



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/09/04, by Eileen Lyons

SYNOPSIS AS INTRODUCED:

35 ILCS 5/201

from Ch. 120, par. 2-201

Amends the Illinois Income Tax Act. Reinstates the research and development credit beginning with taxable years ending on or after July 1, 2004 with changes. Provides that the credit is equal to 6.5% of the qualifying expenditures for research activities paid or incurred in this State during the taxable year. Provides that "qualifying expenditures for research activities" means those expenses defined as "qualified research expenses" under Section 41(b) of the Internal Revenue Code. Exempts the credit from the sunset requirements of the Act. Effective immediately.

LRB093 15927 SJM 41545 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning taxes.

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
24 after June 30, 1989, an amount equal to the sum of (i) 2
25 1/2% of the taxpayer's net income for the period prior to
26 July 1, 1989, as calculated under Section 202.3, and (ii)
27 3% of the taxpayer's net income for the period after June
28 30, 1989, as calculated under Section 202.3.

29 (3) In the case of an individual, trust or estate, for
30 taxable years beginning after June 30, 1989, an amount
31 equal to 3% of the taxpayer's net income for the taxable
32 year.

1 (4) (Blank).

2 (5) (Blank).

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

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

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

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
27 this State or by any municipal corporation or political
28 subdivision thereof.

29 (d) Additional Personal Property Tax Replacement Income
30 Tax Rates. The personal property tax replacement income tax
31 imposed by this subsection and subsection (c) of this Section
32 in the case of a corporation, other than a Subchapter S
33 corporation and except as adjusted by subsection (d-1), shall
34 be an additional amount equal to 2.85% of such taxpayer's net
35 income for the taxable year, except that beginning on January
36 1, 1981, and thereafter, the rate of 2.85% specified in this

1 subsection shall be reduced to 2.5%, and in the case of a
2 partnership, trust or a Subchapter S corporation shall be an
3 additional amount equal to 1.5% of such taxpayer's net income
4 for the taxable year.

5 (d-1) Rate reduction for certain foreign insurers. In the
6 case of a foreign insurer, as defined by Section 35A-5 of the
7 Illinois Insurance Code, whose state or country of domicile
8 imposes on insurers domiciled in Illinois a retaliatory tax
9 (excluding any insurer whose premiums from reinsurance assumed
10 are 50% or more of its total insurance premiums as determined
11 under paragraph (2) of subsection (b) of Section 304, except
12 that for purposes of this determination premiums from
13 reinsurance do not include premiums from inter-affiliate
14 reinsurance arrangements), beginning with taxable years ending
15 on or after December 31, 1999, the sum of the rates of tax
16 imposed by subsections (b) and (d) shall be reduced (but not
17 increased) to the rate at which the total amount of tax imposed
18 under this Act, net of all credits allowed under this Act,
19 shall equal (i) the total amount of tax that would be imposed
20 on the foreign insurer's net income allocable to Illinois for
21 the taxable year by such foreign insurer's state or country of
22 domicile if that net income were subject to all income taxes
23 and taxes measured by net income imposed by such foreign
24 insurer's state or country of domicile, net of all credits
25 allowed or (ii) a rate of zero if no such tax is imposed on such
26 income by the foreign insurer's state of domicile. For the
27 purposes of this subsection (d-1), an inter-affiliate includes
28 a mutual insurer under common management.

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

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

35 (B) the privilege tax imposed by Section 409 of the
36 Illinois Insurance Code, the fire insurance company

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

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

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

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

23 (1) A taxpayer shall be allowed a credit equal to .5%
24 of the basis of qualified property placed in service during
25 the taxable year, provided such property is placed in
26 service on or after July 1, 1984. There shall be allowed an
27 additional credit equal to .5% of the basis of qualified
28 property placed in service during the taxable year,
29 provided such property is placed in service on or after
30 July 1, 1986, and the taxpayer's base employment within
31 Illinois has increased by 1% or more over the preceding
32 year as determined by the taxpayer's employment records
33 filed with the Illinois Department of Employment Security.
34 Taxpayers who are new to Illinois shall be deemed to have
35 met the 1% growth in base employment for the first year in
36 which they file employment records with the Illinois

1 Department of Employment Security. The provisions added to
2 this Section by Public Act 85-1200 (and restored by Public
3 Act 87-895) shall be construed as declaratory of existing
4 law and not as a new enactment. If, in any year, the
5 increase in base employment within Illinois over the
6 preceding year is less than 1%, the additional credit shall
7 be limited to that percentage times a fraction, the
8 numerator of which is .5% and the denominator of which is
9 1%, but shall not exceed .5%. The investment credit shall
10 not be allowed to the extent that it would reduce a
11 taxpayer's liability in any tax year below zero, nor may
12 any credit for qualified property be allowed for any year
13 other than the year in which the property was placed in
14 service in Illinois. For tax years ending on or after
15 December 31, 1987, and on or before December 31, 1988, the
16 credit shall be allowed for the tax year in which the
17 property is placed in service, or, if the amount of the
18 credit exceeds the tax liability for that year, whether it
19 exceeds the original liability or the liability as later
20 amended, such excess may be carried forward and applied to
21 the tax liability of the 5 taxable years following the
22 excess credit years if the taxpayer (i) makes investments
23 which cause the creation of a minimum of 2,000 full-time
24 equivalent jobs in Illinois, (ii) is located in an
25 enterprise zone established pursuant to the Illinois
26 Enterprise Zone Act and (iii) is certified by the
27 Department of Commerce and Community Affairs (now
28 Department of Commerce and Economic Opportunity) as
29 complying with the requirements specified in clause (i) and
30 (ii) by July 1, 1986. The Department of Commerce and
31 Community Affairs (now Department of Commerce and Economic
32 Opportunity) shall notify the Department of Revenue of all
33 such certifications immediately. For tax years ending
34 after December 31, 1988, the credit shall be allowed for
35 the tax year in which the property is placed in service,
36 or, if the amount of the credit exceeds the tax liability

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

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

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

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

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

25 (D) is used in Illinois by a taxpayer who is
26 primarily engaged in manufacturing, or in mining coal
27 or fluorite, or in retailing; and

28 (E) has not previously been used in Illinois in
29 such a manner and by such a person as would qualify for
30 the credit provided by this subsection (e) or
31 subsection (f).

32 (3) For purposes of this subsection (e),
33 "manufacturing" means the material staging and production
34 of tangible personal property by procedures commonly
35 regarded as manufacturing, processing, fabrication, or
36 assembling which changes some existing material into new

1 shapes, new qualities, or new combinations. For purposes of
2 this subsection (e) the term "mining" shall have the same
3 meaning as the term "mining" in Section 613(c) of the
4 Internal Revenue Code. For purposes of this subsection (e),
5 the term "retailing" means the sale of tangible personal
6 property or services rendered in conjunction with the sale
7 of tangible consumer goods or commodities.

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

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

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

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

34 (8) Unless the investment credit is extended by law,
35 the basis of qualified property shall not include costs
36 incurred after December 31, 2003, except for costs incurred

1 pursuant to a binding contract entered into on or before
2 December 31, 2003.

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

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

33 (f) Investment credit; Enterprise Zone.

34 (1) A taxpayer shall be allowed a credit against the
35 tax imposed by subsections (a) and (b) of this Section for
36 investment in qualified property which is placed in service

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

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

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

31 (B) is depreciable pursuant to Section 167 of the
32 Internal Revenue Code, except that "3-year property"
33 as defined in Section 168(c)(2)(A) of that Code is not
34 eligible for the credit provided by this subsection
35 (f);

36 (C) is acquired by purchase as defined in Section

1 179(d) of the Internal Revenue Code;

2 (D) is used in the Enterprise Zone by the taxpayer;

3 and

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

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

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

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

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

35 (g) Jobs Tax Credit; Enterprise Zone and Foreign Trade
36 Zone or Sub-Zone.

1 (1) A taxpayer conducting a trade or business in an
2 enterprise zone or a High Impact Business designated by the
3 Department of Commerce and Economic Opportunity ~~Community~~
4 ~~Affairs~~ conducting a trade or business in a federally
5 designated Foreign Trade Zone or Sub-Zone shall be allowed
6 a credit against the tax imposed by subsections (a) and (b)
7 of this Section in the amount of \$500 per eligible employee
8 hired to work in the zone during the taxable year.

9 (2) To qualify for the credit:

10 (A) the taxpayer must hire 5 or more eligible
11 employees to work in an enterprise zone or federally
12 designated Foreign Trade Zone or Sub-Zone during the
13 taxable year;

14 (B) the taxpayer's total employment within the
15 enterprise zone or federally designated Foreign Trade
16 Zone or Sub-Zone must increase by 5 or more full-time
17 employees beyond the total employed in that zone at the
18 end of the previous tax year for which a jobs tax
19 credit under this Section was taken, or beyond the
20 total employed by the taxpayer as of December 31, 1985,
21 whichever is later; and

22 (C) the eligible employees must be employed 180
23 consecutive days in order to be deemed hired for
24 purposes of this subsection.

25 (3) An "eligible employee" means an employee who is:

26 (A) Certified by the Department of Commerce and
27 Economic Opportunity ~~Community Affairs~~ as "eligible
28 for services" pursuant to regulations promulgated in
29 accordance with Title II of the Job Training
30 Partnership Act, Training Services for the
31 Disadvantaged or Title III of the Job Training
32 Partnership Act, Employment and Training Assistance
33 for Dislocated Workers Program.

34 (B) Hired after the enterprise zone or federally
35 designated Foreign Trade Zone or Sub-Zone was
36 designated or the trade or business was located in that

1 zone, whichever is later.

2 (C) Employed in the enterprise zone or Foreign
3 Trade Zone or Sub-Zone. An employee is employed in an
4 enterprise zone or federally designated Foreign Trade
5 Zone or Sub-Zone if his services are rendered there or
6 it is the base of operations for the services
7 performed.

8 (D) A full-time employee working 30 or more hours
9 per week.

10 (4) For tax years ending on or after December 31, 1985
11 and prior to December 31, 1988, the credit shall be allowed
12 for the tax year in which the eligible employees are hired.
13 For tax years ending on or after December 31, 1988, the
14 credit shall be allowed for the tax year immediately
15 following the tax year in which the eligible employees are
16 hired. If the amount of the credit exceeds the tax
17 liability for that year, whether it exceeds the original
18 liability or the liability as later amended, such excess
19 may be carried forward and applied to the tax liability of
20 the 5 taxable years following the excess credit year. The
21 credit shall be applied to the earliest year for which
22 there is a liability. If there is credit from more than one
23 tax year that is available to offset a liability, earlier
24 credit shall be applied first.

25 (5) The Department of Revenue shall promulgate such
26 rules and regulations as may be deemed necessary to carry
27 out the purposes of this subsection (g).

28 (6) The credit shall be available for eligible
29 employees hired on or after January 1, 1986.

30 (h) Investment credit; High Impact Business.

31 (1) Subject to subsections (b) and (b-5) of Section 5.5
32 of the Illinois Enterprise Zone Act, a taxpayer shall be
33 allowed a credit against the tax imposed by subsections (a)
34 and (b) of this Section for investment in qualified
35 property which is placed in service by a Department of
36 Commerce and Economic Opportunity ~~Community Affairs~~

1 designated High Impact Business. The credit shall be .5% of
2 the basis for such property. The credit shall not be
3 available (i) until the minimum investments in qualified
4 property set forth in subdivision (a) (3) (A) of Section 5.5
5 of the Illinois Enterprise Zone Act have been satisfied or
6 (ii) until the time authorized in subsection (b-5) of the
7 Illinois Enterprise Zone Act for entities designated as
8 High Impact Businesses under subdivisions (a) (3) (B),
9 (a) (3) (C), and (a) (3) (D) of Section 5.5 of the Illinois
10 Enterprise Zone Act, and shall not be allowed to the extent
11 that it would reduce a taxpayer's liability for the tax
12 imposed by subsections (a) and (b) of this Section to below
13 zero. The credit applicable to such investments shall be
14 taken in the taxable year in which such investments have
15 been completed. The credit for additional investments
16 beyond the minimum investment by a designated high impact
17 business authorized under subdivision (a) (3) (A) of Section
18 5.5 of the Illinois Enterprise Zone Act shall be available
19 only in the taxable year in which the property is placed in
20 service and shall not be allowed to the extent that it
21 would 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, 1987, 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
27 original liability or the liability as later amended, such
28 excess may be carried forward and applied to the tax
29 liability of the 5 taxable years following the excess
30 credit year. The credit shall be applied to the earliest
31 year for which there is a liability. If there is credit
32 from more than one tax year that is available to offset a
33 liability, the credit accruing first in time shall be
34 applied first.

35 Changes made in this subdivision (h) (1) by Public Act
36 88-670 restore changes made by Public Act 85-1182 and

1 reflect existing law.

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

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

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 (h);

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

12 (D) is not eligible for the Enterprise Zone
13 Investment Credit provided by subsection (f) of this
14 Section.

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

18 (4) If the basis of the property for federal income tax
19 depreciation purposes is increased after it has been placed
20 in service in a federally designated Foreign Trade Zone or
21 Sub-Zone located in Illinois by the taxpayer, the amount of
22 such increase shall be deemed property placed in service on
23 the date of such increase in basis.

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

26 (6) If during any taxable year ending on or before
27 December 31, 1996, any property ceases to be qualified
28 property in the hands of the taxpayer within 48 months
29 after being placed in service, or the situs of any
30 qualified property is moved outside Illinois within 48
31 months after being placed in service, the tax imposed under
32 subsections (a) and (b) of this Section for such taxable
33 year shall be increased. Such increase shall be determined
34 by (i) recomputing the investment credit which would have
35 been allowed for the year in which credit for such property
36 was originally allowed by eliminating such property from

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

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

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

28 Any credit earned on or after December 31, 1986 under this
29 subsection which is unused in the year the credit is computed
30 because it exceeds the tax liability imposed by subsections (a)
31 and (b) for that year (whether it exceeds the original
32 liability or the liability as later amended) may be carried
33 forward and applied to the tax liability imposed by subsections
34 (a) and (b) of the 5 taxable years following the excess credit
35 year, provided that no credit may be carried forward to any
36 year ending on or after December 31, 2003. This credit shall be

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

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

16 (j) Training expense credit. Beginning with tax years
17 ending on or after December 31, 1986 and prior to December 31,
18 2003, a taxpayer shall be allowed a credit against the tax
19 imposed by subsections (a) and (b) under this Section for all
20 amounts paid or accrued, on behalf of all persons employed by
21 the taxpayer in Illinois or Illinois residents employed outside
22 of Illinois by a taxpayer, for educational or vocational
23 training in semi-technical or technical fields or semi-skilled
24 or skilled fields, which were deducted from gross income in the
25 computation of taxable income. The credit against the tax
26 imposed by subsections (a) and (b) shall be 1.6% of such
27 training expenses. For partners, shareholders of subchapter S
28 corporations, and owners of limited liability companies, if the
29 liability company is treated as a partnership for purposes of
30 federal and State income taxation, there shall be allowed a
31 credit under this subsection (j) to be determined in accordance
32 with the determination of income and distributive share of
33 income under Sections 702 and 704 and subchapter S of the
34 Internal Revenue Code.

35 Any credit allowed under this subsection which is unused in
36 the year the credit is earned may be carried forward to each of

1 the 5 taxable years following the year for which the credit is
2 first computed until it is used. This credit shall be applied
3 first to the earliest year for which there is a liability. If
4 there is a credit under this subsection from more than one tax
5 year that is available to offset a liability the earliest
6 credit arising under this subsection shall be applied first. No
7 carryforward credit may be claimed in any tax year ending on or
8 after December 31, 2003.

9 (k) Research and development credit.

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

26 For purposes of this subsection, "qualifying expenditures
27 for research activities" means those expenses defined as
28 "qualified research expenses" under Section 41(b) of the
29 Internal Revenue Code ~~the qualifying expenditures as defined~~
30 ~~for the federal credit for increasing research activities which~~
31 ~~would be allowable under Section 41 of the Internal Revenue~~
32 ~~Code and which are conducted in this State, "qualifying~~
33 ~~expenditures for increasing research activities in this State"~~
34 ~~means the excess of qualifying expenditures for the taxable~~
35 ~~year in which incurred over qualifying expenditures for the~~
36 ~~base period, "qualifying expenditures for the base period"~~

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

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

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

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

This subsection (k) is exempt from the provisions of Section 250 of this Act.

(1) Environmental Remediation Tax Credit.

(i) For tax years ending after December 31, 1997 and on or before December 31, 2001, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for certain amounts paid for unreimbursed eligible remediation costs, as specified in this subsection. For purposes of this Section, "unreimbursed eligible remediation costs" means costs approved by the

1 Illinois Environmental Protection Agency ("Agency") under
2 Section 58.14 of the Environmental Protection Act that were
3 paid in performing environmental remediation at a site for
4 which a No Further Remediation Letter was issued by the
5 Agency and recorded under Section 58.10 of the
6 Environmental Protection Act. The credit must be claimed
7 for the taxable year in which Agency approval of the
8 eligible remediation costs is granted. The credit is not
9 available to any taxpayer if the taxpayer or any related
10 party caused or contributed to, in any material respect, a
11 release of regulated substances on, in, or under the site
12 that was identified and addressed by the remedial action
13 pursuant to the Site Remediation Program of the
14 Environmental Protection Act. After the Pollution Control
15 Board rules are adopted pursuant to the Illinois
16 Administrative Procedure Act for the administration and
17 enforcement of Section 58.9 of the Environmental
18 Protection Act, determinations as to credit availability
19 for purposes of this Section shall be made consistent with
20 those rules. For purposes of this Section, "taxpayer"
21 includes a person whose tax attributes the taxpayer has
22 succeeded to under Section 381 of the Internal Revenue Code
23 and "related party" includes the persons disallowed a
24 deduction for losses by paragraphs (b), (c), and (f)(1) of
25 Section 267 of the Internal Revenue Code by virtue of being
26 a related taxpayer, as well as any of its partners. The
27 credit allowed against the tax imposed by subsections (a)
28 and (b) shall be equal to 25% of the unreimbursed eligible
29 remediation costs in excess of \$100,000 per site, except
30 that the \$100,000 threshold shall not apply to any site
31 contained in an enterprise zone as determined by the
32 Department of Commerce and Community Affairs (now
33 Department of Commerce and Economic Opportunity). The
34 total credit allowed shall not exceed \$40,000 per year with
35 a maximum total of \$150,000 per site. For partners and
36 shareholders of subchapter S corporations, there shall be

1 allowed a credit under this subsection to be determined in
2 accordance with the determination of income and
3 distributive share of income under Sections 702 and 704 and
4 subchapter S of the Internal Revenue Code.

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

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

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

1 Section for qualified education expenses incurred on behalf of
2 the qualifying pupils. The credit shall be equal to 25% of
3 qualified education expenses, but in no event may the total
4 credit under this subsection claimed by a family that is the
5 custodian of qualifying pupils exceed \$500. In no event shall a
6 credit under this subsection reduce the taxpayer's liability
7 under this Act to less than zero. This subsection is exempt
8 from the provisions of Section 250 of this Act.

9 For purposes of this subsection:

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

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

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

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

31 (Source: P.A. 92-12, eff. 7-1-01; 92-16, eff. 6-28-01; 92-651,
32 eff. 7-11-02; 92-846, eff. 8-23-02; 93-29, eff. 6-20-03;
33 revised 12-6-03.)

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