



Rep. Mark L. Walker

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LRB103 04639 HLH 58237 a

1 AMENDMENT TO HOUSE BILL 1578

2 AMENDMENT NO. _____. Amend House Bill 1578 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Income Tax Act is amended by
5 changing Sections 201 and 704A as follows:

6 (35 ILCS 5/201)

7 Sec. 201. Tax imposed.

8 (a) In general. A tax measured by net income is hereby
9 imposed on every individual, corporation, trust and estate for
10 each taxable year ending after July 31, 1969 on the privilege
11 of earning or receiving income in or as a resident of this
12 State. Such tax shall be in addition to all other occupation or
13 privilege taxes imposed by this State or by any municipal
14 corporation or political subdivision thereof.

15 (b) Rates. The tax imposed by subsection (a) of this
16 Section shall be determined as follows, except as adjusted by

1 subsection (d-1):

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

6 (2) In the case of an individual, trust or estate, for
7 taxable years beginning prior to July 1, 1989 and ending
8 after June 30, 1989, an amount equal to the sum of (i) 2
9 1/2% of the taxpayer's net income for the period prior to
10 July 1, 1989, as calculated under Section 202.3, and (ii)
11 3% of the taxpayer's net income for the period after June
12 30, 1989, as calculated under Section 202.3.

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

17 (4) In the case of an individual, trust, or estate,
18 for taxable years beginning prior to January 1, 2011, and
19 ending after December 31, 2010, an amount equal to the sum
20 of (i) 3% of the taxpayer's net income for the period prior
21 to January 1, 2011, as calculated under Section 202.5, and
22 (ii) 5% of the taxpayer's net income for the period after
23 December 31, 2010, as calculated under Section 202.5.

24 (5) In the case of an individual, trust, or estate,
25 for taxable years beginning on or after January 1, 2011,
26 and ending prior to January 1, 2015, an amount equal to 5%

1 of the taxpayer's net income for the taxable year.

2 (5.1) In the case of an individual, trust, or estate,
3 for taxable years beginning prior to January 1, 2015, and
4 ending after December 31, 2014, an amount equal to the sum
5 of (i) 5% of the taxpayer's net income for the period prior
6 to January 1, 2015, as calculated under Section 202.5, and
7 (ii) 3.75% of the taxpayer's net income for the period
8 after December 31, 2014, as calculated under Section
9 202.5.

10 (5.2) In the case of an individual, trust, or estate,
11 for taxable years beginning on or after January 1, 2015,
12 and ending prior to July 1, 2017, an amount equal to 3.75%
13 of the taxpayer's net income for the taxable year.

14 (5.3) In the case of an individual, trust, or estate,
15 for taxable years beginning prior to July 1, 2017, and
16 ending after June 30, 2017, an amount equal to the sum of
17 (i) 3.75% of the taxpayer's net income for the period
18 prior to July 1, 2017, as calculated under Section 202.5,
19 and (ii) 4.95% of the taxpayer's net income for the period
20 after June 30, 2017, as calculated under Section 202.5.

21 (5.4) In the case of an individual, trust, or estate,
22 for taxable years beginning on or after July 1, 2017, an
23 amount equal to 4.95% of the taxpayer's net income for the
24 taxable year.

25 (6) In the case of a corporation, for taxable years
26 ending prior to July 1, 1989, an amount equal to 4% of the

1 taxpayer's net income for the taxable year.

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

9 (8) In the case of a corporation, for taxable years
10 beginning after June 30, 1989, and ending prior to January
11 1, 2011, an amount equal to 4.8% of the taxpayer's net
12 income for the taxable year.

13 (9) In the case of a corporation, for taxable years
14 beginning prior to January 1, 2011, and ending after
15 December 31, 2010, an amount equal to the sum of (i) 4.8%
16 of the taxpayer's net income for the period prior to
17 January 1, 2011, as calculated under Section 202.5, and
18 (ii) 7% of the taxpayer's net income for the period after
19 December 31, 2010, as calculated under Section 202.5.

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

24 (11) In the case of a corporation, for taxable years
25 beginning prior to January 1, 2015, and ending after
26 December 31, 2014, an amount equal to the sum of (i) 7% of

1 the taxpayer's net income for the period prior to January
2 1, 2015, as calculated under Section 202.5, and (ii) 5.25%
3 of the taxpayer's net income for the period after December
4 31, 2014, as calculated under Section 202.5.

5 (12) In the case of a corporation, for taxable years
6 beginning on or after January 1, 2015, and ending prior to
7 July 1, 2017, an amount equal to 5.25% of the taxpayer's
8 net income for the taxable year.

9 (13) In the case of a corporation, for taxable years
10 beginning prior to July 1, 2017, and ending after June 30,
11 2017, an amount equal to the sum of (i) 5.25% of the
12 taxpayer's net income for the period prior to July 1,
13 2017, as calculated under Section 202.5, and (ii) 7% of
14 the taxpayer's net income for the period after June 30,
15 2017, as calculated under Section 202.5.

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

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

21 (b-5) Surcharge; sale or exchange of assets, properties,
22 and intangibles of organization gaming licensees. For each of
23 taxable years 2019 through 2027, a surcharge is imposed on all
24 taxpayers on income arising from the sale or exchange of
25 capital assets, depreciable business property, real property
26 used in the trade or business, and Section 197 intangibles (i)

1 of an organization licensee under the Illinois Horse Racing
2 Act of 1975 and (ii) of an organization gaming licensee under
3 the Illinois Gambling Act. The amount of the surcharge is
4 equal to the amount of federal income tax liability for the
5 taxable year attributable to those sales and exchanges. The
6 surcharge imposed shall not apply if:

7 (1) the organization gaming license, organization
8 license, or racetrack property is transferred as a result
9 of any of the following:

10 (A) bankruptcy, a receivership, or a debt
11 adjustment initiated by or against the initial
12 licensee or the substantial owners of the initial
13 licensee;

14 (B) cancellation, revocation, or termination of
15 any such license by the Illinois Gaming Board or the
16 Illinois Racing Board;

17 (C) a determination by the Illinois Gaming Board
18 that transfer of the license is in the best interests
19 of Illinois gaming;

20 (D) the death of an owner of the equity interest in
21 a licensee;

22 (E) the acquisition of a controlling interest in
23 the stock or substantially all of the assets of a
24 publicly traded company;

25 (F) a transfer by a parent company to a wholly
26 owned subsidiary; or

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

4 (2) the controlling interest in the organization
5 gaming license, organization license, or racetrack
6 property is transferred in a transaction to lineal
7 descendants in which no gain or loss is recognized or as a
8 result of a transaction in accordance with Section 351 of
9 the Internal Revenue Code in which no gain or loss is
10 recognized; or

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

15 The transfer of an organization gaming license,
16 organization license, or racetrack property by a person other
17 than the initial licensee to receive the organization gaming
18 license is not subject to a surcharge. The Department shall
19 adopt rules necessary to implement and administer this
20 subsection.

21 (c) Personal Property Tax Replacement Income Tax.
22 Beginning on July 1, 1979 and thereafter, in addition to such
23 income tax, there is also hereby imposed the Personal Property
24 Tax Replacement Income Tax measured by net income on every
25 corporation (including Subchapter S corporations), partnership
26 and trust, for each taxable year ending after June 30, 1979.

1 Such taxes are imposed on the privilege of earning or
2 receiving income in or as a resident of this State. The
3 Personal Property Tax Replacement Income Tax shall be in
4 addition to the income tax imposed by subsections (a) and (b)
5 of this Section and in addition to all other occupation or
6 privilege taxes imposed by this State or by any municipal
7 corporation or political subdivision thereof.

8 (d) Additional Personal Property Tax Replacement Income
9 Tax Rates. The personal property tax replacement income tax
10 imposed by this subsection and subsection (c) of this Section
11 in the case of a corporation, other than a Subchapter S
12 corporation and except as adjusted by subsection (d-1), shall
13 be an additional amount equal to 2.85% of such taxpayer's net
14 income for the taxable year, except that beginning on January
15 1, 1981, and thereafter, the rate of 2.85% specified in this
16 subsection shall be reduced to 2.5%, and in the case of a
17 partnership, trust or a Subchapter S corporation shall be an
18 additional amount equal to 1.5% of such taxpayer's net income
19 for the taxable year.

20 (d-1) Rate reduction for certain foreign insurers. In the
21 case of a foreign insurer, as defined by Section 35A-5 of the
22 Illinois Insurance Code, whose state or country of domicile
23 imposes on insurers domiciled in Illinois a retaliatory tax
24 (excluding any insurer whose premiums from reinsurance assumed
25 are 50% or more of its total insurance premiums as determined
26 under paragraph (2) of subsection (b) of Section 304, except

1 that for purposes of this determination premiums from
2 reinsurance do not include premiums from inter-affiliate
3 reinsurance arrangements), beginning with taxable years ending
4 on or after December 31, 1999, the sum of the rates of tax
5 imposed by subsections (b) and (d) shall be reduced (but not
6 increased) to the rate at which the total amount of tax imposed
7 under this Act, net of all credits allowed under this Act,
8 shall equal (i) the total amount of tax that would be imposed
9 on the foreign insurer's net income allocable to Illinois for
10 the taxable year by such foreign insurer's state or country of
11 domicile if that net income were subject to all income taxes
12 and taxes measured by net income imposed by such foreign
13 insurer's state or country of domicile, net of all credits
14 allowed or (ii) a rate of zero if no such tax is imposed on
15 such income by the foreign insurer's state of domicile. For
16 the purposes of this subsection (d-1), an inter-affiliate
17 includes a mutual insurer under common management.

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

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

24 (B) the privilege tax imposed by Section 409 of
25 the Illinois Insurance Code, the fire insurance
26 company tax imposed by Section 12 of the Fire

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

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

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

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

23 (1) A taxpayer shall be allowed a credit equal to .5%
24 of the basis of qualified property placed in service
25 during the taxable year, provided such property is placed
26 in service on or after July 1, 1984. There shall be allowed

1 an additional credit equal to .5% of the basis of
2 qualified property placed in service during the taxable
3 year, provided such property is placed in service on or
4 after July 1, 1986, and the taxpayer's base employment
5 within Illinois has increased by 1% or more over the
6 preceding year as determined by the taxpayer's employment
7 records filed with the Illinois Department of Employment
8 Security. Taxpayers who are new to Illinois shall be
9 deemed to have met the 1% growth in base employment for the
10 first year in which they file employment records with the
11 Illinois Department of Employment Security. The provisions
12 added to this Section by Public Act 85-1200 (and restored
13 by Public Act 87-895) shall be construed as declaratory of
14 existing law and not as a new enactment. If, in any year,
15 the increase in base employment within Illinois over the
16 preceding year is less than 1%, the additional credit
17 shall be limited to that percentage times a fraction, the
18 numerator of which is .5% and the denominator of which is
19 1%, but shall not exceed .5%. The investment credit shall
20 not be allowed to the extent that it would reduce a
21 taxpayer's liability in any tax year below zero, nor may
22 any credit for qualified property be allowed for any year
23 other than the year in which the property was placed in
24 service in Illinois. For tax years ending on or after
25 December 31, 1987, and on or before December 31, 1988, the
26 credit shall be allowed for the tax year in which the

1 property is placed in service, or, if the amount of the
2 credit exceeds the tax liability for that year, whether it
3 exceeds the original liability or the liability as later
4 amended, such excess may be carried forward and applied to
5 the tax liability of the 5 taxable years following the
6 excess credit years if the taxpayer (i) makes investments
7 which cause the creation of a minimum of 2,000 full-time
8 equivalent jobs in Illinois, (ii) is located in an
9 enterprise zone established pursuant to the Illinois
10 Enterprise Zone Act and (iii) is certified by the
11 Department of Commerce and Community Affairs (now
12 Department of Commerce and Economic Opportunity) as
13 complying with the requirements specified in clause (i)
14 and (ii) by July 1, 1986. The Department of Commerce and
15 Community Affairs (now Department of Commerce and Economic
16 Opportunity) shall notify the Department of Revenue of all
17 such certifications immediately. For tax years ending
18 after December 31, 1988, the credit shall be allowed for
19 the tax year in which the property is placed in service,
20 or, if the amount of the credit exceeds the tax liability
21 for that year, whether it exceeds the original liability
22 or the liability as later amended, such excess may be
23 carried forward and applied to the tax liability of the 5
24 taxable years following the excess credit years. The
25 credit shall be applied to the earliest year for which
26 there is a liability. If there is credit from more than one

1 tax year that is available to offset a liability, earlier
2 credit shall be applied first.

3 (2) The term "qualified property" means property
4 which:

5 (A) is tangible, whether new or used, including
6 buildings and structural components of buildings and
7 signs that are real property, but not including land
8 or improvements to real property that are not a
9 structural component of a building such as
10 landscaping, sewer lines, local access roads, fencing,
11 parking lots, and other appurtenances;

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

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

19 (D) is used in Illinois by a taxpayer who is
20 primarily engaged in manufacturing, or in mining coal
21 or fluorite, or in retailing, or was placed in service
22 on or after July 1, 2006 in a River Edge Redevelopment
23 Zone established pursuant to the River Edge
24 Redevelopment Zone Act; and

25 (E) has not previously been used in Illinois in
26 such a manner and by such a person as would qualify for

1 the credit provided by this subsection (e) or
2 subsection (f).

3 (3) For purposes of this subsection (e),
4 "manufacturing" means the material staging and production
5 of tangible personal property by procedures commonly
6 regarded as manufacturing, processing, fabrication, or
7 assembling which changes some existing material into new
8 shapes, new qualities, or new combinations. For purposes
9 of this subsection (e) the term "mining" shall have the
10 same meaning as the term "mining" in Section 613(c) of the
11 Internal Revenue Code. For purposes of this subsection
12 (e), the term "retailing" means the sale of tangible
13 personal property for use or consumption and not for
14 resale, or services rendered in conjunction with the sale
15 of tangible personal property for use or consumption and
16 not for resale. For purposes of this subsection (e),
17 "tangible personal property" has the same meaning as when
18 that term is used in the Retailers' Occupation Tax Act,
19 and, for taxable years ending after December 31, 2008,
20 does not include the generation, transmission, or
21 distribution of electricity.

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

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

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

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

6 (7) 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 Illinois within 48
10 months after being placed in service, the Personal
11 Property Tax Replacement Income Tax for such taxable year
12 shall be increased. Such increase shall be determined by
13 (i) recomputing the investment credit which would have
14 been allowed for the year in which credit for such
15 property was originally allowed by eliminating such
16 property from such computation and, (ii) subtracting such
17 recomputed credit from the amount of credit previously
18 allowed. For the purposes of this paragraph (7), a
19 reduction of the basis of qualified property resulting
20 from a redetermination of the purchase price shall be
21 deemed a disposition of qualified property to the extent
22 of such reduction.

23 (8) Unless the investment credit is extended by law,
24 the basis of qualified property shall not include costs
25 incurred after December 31, 2018, except for costs
26 incurred pursuant to a binding contract entered into on or

1 before December 31, 2018.

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

18 For taxable years ending on or after December 31,
19 2000, a partner that qualifies its partnership for a
20 subtraction under subparagraph (I) of paragraph (2) of
21 subsection (d) of Section 203 or a shareholder that
22 qualifies a Subchapter S corporation for a subtraction
23 under subparagraph (S) of paragraph (2) of subsection (b)
24 of Section 203 shall be allowed a credit under this
25 subsection (e) equal to its share of the credit earned
26 under this subsection (e) during the taxable year by the

1 partnership or Subchapter S corporation, determined in
2 accordance with the determination of income and
3 distributive share of income under Sections 702 and 704
4 and Subchapter S of the Internal Revenue Code. This
5 paragraph is exempt from the provisions of Section 250.

6 (f) Investment credit; Enterprise Zone; River Edge
7 Redevelopment Zone.

8 (1) A taxpayer shall be allowed a credit against the
9 tax imposed by subsections (a) and (b) of this Section for
10 investment in qualified property which is placed in
11 service in an Enterprise Zone created pursuant to the
12 Illinois Enterprise Zone Act or, for property placed in
13 service on or after July 1, 2006, a River Edge
14 Redevelopment Zone established pursuant to the River Edge
15 Redevelopment Zone Act. For partners, shareholders of
16 Subchapter S corporations, and owners of limited liability
17 companies, if the liability company is treated as a
18 partnership for purposes of federal and State income
19 taxation, there shall be allowed a credit under this
20 subsection (f) to be determined in accordance with the
21 determination of income and distributive share of income
22 under Sections 702 and 704 and Subchapter S of the
23 Internal Revenue Code. The credit shall be .5% of the
24 basis for such property. The credit shall be available
25 only in the taxable year in which the property is placed in
26 service in the Enterprise Zone or River Edge Redevelopment

1 Zone and shall not be allowed to the extent that it would
2 reduce a taxpayer's liability for the tax imposed by
3 subsections (a) and (b) of this Section to below zero. For
4 tax years ending on or after December 31, 1985, the credit
5 shall be allowed for the tax year in which the property is
6 placed in service, or, if the amount of the credit exceeds
7 the tax liability for that year, whether it exceeds the
8 original liability or the liability as later amended, such
9 excess may be carried forward and applied to the tax
10 liability of the 5 taxable years following the excess
11 credit year. The credit shall be applied to the earliest
12 year for which there is a liability. If there is credit
13 from more than one tax year that is available to offset a
14 liability, the credit accruing first in time shall be
15 applied first.

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

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

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

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

26 (D) is used in the Enterprise Zone or River Edge

1 Redevelopment Zone by the taxpayer; and

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

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

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

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

17 (6) If during any taxable year, any property ceases to
18 be qualified property in the hands of the taxpayer within
19 48 months after being placed in service, or the situs of
20 any qualified property is moved outside the Enterprise
21 Zone or River Edge Redevelopment Zone within 48 months
22 after being placed in service, the tax imposed under
23 subsections (a) and (b) of this Section for such taxable
24 year shall be increased. Such increase shall be determined
25 by (i) recomputing the investment credit which would have
26 been allowed for the year in which credit for such

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

9 (7) There shall be allowed an additional credit equal
10 to 0.5% of the basis of qualified property placed in
11 service during the taxable year in a River Edge
12 Redevelopment Zone, provided such property is placed in
13 service on or after July 1, 2006, and the taxpayer's base
14 employment within Illinois has increased by 1% or more
15 over the preceding year as determined by the taxpayer's
16 employment records filed with the Illinois Department of
17 Employment Security. Taxpayers who are new to Illinois
18 shall be deemed to have met the 1% growth in base
19 employment for the first year in which they file
20 employment records with the Illinois Department of
21 Employment Security. If, in any year, the increase in base
22 employment within Illinois over the preceding year is less
23 than 1%, the additional credit shall be limited to that
24 percentage times a fraction, the numerator of which is
25 0.5% and the denominator of which is 1%, but shall not
26 exceed 0.5%.

1 (8) For taxable years beginning on or after January 1,
2 2021, there shall be allowed an Enterprise Zone
3 construction jobs credit against the taxes imposed under
4 subsections (a) and (b) of this Section as provided in
5 Section 13 of the Illinois Enterprise Zone Act.

6 The credit or credits may not reduce the taxpayer's
7 liability to less than zero. If the amount of the credit or
8 credits exceeds the taxpayer's liability, the excess may
9 be carried forward and applied against the taxpayer's
10 liability in succeeding calendar years in the same manner
11 provided under paragraph (4) of Section 211 of this Act.
12 The credit or credits shall be applied to the earliest
13 year for which there is a tax liability. If there are
14 credits from more than one taxable year that are available
15 to offset a liability, the earlier credit shall be applied
16 first.

17 For partners, shareholders of Subchapter S
18 corporations, and owners of limited liability companies,
19 if the liability company is treated as a partnership for
20 the purposes of federal and State income taxation, there
21 shall be allowed a credit under this Section to be
22 determined in accordance with the determination of income
23 and distributive share of income under Sections 702 and
24 704 and Subchapter S of the Internal Revenue Code.

25 The total aggregate amount of credits awarded under
26 the Blue Collar Jobs Act (Article 20 of Public Act 101-9)

1 shall not exceed \$20,000,000 in any State fiscal year.

2 This paragraph (8) is exempt from the provisions of
3 Section 250.

4 (g) (Blank).

5 (h) Investment credit; High Impact Business.

6 (1) Subject to subsections (b) and (b-5) of Section
7 5.5 of the Illinois Enterprise Zone Act, a taxpayer shall
8 be allowed a credit against the tax imposed by subsections
9 (a) 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
25 the taxable year in which such investments have been
26 completed. The credit for additional investments beyond

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

1 under subsections (a) and (b) of this Section for such
2 taxable year shall be increased. Such increase shall be
3 determined by (i) recomputing the investment credit which
4 would have been allowed for the year in which credit for
5 such property was originally allowed by eliminating such
6 property from such computation, and (ii) subtracting such
7 recomputed credit from the amount of credit previously
8 allowed. For the purposes of this paragraph (6), a
9 reduction of the basis of qualified property resulting
10 from a redetermination of the purchase price shall be
11 deemed a disposition of qualified property to the extent
12 of such 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
18 Section 18-183 of the Property Tax Code, the tax imposed
19 under subsections (a) and (b) of this Section shall be
20 increased for the taxable year in which the taxpayer
21 relocated its facility by an amount equal to the amount of
22 credit received by the taxpayer under this subsection (h).

23 (h-5) High Impact Business construction jobs credit. For
24 taxable years beginning on or after January 1, 2021, there
25 shall also be allowed a High Impact Business construction jobs
26 credit against the tax imposed under subsections (a) and (b)

1 of this Section as provided in subsections (i) and (j) of
2 Section 5.5 of the Illinois Enterprise Zone Act.

3 The credit or credits may not reduce the taxpayer's
4 liability to less than zero. If the amount of the credit or
5 credits exceeds the taxpayer's liability, the excess may be
6 carried forward and applied against the taxpayer's liability
7 in succeeding calendar years in the manner provided under
8 paragraph (4) of Section 211 of this Act. The credit or credits
9 shall be applied to the earliest year for which there is a tax
10 liability. If there are credits from more than one taxable
11 year that are available to offset a liability, the earlier
12 credit shall be applied first.

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

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

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

26 (i) Credit for Personal Property Tax Replacement Income

1 Tax. For tax years ending prior to December 31, 2003, a credit
2 shall be allowed against the tax imposed by subsections (a)
3 and (b) of this Section for the tax imposed by subsections (c)
4 and (d) of this Section. This credit shall be computed by
5 multiplying the tax imposed by subsections (c) and (d) of this
6 Section by a fraction, the numerator of which is base income
7 allocable to Illinois and the denominator of which is Illinois
8 base income, and further multiplying the product by the tax
9 rate imposed by subsections (a) and (b) of this Section.

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

24 If, during any taxable year ending on or after December
25 31, 1986, the tax imposed by subsections (c) and (d) of this
26 Section for which a taxpayer has claimed a credit under this

1 subsection (i) is reduced, the amount of credit for such tax
2 shall also be reduced. Such reduction shall be determined by
3 recomputing the credit to take into account the reduced tax
4 imposed by subsections (c) and (d). If any portion of the
5 reduced amount of credit has been carried to a different
6 taxable year, an amended return shall be filed for such
7 taxable year to reduce the amount of credit claimed.

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

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

11 (k) Research and development credit. For tax years ending
12 after July 1, 1990 and prior to December 31, 2003, and
13 beginning again for tax years ending on or after December 31,
14 2004, and ending prior to January 1, 2037 ~~January 1, 2027~~, a
15 taxpayer shall be allowed a credit against the tax imposed by
16 subsections (a) and (b) of this Section for increasing
17 research activities in this State. The credit allowed against
18 the tax imposed by subsections (a) and (b) shall be equal to 6
19 1/2% of the qualifying expenditures for increasing research
20 activities in this State, except that, for tax years beginning
21 on or after January 1, 2024, in the case of qualifying
22 expenditures specifically related to quantum information
23 science, the taxpayer may apply to the Department to increase
24 the amount of the credit allowed under this subsection to 13%
25 of the qualifying expenditures for increasing research
26 activities in this State. In no event shall a taxpayer be

1 allowed both the increased 13% credit under this Section for
2 qualifying expenditures specifically related to quantum
3 information science and the 6 1/2% credit under this
4 subsection for the same expenditures. The total aggregate
5 amount of the additional credits awarded under this subsection
6 for qualifying expenditures specifically related to quantum
7 information science shall not exceed \$25,000,000 in any
8 calendar year. For partners, shareholders of subchapter S
9 corporations, and owners of limited liability companies, if
10 the liability company is treated as a partnership for purposes
11 of federal and State income taxation, there shall be allowed a
12 credit under this subsection to be determined in accordance
13 with the determination of income and distributive share of
14 income under Sections 702 and 704 and subchapter S of the
15 Internal Revenue Code.

16 In lieu of the credit allowed under this subsection (k)
17 against taxes imposed pursuant to subsections (a) and (b) of
18 this Section, for any taxable year ending after December 31,
19 2023, a qualified startup taxpayer may elect to claim the
20 credit against its obligation to pay over withholding taxes
21 under Section 704A. However, the taxpayer may not make such an
22 election for a taxable year if the taxpayer has an Illinois
23 income tax liability for that taxable year with respect to the
24 taxes imposed pursuant to subsections (a) and (b) of Section
25 201 of this Act against which the taxpayer may claim the credit
26 under this subsection (k).

1 As used in ~~For purposes of~~ this subsection: 7

2 "Business entity" means a corporation, association,
3 partnership, limited liability company, or other legal
4 entity.

5 "Qualified startup taxpayer" means a business entity
6 that (i) was incorporated or organized no more than 5
7 years before the first day of the taxable year for which
8 the credit is sought, (ii) has never had any Illinois
9 income tax liability, excluding any Illinois income tax
10 liability of a related member, which shall not be
11 attributed to the startup taxpayer, and (iii) otherwise
12 meets the requirements of this subsection (k).

13 "Qualifying ~~"qualifying~~ expenditures" means the
14 qualifying expenditures as defined for the federal credit
15 for increasing research activities which would be
16 allowable under Section 41 of the Internal Revenue Code
17 and which are conducted in this State. 7

18 "Qualifying ~~"qualifying~~ expenditures for increasing
19 research activities in this State" means the excess of
20 qualifying expenditures for the taxable year in which
21 incurred over qualifying expenditures for the base period.

22 7

23 "Qualifying ~~"qualifying~~ expenditures for the base
24 period" means the average of the qualifying expenditures
25 for each year in the base period, and "base period" means
26 the 3 taxable years immediately preceding the taxable year

1 for which the determination is being made.

2 "Quantum information science" has the same meaning
3 given to that term in Section 2 of the federal National
4 Quantum Initiative Act.

5 "Related member" has the meaning given to the term in
6 Section 5-5 of the Economic Development for a Growing
7 Economy Tax Credit Act.

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

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

1 credit is given was incurred.

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

5 It is the intent of the General Assembly that the research
6 and development credit under this subsection (k) shall apply
7 continuously for all tax years ending on or after December 31,
8 2004 and ending prior to January 1, 2027, including, but not
9 limited to, the period beginning on January 1, 2016 and ending
10 on July 6, 2017 (the effective date of Public Act 100-22). All
11 actions taken in reliance on the continuation of the credit
12 under this subsection (k) by any taxpayer are hereby
13 validated.

14 (l) Environmental Remediation Tax Credit.

15 (i) For tax years ending after December 31, 1997 and
16 on or before December 31, 2001, a taxpayer shall be
17 allowed a credit against the tax imposed by subsections
18 (a) and (b) of this Section for certain amounts paid for
19 unreimbursed eligible remediation costs, as specified in
20 this subsection. For purposes of this Section,
21 "unreimbursed eligible remediation costs" means costs
22 approved by the Illinois Environmental Protection Agency
23 ("Agency") under Section 58.14 of the Environmental
24 Protection Act that were paid in performing environmental
25 remediation at a site for which a No Further Remediation
26 Letter was issued by the Agency and recorded under Section

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

1 Department of Commerce and Community Affairs (now
2 Department of Commerce and Economic Opportunity). The
3 total credit allowed shall not exceed \$40,000 per year
4 with a maximum total of \$150,000 per site. For partners
5 and shareholders of subchapter S corporations, there shall
6 be allowed a credit under this subsection to be determined
7 in accordance with the determination of income and
8 distributive share of income under Sections 702 and 704
9 and subchapter S of the Internal Revenue Code.

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

1 seller. To perfect the transfer, the assignor shall record
2 the transfer in the chain of title for the site and provide
3 written notice to the Director of the Illinois Department
4 of Revenue of the assignor's intent to sell the
5 remediation site and the amount of the tax credit to be
6 transferred as a portion of the sale. In no event may a
7 credit be transferred to any taxpayer if the taxpayer or a
8 related party would not be eligible under the provisions
9 of subsection (i).

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

13 (m) Education expense credit. Beginning with tax years
14 ending after December 31, 1999, a taxpayer who is the
15 custodian of one or more qualifying pupils shall be allowed a
16 credit against the tax imposed by subsections (a) and (b) of
17 this Section for qualified education expenses incurred on
18 behalf of the qualifying pupils. The credit shall be equal to
19 25% of qualified education expenses, but in no event may the
20 total credit under this subsection claimed by a family that is
21 the custodian of qualifying pupils exceed (i) \$500 for tax
22 years ending prior to December 31, 2017, and (ii) \$750 for tax
23 years ending on or after December 31, 2017. In no event shall a
24 credit under this subsection reduce the taxpayer's liability
25 under this Act to less than zero. Notwithstanding any other
26 provision of law, for taxable years beginning on or after

1 January 1, 2017, no taxpayer may claim a credit under this
2 subsection (m) if the taxpayer's adjusted gross income for the
3 taxable year exceeds (i) \$500,000, in the case of spouses
4 filing a joint federal tax return or (ii) \$250,000, in the case
5 of all other taxpayers. This subsection is exempt from the
6 provisions of Section 250 of this Act.

7 For purposes of this subsection:

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

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

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

26 "Custodian" means, with respect to qualifying pupils, an

1 Illinois resident who is a parent, the parents, a legal
2 guardian, or the legal guardians of the qualifying pupils.

3 (n) River Edge Redevelopment Zone site remediation tax
4 credit.

5 (i) For tax years ending on or after December 31,
6 2006, a taxpayer shall be allowed a credit against the tax
7 imposed by subsections (a) and (b) of this Section for
8 certain amounts paid for unreimbursed eligible remediation
9 costs, as specified in this subsection. For purposes of
10 this Section, "unreimbursed eligible remediation costs"
11 means costs approved by the Illinois Environmental
12 Protection Agency ("Agency") under Section 58.14a of the
13 Environmental Protection Act that were paid in performing
14 environmental remediation at a site within a River Edge
15 Redevelopment Zone for which a No Further Remediation
16 Letter was issued by the Agency and recorded under Section
17 58.10 of the Environmental Protection Act. The credit must
18 be claimed for the taxable year in which Agency approval
19 of the eligible remediation costs is granted. The credit
20 is not available to any taxpayer if the taxpayer or any
21 related party caused or contributed to, in any material
22 respect, a release of regulated substances on, in, or
23 under the site that was identified and addressed by the
24 remedial action pursuant to the Site Remediation Program
25 of the Environmental Protection Act. Determinations as to
26 credit availability for purposes of this Section shall be

1 made consistent with rules adopted by the Pollution
2 Control Board pursuant to the Illinois Administrative
3 Procedure Act for the administration and enforcement of
4 Section 58.9 of the Environmental Protection Act. For
5 purposes of this Section, "taxpayer" includes a person
6 whose tax attributes the taxpayer has succeeded to under
7 Section 381 of the Internal Revenue Code and "related
8 party" includes the persons disallowed a deduction for
9 losses by paragraphs (b), (c), and (f)(1) of Section 267
10 of the Internal Revenue Code by virtue of being a related
11 taxpayer, as well as any of its partners. The credit
12 allowed against the tax imposed by subsections (a) and (b)
13 shall be equal to 25% of the unreimbursed eligible
14 remediation costs in excess of \$100,000 per site.

15 (ii) A credit allowed under this subsection that is
16 unused in the year the credit is earned may be carried
17 forward to each of the 5 taxable years following the year
18 for which the credit is first earned until it is used. This
19 credit shall be applied first to the earliest year for
20 which there is a liability. If there is a credit under this
21 subsection from more than one tax year that is available
22 to offset a liability, the earliest credit arising under
23 this subsection shall be applied first. A credit allowed
24 under this subsection may be sold to a buyer as part of a
25 sale of all or part of the remediation site for which the
26 credit was granted. The purchaser of a remediation site

1 and the tax credit shall succeed to the unused credit and
2 remaining carry-forward period of the seller. To perfect
3 the transfer, the assignor shall record the transfer in
4 the chain of title for the site and provide written notice
5 to the Director of the Illinois Department of Revenue of
6 the assignor's intent to sell the remediation site and the
7 amount of the tax credit to be transferred as a portion of
8 the sale. In no event may a credit be transferred to any
9 taxpayer if the taxpayer or a related party would not be
10 eligible under the provisions of subsection (i).

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

14 (o) For each of taxable years during the Compassionate Use
15 of Medical Cannabis Program, a surcharge is imposed on all
16 taxpayers on income arising from the sale or exchange of
17 capital assets, depreciable business property, real property
18 used in the trade or business, and Section 197 intangibles of
19 an organization registrant under the Compassionate Use of
20 Medical Cannabis Program Act. The amount of the surcharge is
21 equal to the amount of federal income tax liability for the
22 taxable year attributable to those sales and exchanges. The
23 surcharge imposed does not apply if:

24 (1) the medical cannabis cultivation center
25 registration, medical cannabis dispensary registration, or
26 the property of a registration is transferred as a result

1 of any of the following:

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

6 (B) cancellation, revocation, or termination of
7 any registration by the Illinois Department of Public
8 Health;

9 (C) a determination by the Illinois Department of
10 Public Health that transfer of the registration is in
11 the best interests of Illinois qualifying patients as
12 defined by the Compassionate Use of Medical Cannabis
13 Program Act;

14 (D) the death of an owner of the equity interest in
15 a registrant;

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

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

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

25 (2) the cannabis cultivation center registration,
26 medical cannabis dispensary registration, or the

1 controlling interest in a registrant's property is
2 transferred in a transaction to lineal descendants in
3 which no gain or loss is recognized or as a result of a
4 transaction in accordance with Section 351 of the Internal
5 Revenue Code in which no gain or loss is recognized.

6 (p) Pass-through entity tax.

7 (1) For taxable years ending on or after December 31,
8 2021 and beginning prior to January 1, 2026, a partnership
9 (other than a publicly traded partnership under Section
10 7704 of the Internal Revenue Code) or Subchapter S
11 corporation may elect to apply the provisions of this
12 subsection. A separate election shall be made for each
13 taxable year. Such election shall be made at such time,
14 and in such form and manner as prescribed by the
15 Department, and, once made, is irrevocable.

16 (2) Entity-level tax. A partnership or Subchapter S
17 corporation electing to apply the provisions of this
18 subsection shall be subject to a tax for the privilege of
19 earning or receiving income in this State in an amount
20 equal to 4.95% of the taxpayer's net income for the
21 taxable year.

22 (3) Net income defined.

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

1 (i) the standard exemption allowed under
2 Section 204;

3 (ii) the deduction for net losses allowed
4 under Section 207;

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

7 (iv) in the case of a partnership, the
8 modifications under Section 203(d) (2) (H) and
9 Section 203(d) (2) (I).

10 (B) Special rule for tiered partnerships. If a
11 taxpayer making the election under paragraph (1) is a
12 partner of another taxpayer making the election under
13 paragraph (1), net income shall be computed as
14 provided in subparagraph (A), except that the taxpayer
15 shall subtract its distributive share of the net
16 income of the electing partnership (including its
17 distributive share of the net income of the electing
18 partnership derived as a distributive share from
19 electing partnerships in which it is a partner).

20 (4) Credit for entity level tax. Each partner or
21 shareholder of a taxpayer making the election under this
22 Section shall be allowed a credit against the tax imposed
23 under subsections (a) and (b) of Section 201 of this Act
24 for the taxable year of the partnership or Subchapter S
25 corporation for which an election is in effect ending
26 within or with the taxable year of the partner or

1 shareholder in an amount equal to 4.95% times the partner
2 or shareholder's distributive share of the net income of
3 the electing partnership or Subchapter S corporation, but
4 not to exceed the partner's or shareholder's share of the
5 tax imposed under paragraph (1) which is actually paid by
6 the partnership or Subchapter S corporation. If the
7 taxpayer is a partnership or Subchapter S corporation that
8 is itself a partner of a partnership making the election
9 under paragraph (1), the credit under this paragraph shall
10 be allowed to the taxpayer's partners or shareholders (or
11 if the partner is a partnership or Subchapter S
12 corporation then its partners or shareholders) in
13 accordance with the determination of income and
14 distributive share of income under Sections 702 and 704
15 and Subchapter S of the Internal Revenue Code. If the
16 amount of the credit allowed under this paragraph exceeds
17 the partner's or shareholder's liability for tax imposed
18 under subsections (a) and (b) of Section 201 of this Act
19 for the taxable year, such excess shall be treated as an
20 overpayment for purposes of Section 909 of this Act.

21 (5) Nonresidents. A nonresident individual who is a
22 partner or shareholder of a partnership or Subchapter S
23 corporation for a taxable year for which an election is in
24 effect under paragraph (1) shall not be required to file
25 an income tax return under this Act for such taxable year
26 if the only source of net income of the individual (or the

1 individual and the individual's spouse in the case of a
2 joint return) is from an entity making the election under
3 paragraph (1) and the credit allowed to the partner or
4 shareholder under paragraph (4) equals or exceeds the
5 individual's liability for the tax imposed under
6 subsections (a) and (b) of Section 201 of this Act for the
7 taxable year.

8 (6) Liability for tax. Except as provided in this
9 paragraph, a partnership or Subchapter S making the
10 election under paragraph (1) is liable for the
11 entity-level tax imposed under paragraph (2). If the
12 electing partnership or corporation fails to pay the full
13 amount of tax deemed assessed under paragraph (2), the
14 partners or shareholders shall be liable to pay the tax
15 assessed (including penalties and interest). Each partner
16 or shareholder shall be liable for the unpaid assessment
17 based on the ratio of the partner's or shareholder's share
18 of the net income of the partnership over the total net
19 income of the partnership. If the partnership or
20 Subchapter S corporation fails to pay the tax assessed
21 (including penalties and interest) and thereafter an
22 amount of such tax is paid by the partners or
23 shareholders, such amount shall not be collected from the
24 partnership or corporation.

25 (7) Foreign tax. For purposes of the credit allowed
26 under Section 601(b)(3) of this Act, tax paid by a

1 partnership or Subchapter S corporation to another state
2 which, as determined by the Department, is substantially
3 similar to the tax imposed under this subsection, shall be
4 considered tax paid by the partner or shareholder to the
5 extent that the partner's or shareholder's share of the
6 income of the partnership or Subchapter S corporation
7 allocated and apportioned to such other state bears to the
8 total income of the partnership or Subchapter S
9 corporation allocated or apportioned to such other state.

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

14 (9) Requirement to pay estimated tax. For each taxable
15 year for which an election under paragraph (1) is in
16 effect, a partnership or Subchapter S corporation is
17 required to pay estimated tax for such taxable year under
18 Sections 803 and 804 of this Act if the amount payable as
19 estimated tax can reasonably be expected to exceed \$500.

20 (10) The provisions of this subsection shall apply
21 only with respect to taxable years for which the
22 limitation on individual deductions applies under Section
23 164(b)(6) of the Internal Revenue Code.

24 (Source: P.A. 101-9, eff. 6-5-19; 101-31, eff. 6-28-19;
25 101-207, eff. 8-2-19; 101-363, eff. 8-9-19; 102-558, eff.
26 8-20-21; 102-658, eff. 8-27-21.)

1 (35 ILCS 5/704A)

2 Sec. 704A. Employer's return and payment of tax withheld.

3 (a) In general, every employer who deducts and withholds
4 or is required to deduct and withhold tax under this Act on or
5 after January 1, 2008 shall make those payments and returns as
6 provided in this Section.

7 (b) Returns. Every employer shall, in the form and manner
8 required by the Department, make returns with respect to taxes
9 withheld or required to be withheld under this Article 7 for
10 each quarter beginning on or after January 1, 2008, on or
11 before the last day of the first month following the close of
12 that quarter.

13 (c) Payments. With respect to amounts withheld or required
14 to be withheld on or after January 1, 2008:

15 (1) Semi-weekly payments. For each calendar year, each
16 employer who withheld or was required to withhold more
17 than \$12,000 during the one-year period ending on June 30
18 of the immediately preceding calendar year, payment must
19 be made:

20 (A) on or before each Friday of the calendar year,
21 for taxes withheld or required to be withheld on the
22 immediately preceding Saturday, Sunday, Monday, or
23 Tuesday;

24 (B) on or before each Wednesday of the calendar
25 year, for taxes withheld or required to be withheld on

1 the immediately preceding Wednesday, Thursday, or
2 Friday.

3 Beginning with calendar year 2011, payments made under
4 this paragraph (1) of subsection (c) must be made by
5 electronic funds transfer.

6 (2) Semi-weekly payments. Any employer who withholds
7 or is required to withhold more than \$12,000 in any
8 quarter of a calendar year is required to make payments on
9 the dates set forth under item (1) of this subsection (c)
10 for each remaining quarter of that calendar year and for
11 the subsequent calendar year.

12 (3) Monthly payments. Each employer, other than an
13 employer described in items (1) or (2) of this subsection,
14 shall pay to the Department, on or before the 15th day of
15 each month the taxes withheld or required to be withheld
16 during the immediately preceding month.

17 (4) Payments with returns. Each employer shall pay to
18 the Department, on or before the due date for each return
19 required to be filed under this Section, any tax withheld
20 or required to be withheld during the period for which the
21 return is due and not previously paid to the Department.

22 (d) Regulatory authority. The Department may, by rule:

23 (1) Permit employers, in lieu of the requirements of
24 subsections (b) and (c), to file annual returns due on or
25 before January 31 of the year for taxes withheld or
26 required to be withheld during the previous calendar year

1 and, if the aggregate amounts required to be withheld by
2 the employer under this Article 7 (other than amounts
3 required to be withheld under Section 709.5) do not exceed
4 \$1,000 for the previous calendar year, to pay the taxes
5 required to be shown on each such return no later than the
6 due date for such return.

7 (2) Provide that any payment required to be made under
8 subsection (c)(1) or (c)(2) is deemed to be timely to the
9 extent paid by electronic funds transfer on or before the
10 due date for deposit of federal income taxes withheld
11 from, or federal employment taxes due with respect to, the
12 wages from which the Illinois taxes were withheld.

13 (3) Designate one or more depositories to which
14 payment of taxes required to be withheld under this
15 Article 7 must be paid by some or all employers.

16 (4) Increase the threshold dollar amounts at which
17 employers are required to make semi-weekly payments under
18 subsection (c)(1) or (c)(2).

19 (e) Annual return and payment. Every employer who deducts
20 and withholds or is required to deduct and withhold tax from a
21 person engaged in domestic service employment, as that term is
22 defined in Section 3510 of the Internal Revenue Code, may
23 comply with the requirements of this Section with respect to
24 such employees by filing an annual return and paying the taxes
25 required to be deducted and withheld on or before the 15th day
26 of the fourth month following the close of the employer's

1 taxable year. The Department may allow the employer's return
2 to be submitted with the employer's individual income tax
3 return or to be submitted with a return due from the employer
4 under Section 1400.2 of the Unemployment Insurance Act.

5 (f) Magnetic media and electronic filing. With respect to
6 taxes withheld in calendar years prior to 2017, any W-2 Form
7 that, under the Internal Revenue Code and regulations
8 promulgated thereunder, is required to be submitted to the
9 Internal Revenue Service on magnetic media or electronically
10 must also be submitted to the Department on magnetic media or
11 electronically for Illinois purposes, if required by the
12 Department.

13 With respect to taxes withheld in 2017 and subsequent
14 calendar years, the Department may, by rule, require that any
15 return (including any amended return) under this Section and
16 any W-2 Form that is required to be submitted to the Department
17 must be submitted on magnetic media or electronically.

18 The due date for submitting W-2 Forms shall be as
19 prescribed by the Department by rule.

20 (g) For amounts deducted or withheld after December 31,
21 2009, a taxpayer who makes an election under subsection (f) of
22 Section 5-15 of the Economic Development for a Growing Economy
23 Tax Credit Act for a taxable year shall be allowed a credit
24 against payments due under this Section for amounts withheld
25 during the first calendar year beginning after the end of that
26 taxable year equal to the amount of the credit for the

1 incremental income tax attributable to full-time employees of
2 the taxpayer awarded to the taxpayer by the Department of
3 Commerce and Economic Opportunity under the Economic
4 Development for a Growing Economy Tax Credit Act for the
5 taxable year and credits not previously claimed and allowed to
6 be carried forward under Section 211(4) of this Act as
7 provided in subsection (f) of Section 5-15 of the Economic
8 Development for a Growing Economy Tax Credit Act. The credit
9 or credits may not reduce the taxpayer's obligation for any
10 payment due under this Section to less than zero. If the amount
11 of the credit or credits exceeds the total payments due under
12 this Section with respect to amounts withheld during the
13 calendar year, the excess may be carried forward and applied
14 against the taxpayer's liability under this Section in the
15 succeeding calendar years as allowed to be carried forward
16 under paragraph (4) of Section 211 of this Act. The credit or
17 credits shall be applied to the earliest year for which there
18 is a tax liability. If there are credits from more than one
19 taxable year that are available to offset a liability, the
20 earlier credit shall be applied first. Each employer who
21 deducts and withholds or is required to deduct and withhold
22 tax under this Act and who retains income tax withholdings
23 under subsection (f) of Section 5-15 of the Economic
24 Development for a Growing Economy Tax Credit Act must make a
25 return with respect to such taxes and retained amounts in the
26 form and manner that the Department, by rule, requires and pay

1 to the Department or to a depository designated by the
2 Department those withheld taxes not retained by the taxpayer.
3 For purposes of this subsection (g), the term taxpayer shall
4 include taxpayer and members of the taxpayer's unitary
5 business group as defined under paragraph (27) of subsection
6 (a) of Section 1501 of this Act. This Section is exempt from
7 the provisions of Section 250 of this Act. No credit awarded
8 under the Economic Development for a Growing Economy Tax
9 Credit Act for agreements entered into on or after January 1,
10 2015 may be credited against payments due under this Section.

11 (g-1) For amounts deducted or withheld after December 31,
12 2024, a taxpayer who makes an election under the Reimagining
13 Energy and Vehicles in Illinois Act shall be allowed a credit
14 against payments due under this Section for amounts withheld
15 during the first quarterly reporting period beginning after
16 the certificate is issued equal to the portion of the REV
17 Illinois Credit attributable to the incremental income tax
18 attributable to new employees and retained employees as
19 certified by the Department of Commerce and Economic
20 Opportunity pursuant to an agreement with the taxpayer under
21 the Reimagining Energy and Vehicles in Illinois Act for the
22 taxable year. The credit or credits may not reduce the
23 taxpayer's obligation for any payment due under this Section
24 to less than zero. If the amount of the credit or credits
25 exceeds the total payments due under this Section with respect
26 to amounts withheld during the quarterly reporting period, the

1 excess may be carried forward and applied against the
2 taxpayer's liability under this Section in the succeeding
3 quarterly reporting period as allowed to be carried forward
4 under paragraph (4) of Section 211 of this Act. The credit or
5 credits shall be applied to the earliest quarterly reporting
6 period for which there is a tax liability. If there are credits
7 from more than one quarterly reporting period that are
8 available to offset a liability, the earlier credit shall be
9 applied first. Each employer who deducts and withholds or is
10 required to deduct and withhold tax under this Act and who
11 retains income tax withholdings this subsection must make a
12 return with respect to such taxes and retained amounts in the
13 form and manner that the Department, by rule, requires and pay
14 to the Department or to a depository designated by the
15 Department those withheld taxes not retained by the taxpayer.
16 For purposes of this subsection (g-1), the term taxpayer shall
17 include taxpayer and members of the taxpayer's unitary
18 business group as defined under paragraph (27) of subsection
19 (a) of Section 1501 of this Act. This Section is exempt from
20 the provisions of Section 250 of this Act.

21 (g-2) For amounts deducted or withheld after December 31,
22 2024, a taxpayer who makes an election under the Manufacturing
23 Illinois Chips for Real Opportunity (MICRO) Act shall be
24 allowed a credit against payments due under this Section for
25 amounts withheld during the first quarterly reporting period
26 beginning after the certificate is issued equal to the portion

1 of the MICRO Illinois Credit attributable to the incremental
2 income tax attributable to new employees and retained
3 employees as certified by the Department of Commerce and
4 Economic Opportunity pursuant to an agreement with the
5 taxpayer under the Manufacturing Illinois Chips for Real
6 Opportunity (MICRO) Act for the taxable year. The credit or
7 credits may not reduce the taxpayer's obligation for any
8 payment due under this Section to less than zero. If the amount
9 of the credit or credits exceeds the total payments due under
10 this Section with respect to amounts withheld during the
11 quarterly reporting period, the excess may be carried forward
12 and applied against the taxpayer's liability under this
13 Section in the succeeding quarterly reporting period as
14 allowed to be carried forward under paragraph (4) of Section
15 211 of this Act. The credit or credits shall be applied to the
16 earliest quarterly reporting period for which there is a tax
17 liability. If there are credits from more than one quarterly
18 reporting period that are available to offset a liability, the
19 earlier credit shall be applied first. Each employer who
20 deducts and withholds or is required to deduct and withhold
21 tax under this Act and who retains income tax withholdings
22 this subsection must make a return with respect to such taxes
23 and retained amounts in the form and manner that the
24 Department, by rule, requires and pay to the Department or to a
25 depository designated by the Department those withheld taxes
26 not retained by the taxpayer. For purposes of this subsection,

1 the term taxpayer shall include taxpayer and members of the
2 taxpayer's unitary business group as defined under paragraph
3 (27) of subsection (a) of Section 1501 of this Act. This
4 Section is exempt from the provisions of Section 250 of this
5 Act.

6 (g-3) On and after January 1, 2024, a taxpayer who makes an
7 election under subsection (k) of Section 201 of this Act for a
8 taxable year shall be allowed a credit against payments due
9 under this Section for amounts withheld during the first
10 calendar year beginning after the last day of the taxable year
11 for which the election is made. The credit against withholding
12 shall be equal to the amount of the credit allowed under
13 subsection (k) of Section 201 of this Act. The credit or
14 credits may not reduce the taxpayer's obligation for any
15 payment due under this Section to less than zero. If the amount
16 of the credit or credits exceeds the total payments due under
17 this Section with respect to amounts withheld during the
18 calendar year, the excess may be carried forward and applied
19 against the taxpayer's liability under this Section in the
20 succeeding calendar years as allowed to be carried forward
21 under paragraph (4) of Section 211 of this Act. The credit or
22 credits shall be applied to the earliest year for which there
23 is a tax liability. If there are credits from more than one
24 taxable year that are available to offset a liability, the
25 earlier credit shall be applied first. Each employer who
26 deducts and withholds or is required to deduct and withhold

1 tax under this Act and who elects to take a credit against
2 taxes imposed under this Section pursuant to subsection (k) of
3 Section 201 of this Act must make a return with respect to such
4 taxes and retained amounts in the form and manner that the
5 Department, by rule, requires and pay to the Department or to a
6 depository designated by the Department those withheld taxes
7 not retained by the taxpayer.

8 (h) An employer may claim a credit against payments due
9 under this Section for amounts withheld during the first
10 calendar year ending after the date on which a tax credit
11 certificate was issued under Section 35 of the Small Business
12 Job Creation Tax Credit Act. The credit shall be equal to the
13 amount shown on the certificate, but may not reduce the
14 taxpayer's obligation for any payment due under this Section
15 to less than zero. If the amount of the credit exceeds the
16 total payments due under this Section with respect to amounts
17 withheld during the calendar year, the excess may be carried
18 forward and applied against the taxpayer's liability under
19 this Section in the 5 succeeding calendar years. The credit
20 shall be applied to the earliest year for which there is a tax
21 liability. If there are credits from more than one calendar
22 year that are available to offset a liability, the earlier
23 credit shall be applied first. This Section is exempt from the
24 provisions of Section 250 of this Act.

25 (i) Each employer with 50 or fewer full-time equivalent
26 employees during the reporting period may claim a credit

1 against the payments due under this Section for each qualified
2 employee in an amount equal to the maximum credit allowable.
3 The credit may be taken against payments due for reporting
4 periods that begin on or after January 1, 2020, and end on or
5 before December 31, 2027. An employer may not claim a credit
6 for an employee who has worked fewer than 90 consecutive days
7 immediately preceding the reporting period; however, such
8 credits may accrue during that 90-day period and be claimed
9 against payments under this Section for future reporting
10 periods after the employee has worked for the employer at
11 least 90 consecutive days. In no event may the credit exceed
12 the employer's liability for the reporting period. Each
13 employer who deducts and withholds or is required to deduct
14 and withhold tax under this Act and who retains income tax
15 withholdings under this subsection must make a return with
16 respect to such taxes and retained amounts in the form and
17 manner that the Department, by rule, requires and pay to the
18 Department or to a depository designated by the Department
19 those withheld taxes not retained by the employer.

20 For each reporting period, the employer may not claim a
21 credit or credits for more employees than the number of
22 employees making less than the minimum or reduced wage for the
23 current calendar year during the last reporting period of the
24 preceding calendar year. Notwithstanding any other provision
25 of this subsection, an employer shall not be eligible for
26 credits for a reporting period unless the average wage paid by

1 the employer per employee for all employees making less than
2 \$55,000 during the reporting period is greater than the
3 average wage paid by the employer per employee for all
4 employees making less than \$55,000 during the same reporting
5 period of the prior calendar year.

6 For purposes of this subsection (i):

7 "Compensation paid in Illinois" has the meaning ascribed
8 to that term under Section 304(a)(2)(B) of this Act.

9 "Employer" and "employee" have the meaning ascribed to
10 those terms in the Minimum Wage Law, except that "employee"
11 also includes employees who work for an employer with fewer
12 than 4 employees. Employers that operate more than one
13 establishment pursuant to a franchise agreement or that
14 constitute members of a unitary business group shall aggregate
15 their employees for purposes of determining eligibility for
16 the credit.

17 "Full-time equivalent employees" means the ratio of the
18 number of paid hours during the reporting period and the
19 number of working hours in that period.

20 "Maximum credit" means the percentage listed below of the
21 difference between the amount of compensation paid in Illinois
22 to employees who are paid not more than the required minimum
23 wage reduced by the amount of compensation paid in Illinois to
24 employees who were paid less than the current required minimum
25 wage during the reporting period prior to each increase in the
26 required minimum wage on January 1. If an employer pays an

1 employee more than the required minimum wage and that employee
2 previously earned less than the required minimum wage, the
3 employer may include the portion that does not exceed the
4 required minimum wage as compensation paid in Illinois to
5 employees who are paid not more than the required minimum
6 wage.

7 (1) 25% for reporting periods beginning on or after
8 January 1, 2020 and ending on or before December 31, 2020;

9 (2) 21% for reporting periods beginning on or after
10 January 1, 2021 and ending on or before December 31, 2021;

11 (3) 17% for reporting periods beginning on or after
12 January 1, 2022 and ending on or before December 31, 2022;

13 (4) 13% for reporting periods beginning on or after
14 January 1, 2023 and ending on or before December 31, 2023;

15 (5) 9% for reporting periods beginning on or after
16 January 1, 2024 and ending on or before December 31, 2024;

17 (6) 5% for reporting periods beginning on or after
18 January 1, 2025 and ending on or before December 31, 2025.

19 The amount computed under this subsection may continue to
20 be claimed for reporting periods beginning on or after January
21 1, 2026 and:

22 (A) ending on or before December 31, 2026 for
23 employers with more than 5 employees; or

24 (B) ending on or before December 31, 2027 for
25 employers with no more than 5 employees.

26 "Qualified employee" means an employee who is paid not

1 more than the required minimum wage and has an average wage
2 paid per hour by the employer during the reporting period
3 equal to or greater than his or her average wage paid per hour
4 by the employer during each reporting period for the
5 immediately preceding 12 months. A new qualified employee is
6 deemed to have earned the required minimum wage in the
7 preceding reporting period.

8 "Reporting period" means the quarter for which a return is
9 required to be filed under subsection (b) of this Section.

10 (j) For reporting periods beginning on or after January 1,
11 2023, if a private employer grants all of its employees the
12 option of taking a paid leave of absence of at least 30 days
13 for the purpose of serving as an organ donor or bone marrow
14 donor, then the private employer may take a credit against the
15 payments due under this Section in an amount equal to the
16 amount withheld under this Section with respect to wages paid
17 while the employee is on organ donation leave, not to exceed
18 \$1,000 in withholdings for each employee who takes organ
19 donation leave. To be eligible for the credit, such a leave of
20 absence must be taken without loss of pay, vacation time,
21 compensatory time, personal days, or sick time for at least
22 the first 30 days of the leave of absence. The private employer
23 shall adopt rules governing organ donation leave, including
24 rules that (i) establish conditions and procedures for
25 requesting and approving leave and (ii) require medical
26 documentation of the proposed organ or bone marrow donation

1 before leave is approved by the private employer. A private
2 employer must provide, in the manner required by the
3 Department, documentation from the employee's medical
4 provider, which the private employer receives from the
5 employee, that verifies the employee's organ donation. The
6 private employer must also provide, in the manner required by
7 the Department, documentation that shows that a qualifying
8 organ donor leave policy was in place and offered to all
9 qualifying employees at the time the leave was taken. For the
10 private employer to receive the tax credit, the employee
11 taking organ donor leave must allow for the applicable medical
12 records to be disclosed to the Department. If the private
13 employer cannot provide the required documentation to the
14 Department, then the private employer is ineligible for the
15 credit under this Section. A private employer must also
16 provide, in the form required by the Department, any
17 additional documentation or information required by the
18 Department to administer the credit under this Section. The
19 credit under this subsection (j) shall be taken within one
20 year after the date upon which the organ donation leave
21 begins. If the leave taken spans into a second tax year, the
22 employer qualifies for the allowable credit in the later of
23 the 2 years. If the amount of credit exceeds the tax liability
24 for the year, the excess may be carried and applied to the tax
25 liability for the 3 taxable years following the excess credit
26 year. The tax credit shall be applied to the earliest year for

1 which there is a tax liability. If there are credits for more
2 than one year that are available to offset liability, the
3 earlier credit shall be applied first.

4 Nothing in this subsection (j) prohibits a private
5 employer from providing an unpaid leave of absence to its
6 employees for the purpose of serving as an organ donor or bone
7 marrow donor; however, if the employer's policy provides for
8 fewer than 30 days of paid leave for organ or bone marrow
9 donation, then the employer shall not be eligible for the
10 credit under this Section.

11 As used in this subsection (j):

12 "Organ" means any biological tissue of the human body that
13 may be donated by a living donor, including, but not limited
14 to, the kidney, liver, lung, pancreas, intestine, bone, skin,
15 or any subpart of those organs.

16 "Organ donor" means a person from whose body an organ is
17 taken to be transferred to the body of another person.

18 "Private employer" means a sole proprietorship,
19 corporation, partnership, limited liability company, or other
20 entity with one or more employees. "Private employer" does not
21 include a municipality, county, State agency, or other public
22 employer.

23 This subsection (j) is exempt from the provisions of
24 Section 250 of this Act.

25 (Source: P.A. 101-1, eff. 2-19-19; 102-669, eff. 11-16-21;
26 102-700, Article 30, Section 30-5, eff. 4-19-22; 102-700,

1 Article 110, Section 110-905, eff. 4-19-22; 102-1125, eff.
2 2-3-23.)

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