



Sen. Dan Kotowski

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1 AMENDMENT TO SENATE BILL 453

2 AMENDMENT NO. _____. Amend Senate Bill 453 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Oil
5 Company Gross Profits Tax Act.

6 Section 5. Definitions. As used in this Act:

7 "Department" means the Department of Revenue.

8 "Direct costs" includes raw materials, labor, and
9 depreciation on machinery associated with the exploration,
10 drilling, importation, refining, or wholesale distribution of
11 petroleum products.

12 "Gross profits" means the difference between (i) the gross
13 receipts derived from sales of petroleum products by the
14 taxpayer during the taxable year and (ii) direct costs incurred
15 by the taxpayer during the taxable year in producing those
16 petroleum products, multiplied by the percentage of the

1 taxpayer's business income that would have been apportioned to
2 this State for the taxable year under Section 304 of the
3 Illinois Income Tax Act if the taxpayer had been required to
4 file Illinois income taxes for the taxable year.

5 "Oil company" means an entity doing business in the State
6 that performs exploration, drilling, importation, refining, or
7 wholesale distribution of petroleum products, excluding retail
8 fuel sellers.

9 "Petroleum products" are any products that contain or are
10 made from petroleum or a petroleum derivative.

11 "Taxable year" means the taxable year used by the taxpayer
12 for purposes of the Illinois Income Tax Act.

13 "Taxpayer" means an oil company doing business in the
14 State.

15 Section 10. Tax imposed. For taxable years beginning on or
16 after January 1, 2011, in lieu of the tax imposed under
17 subsections (a) and (b) of Section 201 of the Illinois Income
18 Tax Act, a tax is hereby imposed on each oil company doing
19 business in the State at the rate of 6.17% of the gross profits
20 of the oil company.

21 Section 15. Returns, payments, and notices. Each taxpayer
22 who is liable for any tax imposed under this Act shall make a
23 return for the taxable year. Returns shall be filed at such a
24 time and place as the Department may prescribe by rule. The

1 Department may require electronic filing of any return due
2 under this Act.

3 Each taxpayer who is liable for any tax imposed by this Act
4 shall keep such records, render such statements, make such
5 returns and notices, and comply with such rules and regulations
6 as the Department may from time to time prescribe. Whenever in
7 the judgment of the Director it is necessary, he or she may
8 require any taxpayer, by notice served upon the taxpayer or by
9 regulations, to make such returns and notices, render such
10 statements, or keep such records, as the Director deems
11 sufficient to show whether or not such person is liable for tax
12 under this Act.

13 Taxpayers that are members of the same unitary business
14 group shall be treated as one taxpayer for purposes of any
15 original return, amended return which includes the same
16 taxpayers of the unitary group which joined in filing the
17 original return, extension, claim for refund, assessment,
18 collection and payment, and determination of the group's tax
19 liability under this Act.

20 A return or notice required of a corporation shall be
21 signed by the president, vice-president, treasurer, or any
22 other officer duly authorized so to act or, in the case of a
23 limited liability company, by a manager or member. In the case
24 of a return or notice made for a corporation by a fiduciary,
25 such fiduciary shall sign such document. The fact that an
26 individual's name is signed to a return or notice shall be

1 prima facie evidence that such individual is authorized to sign
2 such document on behalf of the corporation.

3 A return or notice of a partnership shall be signed by any
4 one of the partners or, in the case of a limited liability
5 company, by a manager or member. The fact that a partner's name
6 is signed to a return or notice shall be prima facie evidence
7 that such individual is authorized to sign such document on
8 behalf of the partnership or limited liability company.

9 Each taxpayer who is liable for any tax imposed by this Act
10 shall pay to the Department the amount of the tax due on or
11 before the due date of the return required under this Section.
12 The Department may grant an extension of time for the filing of
13 a return, the payment of taxes due, or both.

14 Section 20. Penalties.

15 (a) Failure to file tax return. In case of failure to file
16 any tax return required under this Act on the date prescribed
17 therefor (determined with regard to any extensions of time for
18 filing), there shall be added as a penalty the amount
19 prescribed by Section 3-3 of the Uniform Penalty and Interest
20 Act.

21 (b) Failure to pay tax. If any amount of tax imposed by
22 this Act is not paid on or before the date prescribed for
23 payment of such tax (determined without regard to any
24 extensions), interest on such amount shall be paid in the
25 manner and at the rate prescribed in Section 3-2 of the Uniform

1 Penalty and Interest Act for the period from such date to the
2 date of payment of such amount.

3 (c) Negligence. If any part of a deficiency is due to
4 negligence or intentional disregard of rules and regulations
5 (but without intent to defraud), there shall be added to the
6 tax as a penalty the amount prescribed by Section 3-5 of the
7 Uniform Penalty and Interest Act.

8 (d) Fraud. If any part of a deficiency is due to fraud,
9 there shall be added to the tax as a penalty the amount
10 prescribed by Section 3-6 of the Uniform Penalty and Interest
11 Act.

12 Section 25. Collection and administration. The Department
13 shall collect the taxes imposed by this Act and shall deposit
14 the receipts collected into the General Revenue Fund.

15 Section 40. The Illinois Income Tax Act is amended by
16 changing Section 201 as follows:

17 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

18 Sec. 201. Tax Imposed.

19 (a) In general. A tax measured by net income is hereby
20 imposed on every individual, corporation, trust and estate for
21 each taxable year ending after July 31, 1969 on the privilege
22 of earning or receiving income in or as a resident of this
23 State, except that, for taxable years beginning on or after

1 January 1, 2011, no tax shall be imposed under this Act on any
2 oil company that is subject to taxation under the Oil Company
3 Gross Profits Tax Act. The ~~Such~~ tax imposed under this Section
4 shall be in addition to all other occupation or privilege taxes
5 imposed by this State or by any municipal corporation or
6 political subdivision thereof.

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

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

14 (2) In the case of an individual, trust or estate, for
15 taxable years beginning prior to July 1, 1989 and ending
16 after June 30, 1989, an amount equal to the sum of (i) 2
17 1/2% of the taxpayer's net income for the period prior to
18 July 1, 1989, as calculated under Section 202.3, and (ii)
19 3% of the taxpayer's net income for the period after June
20 30, 1989, as calculated under Section 202.3.

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

25 (4) (Blank).

26 (5) (Blank).

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

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

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

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 receiving
21 income in or as a resident of this State. The Personal Property
22 Tax Replacement Income Tax shall be in addition to the income
23 tax imposed by subsections (a) and (b) of this Section and in
24 addition to all other occupation or privilege taxes imposed by
25 this State or by any municipal corporation or political
26 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 such
8 income by the foreign insurer's state of domicile. For the
9 purposes of this subsection (d-1), an inter-affiliate includes
10 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 foreign
15 insurer under this Act for a taxable year, net of all
16 credits allowed under this Act, plus

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

1 no event increase the rates imposed under subsections (b)
2 and (d).

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

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

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

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

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

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

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

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

1 component of a building such as landscaping, sewer
2 lines, local access roads, fencing, parking lots, and
3 other appurtenances;

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

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

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

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

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

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

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

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

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

24 (7) If during any taxable year, any property ceases to
25 be qualified property in the hands of the taxpayer within
26 48 months after being placed in service, or the situs of

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

14 (8) Unless the investment credit is extended by law,
15 the basis of qualified property shall not include costs
16 incurred after December 31, 2013, except for costs incurred
17 pursuant to a binding contract entered into on or before
18 December 31, 2013.

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

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

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

23 (f) Investment credit; Enterprise Zone; River Edge
24 Redevelopment Zone.

25 (1) A taxpayer shall be allowed a credit against the
26 tax imposed by subsections (a) and (b) of this Section for

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

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

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

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

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

14 (C) is acquired by purchase as defined in Section
15 179(d) of the Internal Revenue Code;

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

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

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

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

1 in service in the Enterprise Zone or River Edge
2 Redevelopment Zone by the taxpayer, the amount of such
3 increase shall be deemed property placed in service on the
4 date of such increase in basis.

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

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

24 (7) There shall be allowed an additional credit equal
25 to 0.5% of the basis of qualified property placed in
26 service during the taxable year in a River Edge

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

15 (g) Jobs Tax Credit; Enterprise Zone, River Edge
16 Redevelopment Zone, and Foreign Trade Zone or Sub-Zone.

17 (1) A taxpayer conducting a trade or business in an
18 enterprise zone or a High Impact Business designated by the
19 Department of Commerce and Economic Opportunity or for
20 taxable years ending on or after December 31, 2006, in a
21 River Edge Redevelopment Zone conducting a trade or
22 business in a federally designated Foreign Trade Zone or
23 Sub-Zone shall be allowed a credit against the tax imposed
24 by subsections (a) and (b) of this Section in the amount of
25 \$500 per eligible employee hired to work in the zone during
26 the taxable year.

1 (2) To qualify for the credit:

2 (A) the taxpayer must hire 5 or more eligible
3 employees to work in an enterprise zone, River Edge
4 Redevelopment Zone, or federally designated Foreign
5 Trade Zone or Sub-Zone during the taxable year;

6 (B) the taxpayer's total employment within the
7 enterprise zone, River Edge Redevelopment Zone, or
8 federally designated Foreign Trade Zone or Sub-Zone
9 must increase by 5 or more full-time employees beyond
10 the total employed in that zone at the end of the
11 previous tax year for which a jobs tax credit under
12 this Section was taken, or beyond the total employed by
13 the taxpayer as of December 31, 1985, whichever is
14 later; and

15 (C) the eligible employees must be employed 180
16 consecutive days in order to be deemed hired for
17 purposes of this subsection.

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

19 (A) Certified by the Department of Commerce and
20 Economic Opportunity as "eligible for services"
21 pursuant to regulations promulgated in accordance with
22 Title II of the Job Training Partnership Act, Training
23 Services for the Disadvantaged or Title III of the Job
24 Training Partnership Act, Employment and Training
25 Assistance for Dislocated Workers Program.

26 (B) Hired after the enterprise zone, River Edge

1 Redevelopment Zone, or federally designated Foreign
2 Trade Zone or Sub-Zone was designated or the trade or
3 business was located in that zone, whichever is later.

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

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

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

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

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

6 (h) Investment credit; High Impact Business.

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

1 The credit for additional investments beyond the minimum
2 investment by a designated high impact business authorized
3 under subdivision (a) (3) (A) of Section 5.5 of the Illinois
4 Enterprise Zone Act shall be available only in the taxable
5 year in which the property is placed in service and shall
6 not be allowed to the extent that it would reduce a
7 taxpayer's liability for the tax imposed by subsections (a)
8 and (b) of this Section to below zero. For tax years ending
9 on or after December 31, 1987, the credit shall be allowed
10 for the tax year in which the property is placed in
11 service, or, if the amount of the credit exceeds the tax
12 liability for that year, whether it exceeds the original
13 liability or the liability as later amended, such excess
14 may be carried forward and applied to the tax liability of
15 the 5 taxable years following the excess credit year. The
16 credit shall be applied to the earliest year for which
17 there is a liability. If there is credit from more than one
18 tax year that is available to offset a liability, the
19 credit accruing first in time shall be applied first.

20 Changes made in this subdivision (h) (1) by Public Act
21 88-670 restore changes made by Public Act 85-1182 and
22 reflect existing law.

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

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

26 (B) is depreciable pursuant to Section 167 of the

1 Internal Revenue Code, except that "3-year property"
2 as defined in Section 168(c)(2)(A) of that Code is not
3 eligible for the credit provided by this subsection
4 (h);

5 (C) is acquired by purchase as defined in Section
6 179(d) of the Internal Revenue Code; and

7 (D) is not eligible for the Enterprise Zone
8 Investment Credit provided by subsection (f) of this
9 Section.

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

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

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

21 (6) If during any taxable year ending on or before
22 December 31, 1996, any property ceases to be qualified
23 property in the hands of the taxpayer within 48 months
24 after being placed in service, or the situs of any
25 qualified property is moved outside Illinois within 48
26 months after being placed in service, the tax imposed under

1 subsections (a) and (b) of this Section for such taxable
2 year shall be increased. Such increase shall be determined
3 by (i) recomputing the investment credit which would have
4 been allowed for the year in which credit for such property
5 was originally allowed by eliminating such property from
6 such computation, and (ii) subtracting such recomputed
7 credit from the amount of credit previously allowed. For
8 the purposes of this paragraph (6), a reduction of the
9 basis of qualified property resulting from a
10 redetermination of the purchase price shall be deemed a
11 disposition of qualified property to the extent of such
12 reduction.

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

23 (i) Credit for Personal Property Tax Replacement Income
24 Tax. For tax years ending prior to December 31, 2003, a credit
25 shall be allowed against the tax imposed by subsections (a) and
26 (b) of this Section for the tax imposed by subsections (c) and

1 (d) of this Section. This credit shall be computed by
2 multiplying the tax imposed by subsections (c) and (d) of this
3 Section by a fraction, the numerator of which is base income
4 allocable to Illinois and the denominator of which is Illinois
5 base income, and further multiplying the product by the tax
6 rate imposed by subsections (a) and (b) of this Section.

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

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

1 imposed by subsections (c) and (d). If any portion of the
2 reduced amount of credit has been carried to a different
3 taxable year, an amended return shall be filed for such taxable
4 year to reduce the amount of credit claimed.

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

24 Any credit allowed under this subsection which is unused in
25 the year the credit is earned may be carried forward to each of
26 the 5 taxable years following the year for which the credit is

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

8 (k) Research and development credit.

9 For tax years ending after July 1, 1990 and prior to
10 December 31, 2003, and beginning again for tax years ending on
11 or after December 31, 2004, a taxpayer shall be allowed a
12 credit against the tax imposed by subsections (a) and (b) of
13 this Section for increasing research activities in this State.
14 The credit allowed against the tax imposed by subsections (a)
15 and (b) shall be equal to 6 1/2% of the qualifying expenditures
16 for 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

1 credit for increasing research activities which would be
2 allowable under Section 41 of the Internal Revenue Code and
3 which are conducted in this State, "qualifying expenditures for
4 increasing research activities in this State" means the excess
5 of qualifying expenditures for the taxable year in which
6 incurred over qualifying expenditures for the base period,
7 "qualifying expenditures for the base period" means the average
8 of the qualifying expenditures for each year in the base
9 period, and "base period" means the 3 taxable years immediately
10 preceding the taxable year for which the determination is being
11 made.

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

20 If an unused credit is carried forward to a given year from
21 2 or more earlier years, that credit arising in the earliest
22 year will be applied first against the tax liability for the
23 given year. If a tax liability for the given year still
24 remains, the credit from the next earliest year will then be
25 applied, and so on, until all credits have been used or no tax
26 liability for the given year remains. Any remaining unused

1 credit or credits then will be carried forward to the next
2 following year in which a tax liability is incurred, except
3 that no credit can be carried forward to a year which is more
4 than 5 years after the year in which the expense for which the
5 credit is given was incurred.

6 No inference shall be drawn from this amendatory Act of the
7 91st General Assembly in construing this Section for taxable
8 years beginning before January 1, 1999.

9 (1) Environmental Remediation Tax Credit.

10 (i) For tax years ending after December 31, 1997 and on
11 or before December 31, 2001, a taxpayer shall be allowed a
12 credit against the tax imposed by subsections (a) and (b)
13 of this Section for certain amounts paid for unreimbursed
14 eligible remediation costs, as specified in this
15 subsection. For purposes of this Section, "unreimbursed
16 eligible remediation costs" means costs approved by the
17 Illinois Environmental Protection Agency ("Agency") under
18 Section 58.14 of the Environmental Protection Act that were
19 paid in performing environmental remediation at a site for
20 which a No Further Remediation Letter was issued by the
21 Agency and recorded under Section 58.10 of the
22 Environmental Protection Act. The credit must be claimed
23 for the taxable year in which Agency approval of the
24 eligible remediation costs is granted. The credit is not
25 available to any taxpayer if the taxpayer or any related
26 party caused or contributed to, in any material respect, a

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

1 the sale. In no event may a credit be transferred to any
2 taxpayer if the taxpayer or a related party would not be
3 eligible under the provisions of subsection (i).

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

7 (m) Education expense credit. Beginning with tax years
8 ending after December 31, 1999, a taxpayer who is the custodian
9 of one or more qualifying pupils shall be allowed a credit
10 against the tax imposed by subsections (a) and (b) of this
11 Section for qualified education expenses incurred on behalf of
12 the qualifying pupils. The credit shall be equal to 25% of
13 qualified education expenses, but in no event may the total
14 credit under this subsection claimed by a family that is the
15 custodian of qualifying pupils exceed \$500. In no event shall a
16 credit under this subsection reduce the taxpayer's liability
17 under this Act to less than zero. This subsection is exempt
18 from the provisions of Section 250 of this Act.

19 For purposes of this subsection:

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

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

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

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

15 (n) River Edge Redevelopment Zone site remediation tax
16 credit.

17 (i) For tax years ending on or after December 31, 2006,
18 a taxpayer shall be allowed a credit against the tax
19 imposed by subsections (a) and (b) of this Section for
20 certain amounts paid for unreimbursed eligible remediation
21 costs, as specified in this subsection. For purposes of
22 this Section, "unreimbursed eligible remediation costs"
23 means costs approved by the Illinois Environmental
24 Protection Agency ("Agency") under Section 58.14a of the
25 Environmental Protection Act that were paid in performing
26 environmental remediation at a site within a River Edge

1 Redevelopment Zone for which a No Further Remediation
2 Letter was issued by the Agency and recorded under Section
3 58.10 of the Environmental Protection Act. The credit must
4 be claimed for the taxable year in which Agency approval of
5 the eligible remediation costs is granted. The credit is
6 not available to any taxpayer if the taxpayer or any
7 related party caused or contributed to, in any material
8 respect, a release of regulated substances on, in, or under
9 the site that was identified and addressed by the remedial
10 action pursuant to the Site Remediation Program of the
11 Environmental Protection Act. Determinations as to credit
12 availability for purposes of this Section shall be made
13 consistent with rules adopted by the Pollution Control
14 Board pursuant to the Illinois Administrative Procedure
15 Act for the administration and enforcement of Section 58.9
16 of the Environmental Protection Act. For purposes of this
17 Section, "taxpayer" includes a person whose tax attributes
18 the taxpayer has succeeded to under Section 381 of the
19 Internal Revenue Code and "related party" includes the
20 persons disallowed a deduction for losses by paragraphs
21 (b), (c), and (f)(1) of Section 267 of the Internal Revenue
22 Code by virtue of being a related taxpayer, as well as any
23 of its partners. The credit allowed against the tax imposed
24 by subsections (a) and (b) shall be equal to 25% of the
25 unreimbursed eligible remediation costs in excess of
26 \$100,000 per site.

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

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

26 (iv) This subsection is exempt from the provisions of

1 Section 250.

2 (Source: P.A. 95-454, eff. 8-27-07; 96-115, eff. 7-31-09;

3 96-116, eff. 7-31-09; revised 8-20-09.)".