



Rep. Barbara Flynn Currie

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1 AMENDMENT TO SENATE BILL 4

2 AMENDMENT NO. _____. Amend Senate Bill 4 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Corporate Accountability for Tax
5 Expenditures Act is amended by changing Section 25 as follows:

6 (20 ILCS 715/25)

7 Sec. 25. Recapture.

8 (a) All development assistance agreements shall contain,
9 at a minimum, the following recapture provisions:

10 (1) The recipient must (i) make the level of capital
11 investment in the economic development project specified
12 in the development assistance agreement; (ii) create or
13 retain, or both, the requisite number of jobs, paying not
14 less than specified wages for the created and retained
15 jobs, within and for the duration of the time period
16 specified in the legislation authorizing, or the

1 administrative rules implementing, the development
2 assistance programs and the development assistance
3 agreement.

4 (2) If the recipient fails to create or retain the
5 requisite number of jobs within and for the time period
6 specified, in the legislation authorizing, or the
7 administrative rules implementing, the development
8 assistance programs and the development assistance
9 agreement, the recipient shall be deemed to no longer
10 qualify for the State economic assistance and the
11 applicable recapture provisions shall take effect.

12 (3) If the recipient receives State economic
13 assistance in the form of a High Impact Business
14 designation pursuant to Section 5.5 of the Illinois
15 Enterprise Zone Act and the business receives the benefit
16 of the exemption authorized under Section 51 of the
17 Retailers' Occupation Tax Act (for the sale of building
18 materials incorporated into a High Impact Business
19 location) and the recipient fails to create or retain the
20 requisite number of jobs, as determined by the legislation
21 authorizing the development assistance programs or the
22 administrative rules implementing such legislation, or
23 both, within the requisite period of time, the recipient
24 shall be required to pay to the State the full amount of
25 the State tax exemption that it received as a result of the
26 High Impact Business designation.

1 (4) If the recipient receives a grant or loan pursuant
2 to the Large Business Development Program, the Business
3 Development Public Infrastructure Program, or the
4 Industrial Training Program and the recipient fails to
5 create or retain the requisite number of jobs for the
6 requisite time period, as provided in the legislation
7 authorizing the development assistance programs or the
8 administrative rules implementing such legislation, or
9 both, or in the development assistance agreement, the
10 recipient shall be required to repay to the State a pro
11 rata amount of the grant; that amount shall reflect the
12 percentage of the deficiency between the requisite number
13 of jobs to be created or retained by the recipient and the
14 actual number of such jobs in existence as of the date the
15 Department determines the recipient is in breach of the job
16 creation or retention covenants contained in the
17 development assistance agreement. If the recipient of
18 development assistance under the Large Business
19 Development Program, the Business Development Public
20 Infrastructure Program, or the Industrial Training Program
21 ceases operations at the specific project site, during the
22 5-year period commencing on the date of assistance, the
23 recipient shall be required to repay the entire amount of
24 the grant or to accelerate repayment of the loan back to
25 the State.

26 (5) If the recipient receives a tax credit under the

1 Economic Development for a Growing Economy tax credit
2 program, the development assistance agreement must provide
3 that (i) if the number of new or retained employees falls
4 below the requisite number set forth in the development
5 assistance agreement, the allowance of the credit shall be
6 automatically suspended until the number of new and
7 retained employees equals or exceeds the requisite number
8 in the development assistance agreement; (ii) if the
9 recipient discontinues operations at the specific project
10 site during the 5-year period after the beginning of the
11 first tax year for which the Department issues a tax credit
12 certificate ~~the first 5 years of the 10-year term of the~~
13 ~~development assistance agreement~~, the recipient shall
14 forfeit all credits taken by the recipient during such
15 5-year period; and (iii) in the event of a revocation or
16 suspension of the credit, the Department shall contact the
17 Director of Revenue to initiate proceedings against the
18 recipient to recover wrongfully exempted Illinois State
19 income taxes and the recipient shall promptly repay to the
20 Department of Revenue any wrongfully exempted Illinois
21 State income taxes. The forfeited amount of credits shall
22 be deemed assessed on the date the Department contacts the
23 Department of Revenue and the recipient shall promptly
24 repay to the Department of Revenue any wrongfully exempted
25 Illinois State income taxes.

26 (b) The Director may elect to waive enforcement of any

1 contractual provision arising out of the development
2 assistance agreement required by this Act based on a finding
3 that the waiver is necessary to avert an imminent and
4 demonstrable hardship to the recipient that may result in such
5 recipient's insolvency or discharge of workers. If a waiver is
6 granted, the recipient must agree to a contractual
7 modification, including recapture provisions, to the
8 development assistance agreement. The existence of any waiver
9 granted pursuant to this subsection (c), the date of the
10 granting of such waiver, and a brief summary of the reasons
11 supporting the granting of such waiver shall be disclosed
12 consistent with the provisions of Section 25 of this Act.

13 (c) Beginning June 1, 2004, the Department shall annually
14 compile a report on the outcomes and effectiveness of recapture
15 provisions by program, including but not limited to: (i) the
16 total number of companies that receive development assistance
17 as defined in this Act; (ii) the total number of recipients in
18 violation of development agreements with the Department; (iii)
19 the total number of completed recapture efforts; (iv) the total
20 number of recapture efforts initiated; and (v) the number of
21 waivers granted. This report shall be disclosed consistent with
22 the provisions of Section 20 of this Act.

23 (d) For the purposes of this Act, recapture provisions do
24 not include the Illinois Department of Transportation Economic
25 Development Program, any grants under the Industrial Training
26 Program that are not given as an incentive to a recipient

1 business organization, or any successor programs as described
2 in the term "development assistance" in Section 5 of this Act.
3 (Source: P.A. 93-552, eff. 8-20-03.)

4 Section 10. 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

1 1/2% of the taxpayer's net income for the period prior to
2 July 1, 1989, as calculated under Section 202.3, and (ii)
3 3% of the taxpayer's net income for the period after June
4 30, 1989, as calculated under Section 202.3.

5 (3) In the case of an individual, trust or estate, for
6 taxable years beginning after June 30, 1989, and ending
7 prior to January 1, 2011, an amount equal to 3% of the
8 taxpayer's net income for the taxable year.

9 (4) In the case of an individual, trust, or estate, for
10 taxable years beginning prior to January 1, 2011, and
11 ending after December 31, 2010, an amount equal to the sum
12 of (i) 3% of the taxpayer's net income for the period prior
13 to January 1, 2011, as calculated under Section 202.5, and
14 (ii) 5% of the taxpayer's net income for the period after
15 December 31, 2010, as calculated under Section 202.5.

16 (5) In the case of an individual, trust, or estate, for
17 taxable years beginning on or after January 1, 2011, and
18 ending prior to January 1, 2015, an amount equal to 5% of
19 the taxpayer's net income for the taxable year.

20 (5.1) In the case of an individual, trust, or estate,
21 for taxable years beginning prior to January 1, 2015, and
22 ending after December 31, 2014, an amount equal to the sum
23 of (i) 5% of the taxpayer's net income for the period prior
24 to January 1, 2015, as calculated under Section 202.5, and
25 (ii) 3.75% of the taxpayer's net income for the period
26 after December 31, 2014, as calculated under Section 202.5.

1 (5.2) In the case of an individual, trust, or estate,
2 for taxable years beginning on or after January 1, 2015,
3 and ending prior to January 1, 2025, an amount equal to
4 3.75% of the taxpayer's net income for the taxable year.

5 (5.3) In the case of an individual, trust, or estate,
6 for taxable years beginning prior to January 1, 2025, and
7 ending after December 31, 2024, an amount equal to the sum
8 of (i) 3.75% of the taxpayer's net income for the period
9 prior to January 1, 2025, as calculated under Section
10 202.5, and (ii) 3.25% of the taxpayer's net income for the
11 period after December 31, 2024, as calculated under Section
12 202.5.

13 (5.4) In the case of an individual, trust, or estate,
14 for taxable years beginning on or after January 1, 2025, an
15 amount equal to 3.25% of the taxpayer's net income for the
16 taxable year.

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

20 (7) In the case of a corporation, for taxable years
21 beginning prior to July 1, 1989 and ending after June 30,
22 1989, an amount equal to the sum of (i) 4% of the
23 taxpayer's net income for the period prior to July 1, 1989,
24 as calculated under Section 202.3, and (ii) 4.8% of the
25 taxpayer's net income for the period after June 30, 1989,
26 as calculated under Section 202.3.

1 (8) In the case of a corporation, for taxable years
2 beginning after June 30, 1989, and ending prior to January
3 1, 2011, an amount equal to 4.8% of the taxpayer's net
4 income for the taxable year.

5 (9) In the case of a corporation, for taxable years
6 beginning prior to January 1, 2011, and ending after
7 December 31, 2010, an amount equal to the sum of (i) 4.8%
8 of the taxpayer's net income for the period prior to
9 January 1, 2011, as calculated under Section 202.5, and
10 (ii) 7% of the taxpayer's net income for the period after
11 December 31, 2010, as calculated under Section 202.5.

12 (10) In the case of a corporation, for taxable years
13 beginning on or after January 1, 2011, and ending prior to
14 January 1, 2015, an amount equal to 7% of the taxpayer's
15 net income for the taxable year.

16 (11) In the case of a corporation, for taxable years
17 beginning prior to January 1, 2015, and ending after
18 December 31, 2014, an amount equal to the sum of (i) 7% of
19 the taxpayer's net income for the period prior to January
20 1, 2015, as calculated under Section 202.5, and (ii) 5.25%
21 of the taxpayer's net income for the period after December
22 31, 2014, as calculated under Section 202.5.

23 (12) In the case of a corporation, for taxable years
24 beginning on or after January 1, 2015, and ending prior to
25 January 1, 2025, an amount equal to 5.25% of the taxpayer's
26 net income for the taxable year.

1 (13) In the case of a corporation, for taxable years
2 beginning prior to January 1, 2025, and ending after
3 December 31, 2024, an amount equal to the sum of (i) 5.25%
4 of the taxpayer's net income for the period prior to
5 January 1, 2025, as calculated under Section 202.5, and
6 (ii) 4.8% of the taxpayer's net income for the period after
7 December 31, 2024, as calculated under Section 202.5.

8 (14) In the case of a corporation, for taxable years
9 beginning on or after January 1, 2025, an amount equal to
10 4.8% of the taxpayer's net income for the taxable year.

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

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

26 (d) Additional Personal Property Tax Replacement Income

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

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

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

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

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

16 (B) the privilege tax imposed by Section 409 of the
17 Illinois Insurance Code, the fire insurance company
18 tax imposed by Section 12 of the Fire Investigation
19 Act, and the fire department taxes imposed under
20 Section 11-10-1 of the Illinois Municipal Code,
21 equals 1.25% for taxable years ending prior to December 31,
22 2003, or 1.75% for taxable years ending on or after
23 December 31, 2003, of the net taxable premiums written for
24 the taxable year, as described by subsection (1) of Section
25 409 of the Illinois Insurance Code. This paragraph will in
26 no event increase the rates imposed under subsections (b)

1 and (d).

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

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

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

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

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

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

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

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

1 lines, local access roads, fencing, parking lots, and
2 other appurtenances;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (4) If the basis of the property for federal income tax
25 depreciation purposes is increased after it has been placed
26 in service in the Enterprise Zone or River Edge

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

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

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

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

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

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

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

26 (2) To qualify for the credit:

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

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

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

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

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

25 (B) Hired after the enterprise zone, River Edge
26 Redevelopment Zone, or federally designated Foreign

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

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

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

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

26 (5) The Department of Revenue shall promulgate such

1 rules and regulations as may be deemed necessary to carry
2 out the purposes of this subsection (g).

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

5 (h) Investment credit; High Impact Business.

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

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

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

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

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

25 (B) is depreciable pursuant to Section 167 of the
26 Internal Revenue Code, except that "3-year property"

1 as defined in Section 168(c)(2)(A) of that Code is not
2 eligible for the credit provided by this subsection
3 (h);

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

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

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

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

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

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

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

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

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

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

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

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

1 reduced amount of credit has been carried to a different
2 taxable year, an amended return shall be filed for such taxable
3 year to reduce the amount of credit claimed.

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

23 Any credit allowed under this subsection which is unused in
24 the year the credit is earned may be carried forward to each of
25 the 5 taxable years following the year for which the credit is
26 first computed until it is used. This credit shall be applied

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

7 (k) Research and development credit.

8 For tax years ending after July 1, 1990 and prior to
9 December 31, 2003, and beginning again for tax years ending on
10 or after December 31, 2004, and ending prior to January 1,
11 2011, a taxpayer shall be allowed a credit against the tax
12 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

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, and no credit may be
20 carried forward to any taxable year ending on or after January
21 1, 2011.

22 If an unused credit is carried forward to a given year from
23 2 or more earlier years, that credit arising in the earliest
24 year will be applied first against the tax liability for the
25 given year. If a tax liability for the given year still
26 remains, the credit from the next earliest year will then be

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

8 No inference shall be drawn from this amendatory Act of the
9 91st General Assembly in construing this Section for taxable
10 years beginning before January 1, 1999.

11 (1) Environmental Remediation Tax Credit.

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

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

1 a maximum total of \$150,000 per site. For partners and
2 shareholders of subchapter S corporations, there shall be
3 allowed a credit under this subsection to be determined in
4 accordance with the determination of income and
5 distributive share of income under Sections 702 and 704 and
6 subchapter S of the Internal Revenue Code.

7 (ii) A credit allowed under this subsection that is
8 unused in the year the credit is earned may be carried
9 forward to each of the 5 taxable years following the year
10 for which the credit is first earned until it is used. The
11 term "unused credit" does not include any amounts of
12 unreimbursed eligible remediation costs in excess of the
13 maximum credit per site authorized under paragraph (i).
14 This credit shall be applied first to the earliest year for
15 which there is a liability. If there is a credit under this
16 subsection from more than one tax year that is available to
17 offset a liability, the earliest credit arising under this
18 subsection shall be applied first. A credit allowed under
19 this subsection may be sold to a buyer as part of a sale of
20 all or part of the remediation site for which the credit
21 was granted. The purchaser of a remediation site and the
22 tax credit shall succeed to the unused credit and remaining
23 carry-forward period of the seller. To perfect the
24 transfer, the assignor shall record the transfer in the
25 chain of title for the site and provide written notice to
26 the Director of the Illinois Department of Revenue of the

1 assignor's intent to sell the remediation site and the
2 amount of the tax credit to be transferred as a portion of
3 the sale. In no event may a credit be transferred to any
4 taxpayer if the taxpayer or a related party would not be
5 eligible under the provisions of subsection (i).

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

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

21 For purposes of this subsection:

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

1 twelfth grade education program at any school, as defined in
2 this subsection.

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

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

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

17 (n) River Edge Redevelopment Zone site remediation tax
18 credit.

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

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

1 unreimbursed eligible remediation costs in excess of
2 \$100,000 per site.

3 (ii) A credit allowed under this subsection that is
4 unused in the year the credit is earned may be carried
5 forward to each of the 5 taxable years following the year
6 for which the credit is first earned until it is used. This
7 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

1 Environmental Protection Act.

2 ~~(iv) This subsection is exempt from the provisions of~~
3 ~~Section 250.~~

4 (Source: P.A. 95-454, eff. 8-27-07; 96-115, eff. 7-31-09;
5 96-116, eff. 7-31-09; 96-937, eff. 6-23-10; 96-1000, eff.
6 7-2-10; 96-1496, eff. 1-13-11.)

7 Section 15. The Economic Development for a Growing Economy
8 Tax Credit Act is amended by changing Sections 5-15 and 5-50
9 and by adding Section 5-77 as follows:

10 (35 ILCS 10/5-15)

11 Sec. 5-15. Tax Credit Awards. Subject to the conditions set
12 forth in this Act, a Taxpayer is entitled to a Credit against
13 or, as described in subsection (g) of this Section, a payment
14 towards taxes imposed pursuant to subsections (a) and (b) of
15 Section 201 of the Illinois Income Tax Act that may be imposed
16 on the Taxpayer for a taxable year beginning on or after
17 January 1, 1999, if the Taxpayer is awarded a Credit by the
18 Department under this Act for that taxable year.

19 (a) The Department shall make Credit awards under this Act
20 to foster job creation and retention in Illinois.

21 (b) A person that proposes a project to create new jobs in
22 Illinois must enter into an Agreement with the Department for
23 the Credit under this Act.

24 (c) The Credit shall be claimed for the taxable years

1 specified in the Agreement.

2 (d) The Credit shall not exceed the Incremental Income Tax
3 attributable to the project that is the subject of the
4 Agreement.

5 (e) Nothing herein shall prohibit a Tax Credit Award to an
6 Applicant that uses a PEO if all other award criteria are
7 satisfied.

8 (f) In lieu of the Credit allowed under this Act against
9 the taxes imposed pursuant to subsections (a) and (b) of
10 Section 201 of the Illinois Income Tax Act for any taxable year
11 ending on or after December 31, 2009, the Taxpayer may elect to
12 claim the Credit against its obligation to pay over withholding
13 under Section 704A of the Illinois Income Tax Act.

14 (1) The election under this subsection (f) may be made
15 only by a Taxpayer that (i) is primarily engaged in one of
16 the following business activities: water purification and
17 treatment, motor vehicle metal stamping, automobile
18 manufacturing, automobile and light duty motor vehicle
19 manufacturing, motor vehicle manufacturing, light truck
20 and utility vehicle manufacturing, heavy duty truck
21 manufacturing, ~~or~~ motor vehicle body manufacturing, cable
22 television infrastructure design or manufacturing, or
23 wireless telecommunication or computing terminal device
24 design or manufacturing for use on public networks and (ii)
25 meets the following criteria:

26 (A) the Taxpayer (i) had an Illinois net loss or an

1 Illinois net loss deduction under Section 207 of the
2 Illinois Income Tax Act for the taxable year in which
3 the Credit is awarded, (ii) employed a minimum of 1,000
4 full-time employees in this State during the taxable
5 year in which the Credit is awarded, (iii) has an
6 Agreement under this Act on December 14, 2009 (the
7 effective date of Public Act 96-834), and (iv) is in
8 compliance with all provisions of that Agreement;

9 (B) the Taxpayer (i) had an Illinois net loss or an
10 Illinois net loss deduction under Section 207 of the
11 Illinois Income Tax Act for the taxable year in which
12 the Credit is awarded, (ii) employed a minimum of 1,000
13 full-time employees in this State during the taxable
14 year in which the Credit is awarded, and (iii) has
15 applied for an Agreement within 365 days after December
16 14, 2009 (the effective date of Public Act 96-834);

17 (C) the Taxpayer (i) had an Illinois net operating
18 loss carryforward under Section 207 of the Illinois
19 Income Tax Act in a taxable year ending during calendar
20 year 2008, (ii) has applied for an Agreement within 150
21 days after the effective date of this amendatory Act of
22 the 96th General Assembly, (iii) creates at least 400
23 new jobs in Illinois, (iv) retains at least 2,000 jobs
24 in Illinois that would have been at risk of relocation
25 out of Illinois over a 10-year period, and (v) makes a
26 capital investment of at least \$75,000,000; ~~or~~

1 (D) the Taxpayer (i) had an Illinois net operating
2 loss carryforward under Section 207 of the Illinois
3 Income Tax Act in a taxable year ending during calendar
4 year 2009, (ii) has applied for an Agreement within 150
5 days after the effective date of this amendatory Act of
6 the 96th General Assembly, (iii) creates at least 150
7 new jobs, (iv) retains at least 1,000 jobs in Illinois
8 that would have been at risk of relocation out of
9 Illinois over a 10-year period, and (v) makes a capital
10 investment of at least \$57,000,000; or-

11 (E) the Taxpayer (i) employed at least 2,500
12 full-time employees in the State during the year in
13 which the Credit is awarded, (ii) commits to make at
14 least \$500,000,000 in combined capital improvements
15 and project costs under the Agreement, (iii) applies
16 for an Agreement between January 1, 2011 and June 30,
17 2011, (iv) executes an Agreement for the Credit during
18 calendar year 2011, and (v) was incorporated no more
19 than 5 years before the filing of an application for an
20 Agreement.

21 (1.5) The election under this subsection (f) may also
22 be made by a Taxpayer for any Credit awarded pursuant to an
23 agreement that was executed between January 1, 2011 and
24 June 30, 2011, if the Taxpayer (i) is primarily engaged in
25 the manufacture of inner tubes or tires, or both, from
26 natural and synthetic rubber, (ii) employs a minimum of

1 2,400 full-time employees in Illinois at the time of
2 application, (iii) creates at least 350 full-time jobs and
3 retains at least 250 full-time jobs in Illinois that would
4 have been at risk of being created or retained outside of
5 Illinois, and (iv) makes a capital investment of at least
6 \$200,000,000 at the project location.

7 (2) An election under this subsection shall allow the
8 credit to be taken against payments otherwise due under
9 Section 704A of the Illinois Income Tax Act during the
10 first calendar year beginning after the end of the taxable
11 year in which the credit is awarded under this Act.

12 (3) The election shall be made in the form and manner
13 required by the Illinois Department of Revenue and, once
14 made, shall be irrevocable.

15 (4) If a Taxpayer who meets the requirements of
16 subparagraph (A) of paragraph (1) of this subsection (f)
17 elects to claim the Credit against its withholdings as
18 provided in this subsection (f), then, on and after the
19 date of the election, the terms of the Agreement between
20 the Taxpayer and the Department may not be further amended
21 during the term of the Agreement.

22 (g) A pass-through entity that has been awarded a credit
23 under this Act, its shareholders, or its partners may treat
24 some or all of the credit awarded pursuant to this Act as a tax
25 payment for purposes of the Illinois Income Tax Act. The term
26 "tax payment" means a payment as described in Article 6 or

1 Article 8 of the Illinois Income Tax Act or a composite payment
2 made by a pass-through entity on behalf of any of its
3 shareholders or partners to satisfy such shareholders' or
4 partners' taxes imposed pursuant to subsections (a) and (b) of
5 Section 201 of the Illinois Income Tax Act. In no event shall
6 the amount of the award credited pursuant to this Act exceed
7 the Illinois income tax liability of the pass-through entity or
8 its shareholders or partners for the taxable year.

9 (Source: P.A. 95-375, eff. 8-23-07; 96-834, eff. 12-14-09;
10 96-836, eff. 12-16-09; 96-905, eff. 6-4-10; 96-1000, eff.
11 7-2-10; 96-1534, eff. 3-4-11.)

12 (35 ILCS 10/5-50)

13 Sec. 5-50. Contents of Agreements with Applicants. The
14 Department shall enter into an Agreement with an Applicant that
15 is awarded a Credit under this Act. The Agreement must include
16 all of the following:

17 (1) A detailed description of the project that is the
18 subject of the Agreement, including the location and amount
19 of the investment and jobs created or retained.

20 (2) The duration of the Credit and the first taxable
21 year for which the Credit may be claimed.

22 (3) The Credit amount that will be allowed for each
23 taxable year.

24 (4) A requirement that the Taxpayer shall maintain
25 operations at the project location that shall be stated as

1 a minimum number of years not to exceed 10.

2 (5) A specific method for determining the number of New
3 Employees employed during a taxable year.

4 (6) A requirement that the Taxpayer shall annually
5 report to the Department the number of New Employees, the
6 Incremental Income Tax withheld in connection with the New
7 Employees, and any other information the Director needs to
8 perform the Director's duties under this Act.

9 (7) A requirement that the Director is authorized to
10 verify with the appropriate State agencies the amounts
11 reported under paragraph (6), and after doing so shall
12 issue a certificate to the Taxpayer stating that the
13 amounts have been verified.

14 (8) A requirement that the Taxpayer shall provide
15 written notification to the Director not more than 30 days
16 after the Taxpayer makes or receives a proposal that would
17 transfer the Taxpayer's State tax liability obligations to
18 a successor Taxpayer.

19 (9) A detailed description of the number of New
20 Employees to be hired, and the occupation and payroll of
21 the full-time jobs to be created or retained as a result of
22 the project.

23 (10) The minimum investment the business enterprise
24 will make in capital improvements, the time period for
25 placing the property in service, and the designated
26 location in Illinois for the investment.

1 (11) A requirement that the Taxpayer shall provide
2 written notification to the Director and the Committee not
3 more than 30 days after the Taxpayer determines that the
4 minimum job creation or retention, employment payroll, or
5 investment no longer is being or will be achieved or
6 maintained as set forth in the terms and conditions of the
7 Agreement.

8 (12) A provision that, if the total number of New
9 Employees falls below a specified level, the allowance of
10 Credit shall be suspended until the number of New Employees
11 equals or exceeds the Agreement amount.

12 (13) A detailed description of the items for which the
13 costs incurred by the Taxpayer will be included in the
14 limitation on the Credit provided in Section 5-30.

15 (13.5) A provision that, if the Taxpayer never meets
16 either the investment or job creation and retention
17 requirements specified in the Agreement during the entire
18 5-year period beginning on the first day of the first
19 taxable year in which the Agreement is executed and ending
20 on the last day of the fifth taxable year after the
21 Agreement is executed, then the Agreement is automatically
22 terminated on the last day of the fifth taxable year after
23 the Agreement is executed and the Taxpayer is not entitled
24 to the award of any credits for any of that 5-year period.

25 (14) Any other performance conditions or contract
26 provisions as the Department determines are appropriate.

1 (Source: P.A. 91-476, eff. 8-11-99.)

2 (35 ILCS 10/5-77 new)

3 Sec. 5-77. Sunset of new Agreements. The Department shall
4 not enter into any new Agreements under the provisions of
5 Section 5-50 of this Act after December 31, 2016.

6 Section 20. The Film Production Services Tax Credit Act of
7 2008 is amended by adding Section 42 as follows:

8 (35 ILCS 16/42 new)

9 Sec. 42. Sunset of credits. The application of credits
10 awarded pursuant to this Act shall be limited by a reasonable
11 and appropriate sunset date. A taxpayer shall not be entitled
12 to take a credit awarded pursuant to this Act for tax years
13 beginning on or after 5 years after the effective date of this
14 amendatory Act of the 97th General Assembly.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.".