



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 2/6/2004, by Todd Sieben

**SYNOPSIS AS INTRODUCED:**

35 ILCS 5/201

from Ch. 120, par. 2-201

Amends the education expense credit provisions in the Illinois Income Tax Act. Provides that, for taxable years ending on or after December 31, 2004, "school" means any public or nonpublic elementary or secondary school (now, in Illinois) that is in compliance with Title VI of the Civil Rights Act of 1964 and attendance at which satisfies certain requirements of the School Code or the applicable laws of the state in which the school is located. Effective immediately.

LRB093 20239 SJM 45999 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 after July 1, 1990 and prior to  
11 December 31, 2003, a taxpayer shall be allowed a credit against  
12 the tax imposed by subsections (a) and (b) of this Section for  
13 increasing research activities in this State. The credit  
14 allowed against the tax imposed by subsections (a) and (b)  
15 shall be equal to 6 1/2% of the qualifying expenditures for  
16 increasing research activities in this State. For partners,  
17 shareholders of subchapter S corporations, and owners of  
18 limited liability companies, if the liability company is  
19 treated as a partnership for purposes of federal and State  
20 income taxation, there shall be allowed a credit under this  
21 subsection to be determined in accordance with the  
22 determination of income and distributive share of income under  
23 Sections 702 and 704 and subchapter S of the Internal Revenue  
24 Code.

25 For purposes of this subsection, "qualifying expenditures"  
26 means the qualifying expenditures as defined for the federal  
27 credit for increasing research activities which would be  
28 allowable under Section 41 of the Internal Revenue Code and  
29 which are conducted in this State, "qualifying expenditures for  
30 increasing research activities in this State" means the excess  
31 of qualifying expenditures for the taxable year in which  
32 incurred over qualifying expenditures for the base period,  
33 "qualifying expenditures for the base period" means the average  
34 of the qualifying expenditures for each year in the base  
35 period, and "base period" means the 3 taxable years immediately  
36 preceding the taxable year for which the determination is being

1 made.

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

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

21 No inference shall be drawn from this amendatory Act of the  
22 91st General Assembly in construing this Section for taxable  
23 years beginning before January 1, 1999.

24 (1) Environmental Remediation Tax Credit.

25 (i) For tax years ending after December 31, 1997 and on  
26 or before December 31, 2001, a taxpayer shall be allowed a  
27 credit against the tax imposed by subsections (a) and (b)  
28 of this Section for certain amounts paid for unreimbursed  
29 eligible remediation costs, as specified in this  
30 subsection. For purposes of this Section, "unreimbursed  
31 eligible remediation costs" means costs approved by the  
32 Illinois Environmental Protection Agency ("Agency") under  
33 Section 58.14 of the Environmental Protection Act that were  
34 paid in performing environmental remediation at a site for  
35 which a No Further Remediation Letter was issued by the  
36 Agency and recorded under Section 58.10 of the

1 Environmental Protection Act. The credit must be claimed  
2 for the taxable year in which Agency approval of the  
3 eligible remediation costs is granted. The credit is not  
4 available to any taxpayer if the taxpayer or any related  
5 party caused or contributed to, in any material respect, a  
6 release of regulated substances on, in, or under the site  
7 that was identified and addressed by the remedial action  
8 pursuant to the Site Remediation Program of the  
9 Environmental Protection Act. After the Pollution Control  
10 Board rules are adopted pursuant to the Illinois  
11 Administrative Procedure Act for the administration and  
12 enforcement of Section 58.9 of the Environmental  
13 Protection Act, determinations as to credit availability  
14 for purposes of this Section shall be made consistent with  
15 those rules. For purposes of this Section, "taxpayer"  
16 includes a person whose tax attributes the taxpayer has  
17 succeeded to under Section 381 of the Internal Revenue Code  
18 and "related party" includes the persons disallowed a  
19 deduction for losses by paragraphs (b), (c), and (f)(1) of  
20 Section 267 of the Internal Revenue Code by virtue of being  
21 a related taxpayer, as well as any of its partners. The  
22 credit allowed against the tax imposed by subsections (a)  
23 and (b) shall be equal to 25% of the unreimbursed eligible  
24 remediation costs in excess of \$100,000 per site, except  
25 that the \$100,000 threshold shall not apply to any site  
26 contained in an enterprise zone as determined by the  
27 Department of Commerce and Community Affairs (now  
28 Department of Commerce and Economic Opportunity). The  
29 total credit allowed shall not exceed \$40,000 per year with  
30 a maximum total of \$150,000 per site. For partners and  
31 shareholders of subchapter S corporations, there shall be  
32 allowed a credit under this subsection to be determined in  
33 accordance with the determination of income and  
34 distributive share of income under Sections 702 and 704 and  
35 subchapter S of the Internal Revenue Code.

36 (ii) A credit allowed under this subsection that is

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

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

28 (m) Education expense credit. Beginning with tax years  
29 ending after December 31, 1999, a taxpayer who is the custodian  
30 of one or more qualifying pupils shall be allowed a credit  
31 against the tax imposed by subsections (a) and (b) of this  
32 Section for qualified education expenses incurred on behalf of  
33 the qualifying pupils. The credit shall be equal to 25% of  
34 qualified education expenses, but in no event may the total  
35 credit under this subsection claimed by a family that is the  
36 custodian of qualifying pupils exceed \$500. In no event shall a

1 credit under this subsection reduce the taxpayer's liability  
2 under this Act to less than zero. This subsection is exempt  
3 from the provisions of Section 250 of this Act.

4 For purposes of this subsection:

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

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

16 For taxable years ending before December 31, 2004, "school"  
17 ~~"School"~~ means any public or nonpublic elementary or secondary  
18 school in Illinois that is in compliance with Title VI of the  
19 Civil Rights Act of 1964 and attendance at which satisfies the  
20 requirements of Section 26-1 of the School Code, except that  
21 nothing shall be construed to require a child to attend any  
22 particular public or nonpublic school to qualify for the credit  
23 under this Section. For taxable years ending on or after  
24 December 31, 2004, "school" means any public or nonpublic  
25 elementary or secondary school that is in compliance with Title  
26 VI of the Civil Rights Act of 1964 and attendance at which  
27 satisfies the requirements of Section 26-1 of the School Code  
28 or the applicable laws of the state in which the school is  
29 located, except that nothing shall be construed to require a  
30 child to attend any particular public or nonpublic school to  
31 qualify for the credit under this Section.

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

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

1 revised 12-6-03.)

2 Section 99. Effective date. This Act takes effect upon  
3 becoming law.