, as specified in this subsection. For purposes of  
20 this Section, "unreimbursed eligible remediation costs"  
21 means costs approved by the Illinois Environmental  
22 Protection Agency ("Agency") under Section 58.14a of the  
23 Environmental Protection Act that were paid in performing  
24 environmental remediation at a site within a River Edge  
25 Redevelopment Zone for which a No Further Remediation  
26 Letter was issued by the Agency and recorded under Section

1           58.10 of the Environmental Protection Act. The credit must  
2           be claimed for the taxable year in which Agency approval  
3           of the eligible remediation costs is granted. The credit  
4           is not available to any taxpayer if the taxpayer or any  
5           related party caused or contributed to, in any material  
6           respect, a release of regulated substances on, in, or  
7           under the site that was identified and addressed by the  
8           remedial action pursuant to the Site Remediation Program  
9           of the Environmental Protection Act. Determinations as to  
10          credit availability for purposes of this Section shall be  
11          made consistent with rules adopted by the Pollution  
12          Control Board pursuant to the Illinois Administrative  
13          Procedure Act for the administration and enforcement of  
14          Section 58.9 of the Environmental Protection Act. For  
15          purposes of this Section, "taxpayer" includes a person  
16          whose tax attributes the taxpayer has succeeded to under  
17          Section 381 of the Internal Revenue Code and "related  
18          party" includes the persons disallowed a deduction for  
19          losses by paragraphs (b), (c), and (f)(1) of Section 267  
20          of the Internal Revenue Code by virtue of being a related  
21          taxpayer, as well as any of its partners. The credit  
22          allowed against the tax imposed by subsections (a) and (b)  
23          shall be equal to 25% of the unreimbursed eligible  
24          remediation costs in excess of \$100,000 per site.

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

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

24 (o) For each of taxable years during the Compassionate Use  
25 of Medical Cannabis Program, a surcharge is imposed on all  
26 taxpayers on income arising from the sale or exchange of

1 capital assets, depreciable business property, real property  
2 used in the trade or business, and Section 197 intangibles of  
3 an organization registrant under the Compassionate Use of  
4 Medical Cannabis Program Act. The amount of the surcharge is  
5 equal to the amount of federal income tax liability for the  
6 taxable year attributable to those sales and exchanges. The  
7 surcharge imposed does not apply if:

8 (1) the medical cannabis cultivation center  
9 registration, medical cannabis dispensary registration, or  
10 the property of a registration is transferred as a result  
11 of any of the following:

12 (A) bankruptcy, a receivership, or a debt  
13 adjustment initiated by or against the initial  
14 registration or the substantial owners of the initial  
15 registration;

16 (B) cancellation, revocation, or termination of  
17 any registration by the Illinois Department of Public  
18 Health;

19 (C) a determination by the Illinois Department of  
20 Public Health that transfer of the registration is in  
21 the best interests of Illinois qualifying patients as  
22 defined by the Compassionate Use of Medical Cannabis  
23 Program Act;

24 (D) the death of an owner of the equity interest in  
25 a registrant;

26 (E) the acquisition of a controlling interest in



1 the stock or substantially all of the assets of a  
2 publicly traded company;

3 (F) a transfer by a parent company to a wholly  
4 owned subsidiary; or

5 (G) the transfer or sale to or by one person to  
6 another person where both persons were initial owners  
7 of the registration when the registration was issued;  
8 or

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

16 (p) Pass-through entity tax.

17 (1) For taxable years ending on or after December 31,  
18 2021 and beginning prior to January 1, 2026, a partnership  
19 (other than a publicly traded partnership under Section  
20 7704 of the Internal Revenue Code) or Subchapter S  
21 corporation may elect to apply the provisions of this  
22 subsection. A separate election shall be made for each  
23 taxable year. Such election shall be made at such time,  
24 and in such form and manner as prescribed by the  
25 Department, and, once made, is irrevocable.

26 (2) Entity-level tax. A partnership or Subchapter S

1 corporation electing to apply the provisions of this  
2 subsection shall be subject to a tax for the privilege of  
3 earning or receiving income in this State in an amount  
4 equal to 4.95% of the taxpayer's net income for the  
5 taxable year.

6 (3) Net income defined.

7 (A) In general. For purposes of paragraph (2), the  
8 term net income has the same meaning as defined in  
9 Section 202 of this Act, except that the following  
10 provisions shall not apply:

11 (i) the standard exemption allowed under  
12 Section 204;

13 (ii) the deduction for net losses allowed  
14 under Section 207;

15 (iii) in the case of an S corporation, the  
16 modification under Section 203(b)(2)(S); and

17 (iv) in the case of a partnership, the  
18 modifications under Section 203(d)(2)(H) and  
19 Section 203(d)(2)(I).

20 (B) Special rule for tiered partnerships. If a  
21 taxpayer making the election under paragraph (1) is a  
22 partner of another taxpayer making the election under  
23 paragraph (1), net income shall be computed as  
24 provided in subparagraph (A), except that the taxpayer  
25 shall subtract its distributive share of the net  
26 income of the electing partnership (including its

1           distributive share of the net income of the electing  
2           partnership derived as a distributive share from  
3           electing partnerships in which it is a partner).

4           (4) Credit for entity level tax. Each partner or  
5           shareholder of a taxpayer making the election under this  
6           Section shall be allowed a credit against the tax imposed  
7           under subsections (a) and (b) of Section 201 of this Act  
8           for the taxable year of the partnership or Subchapter S  
9           corporation for which an election is in effect ending  
10          within or with the taxable year of the partner or  
11          shareholder in an amount equal to 4.95% times the partner  
12          or shareholder's distributive share of the net income of  
13          the electing partnership or Subchapter S corporation, but  
14          not to exceed the partner's or shareholder's share of the  
15          tax imposed under paragraph (1) which is actually paid by  
16          the partnership or Subchapter S corporation. If the  
17          taxpayer is a partnership or Subchapter S corporation that  
18          is itself a partner of a partnership making the election  
19          under paragraph (1), the credit under this paragraph shall  
20          be allowed to the taxpayer's partners or shareholders (or  
21          if the partner is a partnership or Subchapter S  
22          corporation then its partners or shareholders) in  
23          accordance with the determination of income and  
24          distributive share of income under Sections 702 and 704  
25          and Subchapter S of the Internal Revenue Code. If the  
26          amount of the credit allowed under this paragraph exceeds

1 the partner's or shareholder's liability for tax imposed  
2 under subsections (a) and (b) of Section 201 of this Act  
3 for the taxable year, such excess shall be treated as an  
4 overpayment for purposes of Section 909 of this Act.

5 (5) Nonresidents. A nonresident individual who is a  
6 partner or shareholder of a partnership or Subchapter S  
7 corporation for a taxable year for which an election is in  
8 effect under paragraph (1) shall not be required to file  
9 an income tax return under this Act for such taxable year  
10 if the only source of net income of the individual (or the  
11 individual and the individual's spouse in the case of a  
12 joint return) is from an entity making the election under  
13 paragraph (1) and the credit allowed to the partner or  
14 shareholder under paragraph (4) equals or exceeds the  
15 individual's liability for the tax imposed under  
16 subsections (a) and (b) of Section 201 of this Act for the  
17 taxable year.

18 (6) Liability for tax. Except as provided in this  
19 paragraph, a partnership or Subchapter S making the  
20 election under paragraph (1) is liable for the  
21 entity-level tax imposed under paragraph (2). If the  
22 electing partnership or corporation fails to pay the full  
23 amount of tax deemed assessed under paragraph (2), the  
24 partners or shareholders shall be liable to pay the tax  
25 assessed (including penalties and interest). Each partner  
26 or shareholder shall be liable for the unpaid assessment

1 based on the ratio of the partner's or shareholder's share  
2 of the net income of the partnership over the total net  
3 income of the partnership. If the partnership or  
4 Subchapter S corporation fails to pay the tax assessed  
5 (including penalties and interest) and thereafter an  
6 amount of such tax is paid by the partners or  
7 shareholders, such amount shall not be collected from the  
8 partnership or corporation.

9 (7) Foreign tax. For purposes of the credit allowed  
10 under Section 601(b)(3) of this Act, tax paid by a  
11 partnership or Subchapter S corporation to another state  
12 which, as determined by the Department, is substantially  
13 similar to the tax imposed under this subsection, shall be  
14 considered tax paid by the partner or shareholder to the  
15 extent that the partner's or shareholder's share of the  
16 income of the partnership or Subchapter S corporation  
17 allocated and apportioned to such other state bears to the  
18 total income of the partnership or Subchapter S  
19 corporation allocated or apportioned to such other state.

20 (8) Suspension of withholding. The provisions of  
21 Section 709.5 of this Act shall not apply to a partnership  
22 or Subchapter S corporation for the taxable year for which  
23 an election under paragraph (1) is in effect.

24 (9) Requirement to pay estimated tax. For each taxable  
25 year for which an election under paragraph (1) is in  
26 effect, a partnership or Subchapter S corporation is

1 required to pay estimated tax for such taxable year under  
2 Sections 803 and 804 of this Act if the amount payable as  
3 estimated tax can reasonably be expected to exceed \$500.

4 (10) The provisions of this subsection shall apply  
5 only with respect to taxable years for which the  
6 limitation on individual deductions applies under Section  
7 164(b)(6) of the Internal Revenue Code.

8 (Source: P.A. 101-9, eff. 6-5-19; 101-31, eff. 6-28-19;  
9 101-207, eff. 8-2-19; 101-363, eff. 8-9-19; 102-558, eff.  
10 8-20-21; 102-658, eff. 8-27-21.)

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