

1 AN ACT in relation to employment.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the
5 Victims' Economic Security and Safety Act.

6 Section 5. Findings. The General Assembly finds and
7 declares the following:

8 (1) Domestic and sexual violence affects many
9 persons without regard to age, race, educational level,
10 socioeconomic status, religion, or occupation.

11 (2) Domestic and sexual violence has a devastating
12 effect on individuals, families, communities and the
13 workplace.

14 (3) Domestic violence crimes account for
15 approximately 15% of total crime costs in the United
16 States each year.

17 (4) Violence against women has been reported to be
18 the leading cause of physical injury to women. Such
19 violence has a devastating impact on women's physical and
20 emotional health and financial security.

21 (5) According to recent government surveys, from
22 1993 through 1998 the average annual number of violent
23 victimizations committed by intimate partners was
24 1,082,110, 87% of which were committed against women.

25 (6) Female murder victims were substantially more
26 likely than male murder victims to have been killed by an
27 intimate partner. About one-third of female murder
28 victims, and about 4% of male murder victims, were killed
29 by an intimate partner.

30 (7) According to recent government estimates,
31 approximately 987,400 rapes occur annually in the United

1 States, 89% of the rapes are perpetrated against female
2 victims.

3 (8) Approximately 10,200,000 people have been
4 stalked at some time in their lives. Four out of every 5
5 stalking victims are women. Stalkers harass and terrorize
6 their victims by spying on the victims, standing outside
7 their places of work or homes, making unwanted phone
8 calls, sending or leaving unwanted letters or items, or
9 vandalizing property.

10 (9) Employees in the United States who have been
11 victims of domestic violence, dating violence, sexual
12 assault, or stalking too often suffer adverse
13 consequences in the workplace as a result of their
14 victimization.

15 (10) Victims of domestic violence, dating violence,
16 sexual assault, and stalking face the threat of job loss
17 and loss of health insurance as a result of the illegal
18 acts of the perpetrators of violence.

19 (11) The prevalence of domestic violence, dating
20 violence, sexual assault, stalking, and other violence
21 against women at work is dramatic. Approximately 11% of
22 all rapes occur in the workplace. About 50,500
23 individuals, 83% of whom are women, were raped or
24 sexually assaulted in the workplace each year from 1992
25 through 1996. Half of all female victims of violent
26 workplace crimes know their attackers. Nearly one out of
27 10 violent workplace incidents is committed by partners
28 or spouses.

29 (12) Homicide is the leading cause of death for
30 women on the job. Husbands, boyfriends, and ex-partners
31 commit 15% of workplace homicides against women.

32 (13) Studies indicate that as much as 74% of
33 employed battered women surveyed were harassed at work by
34 their abusive partners.

1 (14) According to a 1998 report of the U.S. General
2 Accounting Office, between one-fourth and one-half of
3 domestic violence victims surveyed in 3 studies reported
4 that the victims lost a job due, at least in part, to
5 domestic violence.

6 (15) Women who have experienced domestic violence
7 or dating violence are more likely than other women to be
8 unemployed, to suffer from health problems that can
9 affect employability and job performance, to report lower
10 personal income, and to rely on welfare.

11 (16) Abusers frequently seek to control their
12 partners by actively interfering with their ability to
13 work, including preventing their partners from going to
14 work, harassing their partners at work, limiting the
15 access of their partners to cash or transportation, and
16 sabotaging the child care arrangements of their partners.

17 (17) More than one-half of women receiving welfare
18 have been victims of domestic violence as adults and
19 between one-fourth and one-third reported being abused in
20 the last year.

21 (18) Sexual assault, whether occurring in or out of
22 the workplace, can impair an employee's work performance,
23 require time away from work, and undermine the employee's
24 ability to maintain a job. Almost 50% of sexual assault
25 survivors lose their jobs or are forced to quit in the
26 aftermath of the assaults.

27 (19) More than one-fourth of stalking victims
28 report losing time from work due to the stalking and 7%
29 never return to work.

30 (20) (A) According to the National Institute of
31 Justice, crime costs an estimated \$450,000,000,000
32 annually in medical expenses, lost earnings, social
33 service costs, pain, suffering, and reduced quality of
34 life for victims, which harms the Nation's productivity

1 and drains the Nation's resources. (B) Violent crime
2 accounts for \$426,000,000,000 per year of this amount.
3 (C) Rape exacts the highest costs per victim of any
4 criminal offense, and accounts for \$127,000,000,000 per
5 year of the amount described in subparagraph (A).

6 (21) The Bureau of National Affairs has estimated
7 that domestic violence costs United States employers
8 between \$3,000,000,000 and \$5,000,000,000 annually in
9 lost time and productivity. Other reports have estimated
10 that domestic violence costs United States employers
11 \$13,000,000,000 annually.

12 (22) United States medical costs for domestic
13 violence have been estimated to be \$31,000,000,000 per
14 year.

15 (23) Ninety-four percent of corporate security and
16 safety directors at companies nationwide rank domestic
17 violence as a high security concern.

18 (24) Forty-nine percent of senior executives
19 recently surveyed said domestic violence has a harmful
20 effect on their company's productivity, 47% said domestic
21 violence negatively affects attendance, and 44% said
22 domestic violence increases health care costs.

23 (25) Employees, including individuals participating
24 in welfare to work programs, may need to take time during
25 business hours to:

26 (A) obtain orders of protection;

27 (B) seek medical or legal assistance,
28 counseling, or other services; or

29 (C) look for housing in order to escape from
30 domestic violence.

31 Section 10. Definitions. In this Act, except as otherwise
32 expressly provided:

33 (1) "Commerce" includes trade, traffic, commerce,

1 transportation, or communication; and "industry or
2 activity affecting commerce" means any activity,
3 business, or industry in commerce or in which a labor
4 dispute would hinder or obstruct commerce or the free
5 flow of commerce, and includes "commerce" and any
6 "industry affecting commerce".

7 (2) "Course of conduct" means a course of
8 repeatedly maintaining a visual or physical proximity to
9 a person or conveying oral or written threats, including
10 threats conveyed through electronic communications, or
11 threats implied by conduct.

12 (3) "Domestic or sexual violence" means domestic
13 violence, sexual assault, or stalking.

14 (4) "Domestic violence" includes acts or threats of
15 violence, not including acts of self defense, as defined
16 in subdivision (3) of Section 103 of the Illinois
17 Domestic Violence Act of 1986, or engaging in any course
18 of conduct directed at a specific person that would cause
19 a reasonable person to suffer substantial emotional
20 distress or to fear bodily injury, sexual assault, or
21 death to the person, or the person's family or household
22 member, if the conduct causes the specific person to have
23 such distress or fear.

24 (5) "Domestic violence coalition" means a
25 nonprofit, nongovernmental membership organization that:

26 (A) consists of the entities carrying out
27 domestic violence programs within the State of
28 Illinois;

29 (B) collaborates and coordinates activities
30 with federal, State, or local entities to further
31 the purposes of domestic violence intervention and
32 prevention; and

33 (C) among other activities, provides training
34 and technical assistance to entities carrying out

1 domestic violence programs within Illinois.

2 (6) "Electronic communications" includes
3 communications via telephone, mobile phone, computer,
4 e-mail, video recorder, fax machine, telex, or pager.

5 (7) "Employ" includes to suffer or permit to work.

6 (8) Employee.

7 (A) In general. "Employee" means any person
8 employed by an employer.

9 (B) Basis. "Employee" includes a person
10 employed as described in subparagraph (A) on a full
11 or part-time basis, for a fixed time period, on a
12 temporary basis, pursuant to a detail, as an
13 independent contractor, or as a participant in a
14 work assignment as a condition of receipt of federal
15 or State income-based public assistance.

16 (9) "Employer":

17 (A) means any person engaged in commerce or in
18 any industry or activity affecting commerce who
19 employs one or more individuals; and

20 (B) includes any person acting directly or
21 indirectly in the interest of an employer in
22 relation to an employee, and includes a public
23 agency, but does not include any labor organization
24 (other than when acting as an employer) or anyone
25 acting in the capacity of officer or agent of such
26 labor organization.

27 (10) "Employment benefits" means all benefits
28 provided or made available to employees by an employer,
29 including group life insurance, health insurance,
30 disability insurance, sick leave, annual leave,
31 educational benefits, and pensions, regardless of whether
32 such benefits are provided by a practice or written
33 policy of an employer or through an "employee benefit
34 plan". "Employee benefit plan" or "plan" means an

1 employee welfare benefit plan or an employee pension
2 benefit plan or a plan which is both an employee welfare
3 benefit plan and an employee pension benefit plan.

4 (11) "Family or household member" means spouses,
5 former spouses, parents, son or daughter, and persons
6 jointly residing or formerly residing in the same
7 dwelling unit.

8 (12) "Parent" means the biological parent of an
9 employee or an individual who stood in loco parentis to
10 an employee when the employee was a son or daughter. "Son
11 or daughter" means a biological, adopted, or foster
12 child, a stepchild, a legal ward, or a child of a person
13 standing in loco parentis, who is under 18 years of age,
14 or is 18 years of age or older and incapable of self-care
15 because of a mental or physical disability.

16 (13) "Perpetrator" means an individual who commits
17 or is alleged to have committed any act or threat of
18 domestic or sexual violence.

19 (14) "Person" means an individual, partnership,
20 association, corporation, business trust, legal
21 representative, or any organized group of persons.

22 (15) "Public agency" means the Government of the
23 State or political subdivision thereof; any agency of the
24 State, or of a political subdivision of the State; or any
25 governmental agency.

26 (16) "Public assistance" includes cash, food
27 stamps, medical assistance, housing assistance, and other
28 benefits provided on the basis of income by a public
29 agency.

30 (17) "Reduced work schedule" means a work schedule
31 that reduces the usual number of hours per workweek, or
32 hours per workday, of an employee.

33 (18) "Repeatedly" means on 2 or more occasions.

34 (19) "Sexual assault" means any conduct proscribed

1 by the Criminal Code of 1961 in Sections 12-12, 12-13,
2 12-14, 12-14.1, 12-15, and 12-16, including both assaults
3 committed by perpetrators who are strangers to the victim
4 and assaults committed by perpetrators who are known or
5 related by blood or marriage to the victim.

6 (20) "Sexual assault coalition" means a nonprofit,
7 nongovernmental membership organization that:

8 (A) consists of the entities carrying out
9 sexual assault programs within the State of
10 Illinois;

11 (B) collaborates and coordinates activities
12 with federal, State, or local entities to further
13 the purposes of sexual assault intervention and
14 prevention; and

15 (C) among other activities, provides training
16 and technical assistance to entities carrying out
17 sexual assault programs within Illinois.

18 (21) "Stalking" means any conduct proscribed by the
19 Criminal Code of 1961 in Sections 12-7.3 and 12-7.4, or
20 engaging in any course of conduct directed at a specific
21 person that would cause a reasonable person to suffer
22 substantial emotional distress or to fear bodily injury,
23 sexual assault, or death to the person, or the person's
24 family or household member, if the conduct causes the
25 specific person to have such distress or fear.

26 (22) "Victim" or "survivor" means an individual
27 alleging to have been subjected to domestic or sexual
28 violence.

29 (23) "Victim services organization" means a
30 nonprofit, nongovernmental organization that provides
31 assistance to victims of domestic or sexual violence or
32 to advocates for such victims, including a rape crisis
33 center, an organization carrying out a domestic violence
34 program, an organization operating a shelter or providing

1 counseling services, or a legal services organization or
2 other organization providing assistance through the legal
3 process.

4 Section 15. Purposes. The purposes of this Act are:

5 (1) to promote the State's interest in reducing
6 domestic violence, dating violence, sexual assault, and
7 stalking by enabling victims of domestic or sexual
8 violence to maintain the financial independence necessary
9 to leave abusive situations, achieve safety, and minimize
10 the physical and emotional injuries from domestic or
11 sexual violence, and to reduce the devastating economic
12 consequences of domestic or sexual violence to employers
13 and employees;

14 (2) to promote the State's interest in ensuring
15 that employees who are victims of domestic or sexual
16 violence and employees with a family or household member
17 who is a victim of domestic or sexual violence can
18 recover from and cope with the effects of such violence,
19 and participate in criminal and civil justice processes,
20 without fear of adverse economic consequences from their
21 employers;

22 (3) to ensure that applicants and recipients of
23 public assistance who are victims of domestic or sexual
24 violence and applicants and recipients of public
25 assistance with a family or household member who is a
26 victim of domestic or sexual violence can recover from
27 and cope with the effects of such violence, and
28 participate in criminal and civil justice processes,
29 without fear of adverse economic consequences with
30 respect to public assistance;

31 (4) to address the failure of existing laws to
32 protect the employment rights of employees who are
33 victims of domestic or sexual violence and employees with

1 a family or household member who is a victim of domestic
2 or sexual violence, by protecting the civil and economic
3 rights of those employees, and by furthering the equal
4 opportunity of women for economic self-sufficiency and
5 employment free from discrimination;

6 (5) to accomplish the purposes described in
7 paragraphs (1) through (4) by:

8 (A) entitling employed victims of domestic or
9 sexual violence to take leave to seek medical help,
10 legal assistance, counseling, safety planning, and
11 other assistance without penalty from their
12 employers;

13 (B) entitling employees with a family or
14 household member who is a victim of domestic or
15 sexual violence to take leave to seek medical help,
16 legal assistance, counseling, safety planning, and
17 other assistance for the employee or the family or
18 household member who is a victim without penalty
19 from their employers; and

20 (C) prohibiting employers from discriminating
21 against actual or perceived victims of domestic or
22 sexual violence, in a manner that accommodates the
23 legitimate interests of employers and protects the
24 safety of all persons in the workplace.

25 Section 20. Entitlement to leave due to domestic or
26 sexual violence.

27 (a) Leave requirement.

28 (1) Basis. An employee who is a victim of domestic
29 or sexual violence or has a family or household member
30 who is a victim of domestic or sexual violence whose
31 interests are not adverse to the employee as it relates
32 to the domestic or sexual violence may take leave from
33 work to address domestic or sexual violence by:

1 (A) seeking medical attention for, or
2 recovering from, physical or psychological injuries
3 caused by domestic or sexual violence to the
4 employee or the employee's family or household
5 member;

6 (B) obtaining services from a victim services
7 organization for the employee or the employee's
8 family or household member;

9 (C) obtaining psychological or other
10 counseling for the employee or the employee's family
11 or household member;

12 (D) participating in safety planning,
13 temporarily or permanently relocating, or taking
14 other actions to increase the safety of the employee
15 or the employee's family or household member from
16 future domestic or sexual violence or ensure
17 economic security; or

18 (E) seeking legal assistance or remedies to
19 ensure the health and safety of the employee or the
20 employee's family or household member, including
21 preparing for or participating in any civil or
22 criminal legal proceeding related to or derived from
23 domestic or sexual violence.

24 (2) Period. Subject to subsection (c), an employee
25 shall be entitled to a total of 12 workweeks of leave
26 during any 12-month period. This Act does not create a
27 right for an employee to take unpaid leave that exceeds
28 the unpaid leave time allowed under, or is in addition to
29 the unpaid leave time permitted by, the federal Family
30 and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

31 (3) Schedule. Leave described in paragraph (1) may
32 be taken intermittently or on a reduced work schedule.

33 (b) Notice. The employee shall provide the employer with
34 reasonable notice of the employee's intention to take the

1 leave, unless providing such notice is not practicable. When
2 an unscheduled absence occurs, the employer may not take any
3 action against the employee if the employee, within a
4 reasonable period after the absence, provides certification
5 under subsection (c).

6 (c) Certification.

7 (1) In general. The employer may require the
8 employee to provide certification to the employer, within
9 a reasonable period after the employer requires the
10 certification, that:

11 (A) the employee or the employee's family or
12 household member is a victim of domestic or sexual
13 violence; and

14 (B) the leave is for one of the purposes
15 enumerated in paragraph (a)(1).

16 (2) Contents. An employee may satisfy the
17 certification requirement of paragraph (1) by providing
18 to the employer:

19 (A) a sworn statement of the employee;

20 (B) documentation from an employee, agent, or
21 volunteer of a victim services organization, an
22 attorney, a member of the clergy, or a medical or
23 other professional from whom the employee or the
24 employee's family or household member has sought
25 assistance in addressing domestic or sexual violence
26 and the effects of the violence;

27 (C) a police or court record; or

28 (D) other corroborating evidence.

29 (d) Confidentiality. All information provided to the
30 employer pursuant to subsection (b) or (c), including a
31 statement of the employee or any other documentation, record,
32 or corroborating evidence, and the fact that the employee has
33 requested or obtained leave pursuant to this Section, shall
34 be retained in the strictest confidence by the employer,

1 except to the extent that disclosure is:

2 (1) requested or consented to in writing by the
3 employee; or

4 (2) otherwise required by applicable federal or
5 State law.

6 (e) Employment and benefits.

7 (1) Restoration to position.

8 (A) In general. Except as provided in
9 paragraph (2), any employee who takes leave under
10 this Section for the intended purpose of the leave
11 shall be entitled, on return from such leave:

12 (i) to be restored by the employer to the
13 position of employment held by the employee
14 when the leave commenced; or

15 (ii) to be restored to an equivalent
16 position with equivalent employment benefits,
17 pay, and other terms and conditions of
18 employment.

19 (B) Loss of benefits. The taking of leave
20 under this Section shall not result in the loss of
21 any employment benefit accrued prior to the date on
22 which the leave commenced.

23 (C) Limitations. Nothing in this subsection
24 shall be construed to entitle any restored employee
25 to:

26 (i) the accrual of any seniority or
27 employment benefits during any period of leave;
28 or

29 (ii) any right, benefit, or position of
30 employment other than any right, benefit, or
31 position to which the employee would have been
32 entitled had the employee not taken the leave.

33 (D) Construction. Nothing in this paragraph
34 shall be construed to prohibit an employer from

1 requiring an employee on leave under this Section to
2 report periodically to the employer on the status
3 and intention of the employee to return to work.

4 (2) Exemption concerning certain highly compensated
5 employees.

6 (A) Denial of restoration. An employer may
7 deny restoration under paragraph (1) to any employee
8 described in subparagraph (B) if:

9 (i) the denial is necessary to prevent
10 substantial and grievous economic injury to the
11 operations of the employer;

12 (ii) the employer notifies the employee
13 of the intent of the employer to deny
14 restoration on such basis at the time the
15 employer determines that such injury would
16 occur; and

17 (iii) in any case in which the leave has
18 commenced, the employee elects not to return to
19 employment after receiving the notice.

20 (B) Affected employees. An employee referred
21 to in subparagraph (A) is a salaried employee who is
22 among the highest paid 10% of the employees employed
23 by the employer within 75 miles of the facility at
24 which the employee is employed.

25 (3) Maintenance of health benefits.

26 (A) Coverage. Except as provided in
27 subparagraph (B), during any period that an employee
28 takes leave under this Section, the employer shall
29 maintain coverage for the employee and any family or
30 household member under any group health plan for the
31 duration of such leave at the level and under the
32 conditions coverage would have been provided if the
33 employee had continued in employment continuously
34 for the duration of such leave.

1 (B) Failure to return from leave. The employer
2 may recover the premium that the employer paid for
3 maintaining coverage for the employee and the
4 employee's family or household member under such
5 group health plan during any period of leave under
6 this Section if:

7 (i) the employee fails to return from
8 leave under this Section after the period of
9 leave to which the employee is entitled has
10 expired; and

11 (ii) the employee fails to return to work
12 for a reason other than:

13 (I) the continuation, recurrence, or
14 onset of domestic or sexual violence that
15 entitles the employee to leave pursuant to
16 this Section; or

17 (II) other circumstances beyond the
18 control of the employee.

19 (C) Certification.

20 (i) Issuance. An employer may require an
21 employee who claims that the employee is unable
22 to return to work because of a reason described
23 in subclause (I) or (II) of subparagraph
24 (B)(ii) to provide, within a reasonable period
25 after making the claim, certification to the
26 employer that the employee is unable to return
27 to work because of that reason.

28 (ii) Contents. An employee may satisfy
29 the certification requirement of clause (i) by
30 providing to the employer:

31 (I) a sworn statement of the
32 employee;

33 (II) documentation from an employee,
34 agent, or volunteer of a victim services

1 organization, an attorney, a member of the
2 clergy, or a medical or other professional
3 from whom the employee has sought
4 assistance in addressing domestic or
5 sexual violence and the effects of that
6 violence;

7 (III) a police or court record; or

8 (IV) other corroborating evidence.

9 (D) Confidentiality. All information provided
10 to the employer pursuant to subparagraph (C),
11 including a statement of the employee or any other
12 documentation, record, or corroborating evidence,
13 and the fact that the employee is not returning to
14 work because of a reason described in subclause (I)
15 or (II) of subparagraph (B)(ii) shall be retained in
16 the strictest confidence by the employer, except to
17 the extent that disclosure is:

18 (i) requested or consented to in writing
19 by the employee; or

20 (ii) otherwise required by applicable
21 federal or State law.

22 (f) Prohibited acts.

23 (1) Interference with rights.

24 (A) Exercise of rights. It shall be unlawful
25 for any employer to interfere with, restrain, or
26 deny the exercise of or the attempt to exercise any
27 right provided under this Section.

28 (B) Employer discrimination. It shall be
29 unlawful for any employer to discharge or harass any
30 individual, or otherwise discriminate against any
31 individual with respect to compensation, terms,
32 conditions, or privileges of employment of the
33 individual (including retaliation in any form or
34 manner) because the individual:

1 (i) exercised any right provided under
2 this Section; or

3 (ii) opposed any practice made unlawful
4 by this Section.

5 (C) Public agency sanctions. It shall be
6 unlawful for any public agency to deny, reduce, or
7 terminate the benefits of, otherwise sanction, or
8 harass any individual, or otherwise discriminate
9 against any individual with respect to the amount,
10 terms, or conditions of public assistance of the
11 individual (including retaliation in any form or
12 manner) because the individual:

13 (i) exercised any right provided under
14 this Section; or

15 (ii) opposed any practice made unlawful
16 by this Section.

17 (2) Interference with proceedings or inquiries. It
18 shall be unlawful for any person to discharge or in any
19 other manner discriminate (as described in subparagraph
20 (B) or (C) of paragraph (1)) against any individual
21 because such individual:

22 (A) has filed any charge, or has instituted or
23 caused to be instituted any proceeding, under or
24 related to this Section;

25 (B) has given, or is about to give, any
26 information in connection with any inquiry or
27 proceeding relating to any right provided under this
28 Section; or

29 (C) has testified, or is about to testify, in
30 any inquiry or proceeding relating to any right
31 provided under this Section.

32 Section 25. Existing leave usable for addressing domestic
33 or sexual violence. An employee who is entitled to take paid

1 or unpaid leave (including family, medical, sick, annual,
2 personal, or similar leave) from employment, pursuant to
3 federal, State, or local law, a collective bargaining
4 agreement, or an employment benefits program or plan, may
5 elect to substitute any period of such leave for an
6 equivalent period of leave provided under Section 20.

7 Section 30. Victims' employment sustainability;
8 prohibited discriminatory acts.

9 (a) An employer shall not fail to hire, refuse to hire,
10 discharge, or harass any individual, otherwise discriminate
11 against any individual with respect to the compensation,
12 terms, conditions, or privileges of employment of the
13 individual, or retaliate against an individual in any form or
14 manner, and a public agency shall not deny, reduce, or
15 terminate the benefits of, otherwise sanction, or harass any
16 individual, otherwise discriminate against any individual
17 with respect to the amount, terms, or conditions of public
18 assistance of the individual, or retaliate against an
19 individual in any form or manner, because:

20 (1) the individual involved:

21 (A) is or is perceived to be a victim of
22 domestic or sexual violence or has a family or
23 household member who is or is perceived to be a
24 victim of domestic or sexual violence;

25 (B) attended, participated in, prepared for,
26 or requested leave to attend, participate in, or
27 prepare for a criminal or civil court proceeding
28 relating to an incident of domestic or sexual
29 violence of which the individual or a family or
30 household member of the individual was a victim; or

31 (C) requested an adjustment to a job
32 structure, workplace facility, or work requirement,
33 including a transfer, reassignment, or modified

1 schedule, leave, a changed telephone number or
2 seating assignment, installation of a lock, or
3 implementation of a safety procedure in response to
4 actual or threatened domestic or sexual violence,
5 regardless of whether the request was granted; or

6 (2) the workplace is disrupted or threatened by the
7 action of a person whom the individual states has
8 committed or threatened to commit domestic or sexual
9 violence against the individual or the individual's
10 family or household member.

11 (b) In this Section:

12 (1) "Discriminate", used with respect to the terms,
13 conditions, or privileges of employment or with respect
14 to the terms or conditions of public assistance, includes
15 not making a reasonable accommodation to the known
16 limitations resulting from circumstances relating to
17 being a victim of domestic or sexual violence or a family
18 or household member being a victim of domestic or sexual
19 violence of an otherwise qualified individual:

20 (A) who is:

21 (i) an applicant or employee of the
22 employer (including a public agency); or

23 (ii) an applicant for or recipient of
24 public assistance from a public agency; and

25 (B) who is:

26 (i) a victim of domestic or sexual
27 violence; or

28 (ii) with a family or household member
29 who is a victim of domestic or sexual violence
30 whose interests are not adverse to the
31 individual in subparagraph (A) as it relates to
32 the domestic or sexual violence;

33 unless the employer or public agency can demonstrate that
34 the accommodation would impose an undue hardship on the

1 operation of the employer or public agency.

2 (2) "Qualified individual" means:

3 (A) in the case of an applicant or employee
4 described in paragraph (1)(A)(i), an individual who,
5 but for being a victim of domestic or sexual
6 violence or with a family or household member who is
7 a victim of domestic or sexual violence, can perform
8 the essential functions of the employment position
9 that such individual holds or desires; or

10 (B) in the case of an applicant or recipient
11 described in paragraph (1)(A)(ii), an individual
12 who, but for being a victim of domestic or sexual
13 violence or with a family or household member who is
14 a victim of domestic or sexual violence, can satisfy
15 the essential requirements of the program providing
16 the public assistance that the individual receives
17 or desires.

18 (3) "Reasonable accommodation" may include an
19 adjustment to a job structure, workplace facility, or
20 work requirement, including a transfer, reassignment, or
21 modified schedule, leave, a changed telephone number or
22 seating assignment, installation of a lock, or
23 implementation of a safety procedure, in response to
24 actual or threatened domestic or sexual violence.

25 (4) Undue hardship.

26 (A) In general. "Undue hardship" means an
27 action requiring significant difficulty or expense,
28 when considered in light of the factors set forth in
29 subparagraph (B).

30 (B) Factors to be considered. In determining
31 whether a reasonable accommodation would impose an
32 undue hardship on the operation of an employer or
33 public agency, factors to be considered include:

34 (i) the nature and cost of the reasonable

1 accommodation needed under this Section;

2 (ii) the overall financial resources of
3 the facility involved in the provision of the
4 reasonable accommodation, the number of persons
5 employed at such facility, the effect on
6 expenses and resources, or the impact otherwise
7 of such accommodation on the operation of the
8 facility;

9 (iii) the overall financial resources of
10 the employer or public agency, the overall size
11 of the business of an employer or public agency
12 with respect to the number of employees of the
13 employer or public agency, and the number,
14 type, and location of the facilities of an
15 employer or public agency; and

16 (iv) the type of operation of the
17 employer or public agency, including the
18 composition, structure, and functions of the
19 workforce of the employer or public agency, the
20 geographic separateness of the facility from
21 the employer or public agency, and the
22 administrative or fiscal relationship of the
23 facility to the employer or public agency.

24 Section 35. Enforcement.

25 (a) Civil action by individuals.

26 (1) Liability. Any employer or public agency that
27 violates Section 20, 25, or 30 shall be liable to any
28 individual affected for:

29 (A) damages equal to the amount of wages,
30 salary, employment benefits, public assistance, or
31 other compensation denied or lost to such individual
32 by reason of the violation, and the interest on that
33 amount calculated at the prevailing rate;

1 (B) compensatory damages, including damages
2 for future pecuniary losses, emotional pain,
3 suffering, inconvenience, mental anguish, loss of
4 enjoyment or life, and other nonpecuniary losses;

5 (C) such punitive damages, up to 3 times the
6 amount of actual damages sustained, as the court
7 described in paragraph (2) shall determine to be
8 appropriate; and

9 (D) such equitable relief as may be
10 appropriate, including but not limited to hiring,
11 reinstatement, promotion and reasonable
12 accommodations.

13 (2) Right of action. An action to recover the
14 damages or equitable relief prescribed in paragraph (1)
15 may be maintained against any employer or public agency
16 in any court of competent jurisdiction by any one or more
17 individuals for and on behalf of:

18 (A) the individuals; or

19 (B) the individuals and other individuals
20 similarly situated.

21 (3) Fees and costs. The court in such an action
22 shall, in addition to any judgment awarded to the
23 plaintiff, allow a reasonable attorney's fee, reasonable
24 expert witness fees, and other costs of the action to be
25 paid by the defendant.

26 (4) Limitation. An action may be brought under this
27 Act not later than 7 years after the date of the last
28 event constituting the alleged violation for which the
29 action is brought.

30 (5) Employer liability under other laws. Nothing in
31 this Section shall be construed to limit the liability of
32 an employer or public agency to an individual, for harm
33 suffered relating to the individual's experience of
34 domestic or sexual violence, pursuant to any other

1 federal or State law, including a law providing for a
2 legal remedy.

3 (6) Action by the Attorney General. Upon the
4 request of an individual who alleges to have suffered a
5 violation of this Act, the Illinois Attorney General
6 shall investigate all such violations and when such
7 violations are established, upon the request of such an
8 individual shall undertake necessary enforcement
9 measures, which may include a civil action in any court
10 of competent jurisdiction to recover the damages or
11 equitable relief described in subsection (a)(1).

12 Section 40. Effect on other laws and employment benefits.

13 (a) More protective laws, agreements, programs, and
14 plans. Nothing in this Act shall be construed to supersede
15 any provision of any federal, State, or local law, collective
16 bargaining agreement, or employment benefits program or plan
17 that provides:

18 (1) greater leave benefits for victims of domestic
19 or sexual violence than the rights established under this
20 Act; or

21 (2) leave benefits for a larger population of
22 victims of domestic or sexual violence (as defined in
23 such law, agreement, program, or plan) than the victims
24 of domestic or sexual violence covered under this Act.

25 (b) Less protective laws, agreements, programs, and
26 plans. The rights established for employees who are victims
27 of domestic or sexual violence and employees with a family or
28 household member who is a victim of domestic or sexual
29 violence under this Act shall not be diminished by any
30 federal, State or local law, collective bargaining agreement,
31 or employment benefits program or plan.

32 Section 105. The Illinois Income Tax Act is amended by

1 changing Section 201 as follows:

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

3 Sec. 201. Tax Imposed.

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

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

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

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

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

29 (4) (Blank).

30 (5) (Blank).

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

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

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

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

24 (d) Additional Personal Property Tax Replacement Income
25 Tax Rates. The personal property tax replacement income tax
26 imposed by this subsection and subsection (c) of this Section
27 in the case of a corporation, other than a Subchapter S
28 corporation and except as adjusted by subsection (d-1), shall
29 be an additional amount equal to 2.85% of such taxpayer's net
30 income for the taxable year, except that beginning on January
31 1, 1981, and thereafter, the rate of 2.85% specified in this
32 subsection shall be reduced to 2.5%, and in the case of a
33 partnership, trust or a Subchapter S corporation shall be an
34 additional amount equal to 1.5% of such taxpayer's net income

1 for the taxable year.

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

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

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

34 (B) the privilege tax imposed by Section 409

1 of the Illinois Insurance Code, the fire insurance
2 company tax imposed by Section 12 of the Fire
3 Investigation Act, and the fire department taxes
4 imposed under Section 11-10-1 of the Illinois
5 Municipal Code,

6 equals 1.25% of the net taxable premiums written for the
7 taxable year, as described by subsection (1) of Section
8 409 of the Illinois Insurance Code. This paragraph will
9 in no event increase the rates imposed under subsections
10 (b) and (d).

11 (2) Any reduction in the rates of tax imposed by
12 this 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
16 (i) has been reduced to zero, against the rates imposed
17 by 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
24 .5% 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
27 allowed an additional credit equal to .5% of the basis of
28 qualified property placed in service during the taxable
29 year, provided such property is placed in service on or
30 after July 1, 1986, and the taxpayer's base employment
31 within Illinois has increased by 1% or more over the
32 preceding year as determined by the taxpayer's employment
33 records filed with the Illinois Department of Employment
34 Security. Taxpayers who are new to Illinois shall be

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

1 1988, the credit shall be allowed for the tax year in
2 which the property is placed in service, or, if the
3 amount of the credit exceeds the tax liability for that
4 year, whether it exceeds the original liability or the
5 liability as later amended, such excess may be carried
6 forward and applied to the tax liability of the 5 taxable
7 years following the excess credit years. The credit shall
8 be applied to the earliest year for which there is a
9 liability. If there is credit from more than one tax year
10 that is available to offset a liability, earlier credit
11 shall be applied first.

12 (2) The term "qualified property" means property
13 which:

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

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

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

28 (D) is used in Illinois by a taxpayer who is
29 primarily engaged in manufacturing, or in mining
30 coal or fluorite, or in retailing; and

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

1 (3) For purposes of this subsection (e),
2 "manufacturing" means the material staging and production
3 of tangible personal property by procedures commonly
4 regarded as manufacturing, processing, fabrication, or
5 assembling which changes some existing material into new
6 shapes, new qualities, or new combinations. For purposes
7 of this subsection (e) the term "mining" shall have the
8 same meaning as the term "mining" in Section 613(c) of
9 the Internal Revenue Code. For purposes of this
10 subsection (e), the term "retailing" means the sale of
11 tangible personal property or services rendered in
12 conjunction with the sale of tangible consumer goods or
13 commodities.

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

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

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

25 (7) If during any taxable year, any property ceases
26 to be qualified property in the hands of the taxpayer
27 within 48 months after being placed in service, or the
28 situs of any qualified property is moved outside Illinois
29 within 48 months after being placed in service, the
30 Personal Property Tax Replacement Income Tax for such
31 taxable year shall be increased. Such increase shall be
32 determined by (i) recomputing the investment credit which
33 would have been allowed for the year in which credit for
34 such property was originally allowed by eliminating such

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

8 (8) Unless the investment credit is extended by
9 law, the basis of qualified property shall not include
10 costs incurred after December 31, 2003, except for costs
11 incurred pursuant to a binding contract entered into on
12 or before December 31, 2003.

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

30 For taxable years ending on or after December 31,
31 2000, a partner that qualifies its partnership for a
32 subtraction under subparagraph (I) of paragraph (2) of
33 subsection (d) of Section 203 or a shareholder that
34 qualifies a Subchapter S corporation for a subtraction

1 under subparagraph (S) of paragraph (2) of subsection (b)
2 of Section 203 shall be allowed a credit under this
3 subsection (e) equal to its share of the credit earned
4 under this subsection (e) during the taxable year by the
5 partnership or Subchapter S corporation, determined in
6 accordance with the determination of income and
7 distributive share of income under Sections 702 and 704
8 and Subchapter S of the Internal Revenue Code. This
9 paragraph is exempt from the provisions of Section 250.

10 (f) Investment credit; Enterprise Zone.

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

1 such excess may be carried forward and applied to the tax
2 liability of the 5 taxable years following the excess
3 credit year. The credit shall be applied to the earliest
4 year for which there is a liability. If there is credit
5 from more than one tax year that is available to offset a
6 liability, the credit accruing first in time shall be
7 applied first.

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

10 (A) is tangible, whether new or used,
11 including buildings and structural components of
12 buildings;

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

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

20 (D) is used in the Enterprise Zone by the
21 taxpayer; and

22 (E) has not been previously used in Illinois
23 in such a manner and by such a person as would
24 qualify for the credit provided by this subsection
25 (f) or subsection (e).

26 (3) The basis of qualified property shall be the
27 basis used to compute the depreciation deduction for
28 federal income tax purposes.

29 (4) If the basis of the property for federal income
30 tax depreciation purposes is increased after it has been
31 placed in service in the Enterprise Zone by the taxpayer,
32 the amount of such increase shall be deemed property
33 placed in service on the date of such increase in basis.

34 (5) The term "placed in service" shall have the

1 same meaning as under Section 46 of the Internal Revenue
2 Code.

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

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

22 (1) A taxpayer conducting a trade or business in an
23 enterprise zone or a High Impact Business designated by
24 the Department of Commerce and Community Affairs
25 conducting a trade or business in a federally designated
26 Foreign Trade Zone or Sub-Zone shall be allowed a credit
27 against the tax imposed by subsections (a) and (b) of
28 this Section in the amount of \$500 per eligible employee
29 hired to work in the zone during the taxable year.

30 (2) To qualify for the credit:

31 (A) the taxpayer must hire 5 or more eligible
32 employees to work in an enterprise zone or federally
33 designated Foreign Trade Zone or Sub-Zone during the
34 taxable year;

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

9 (C) the eligible employees must be employed
10 180 consecutive days in order to be deemed hired for
11 purposes of this subsection.

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

14 (A) Certified by the Department of Commerce
15 and Community Affairs as "eligible for services"
16 pursuant to regulations promulgated in accordance
17 with Title II of the Job Training Partnership Act,
18 Training Services for the Disadvantaged or Title III
19 of the Job Training Partnership Act, Employment and
20 Training Assistance for Dislocated Workers Program.

21 (B) Hired after the enterprise zone or
22 federally designated Foreign Trade Zone or Sub-Zone
23 was designated or the trade or business was located
24 in that zone, whichever is later.

25 (C) Employed in the enterprise zone or Foreign
26 Trade Zone or Sub-Zone. An employee is employed in
27 an enterprise zone or federally designated Foreign
28 Trade Zone or Sub-Zone if his services are rendered
29 there or it is the base of operations for the
30 services performed.

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

33 (4) For tax years ending on or after December 31,
34 1985 and prior to December 31, 1988, the credit shall be

1 allowed for the tax year in which the eligible employees
2 are hired. For tax years ending on or after December 31,
3 1988, the credit shall be allowed for the tax year
4 immediately following the tax year in which the eligible
5 employees are hired. If the amount of the credit exceeds
6 the tax liability for that year, whether it exceeds the
7 original liability or the liability as later amended,
8 such excess may be carried forward and applied to the tax
9 liability of the 5 taxable years following the excess
10 credit year. The credit shall be applied to the earliest
11 year for which there is a liability. If there is credit
12 from more than one tax year that is available to offset a
13 liability, earlier credit shall be applied first.

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

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

19 (h) Investment credit; High Impact Business.

20 (1) Subject to subsections (b) and (b-5) of Section
21 5.5 of the Illinois Enterprise Zone Act, a taxpayer shall
22 be allowed a credit against the tax imposed by
23 subsections (a) and (b) of this Section for investment in
24 qualified property which is placed in service by a
25 Department of Commerce and Community Affairs designated
26 High Impact Business. The credit shall be .5% of the
27 basis for such property. The credit shall not be
28 available (i) until the minimum investments in qualified
29 property set forth in subdivision (a)(3)(A) of Section
30 5.5 of the Illinois Enterprise Zone Act have been
31 satisfied or (ii) until the time authorized in subsection
32 (b-5) of the Illinois Enterprise Zone Act for entities
33 designated as High Impact Businesses under subdivisions
34 (a)(3)(B), (a)(3)(C), and (a)(3)(D) of Section 5.5 of the

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

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

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

32 (A) is tangible, whether new or used,
33 including buildings and structural components of
34 buildings;

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

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

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

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

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

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

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

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

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

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

28 Any credit earned on or after December 31, 1986 under
29 this subsection which is unused in the year the credit is
30 computed because it exceeds the tax liability imposed by
31 subsections (a) and (b) for that year (whether it exceeds the
32 original liability or the liability as later amended) may be
33 carried forward and applied to the tax liability imposed by
34 subsections (a) and (b) of the 5 taxable years following the

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

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

16 (j) Training expense credit. Beginning with tax years
17 ending on or after December 31, 1986, a taxpayer shall be
18 allowed a credit against the tax imposed by subsections (a)
19 and (b) under this Section for all amounts paid or accrued,
20 on behalf of all persons employed by the taxpayer in Illinois
21 or Illinois residents employed outside of Illinois by a
22 taxpayer, for educational or vocational training in
23 semi-technical or technical fields or semi-skilled or skilled
24 fields, which were deducted from gross income in the
25 computation of taxable income. The credit against the tax
26 imposed by subsections (a) and (b) shall be 1.6% of such
27 training expenses. For partners, shareholders of subchapter
28 S corporations, and owners of limited liability companies, if
29 the liability company is treated as a partnership for
30 purposes of federal and State income taxation, there shall be
31 allowed a credit under this subsection (j) to be determined
32 in accordance with the determination of income and
33 distributive share of income under Sections 702 and 704 and
34 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
3 each of the 5 taxable years following the year for which the
4 credit is first computed until it is used. This credit shall
5 be 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
8 liability the earliest credit arising under this subsection
9 shall be applied first.

10 (k) Research and development credit.

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

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

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

5 Any credit in excess of the tax liability for the taxable
6 year may be carried forward. A taxpayer may elect to have the
7 unused credit shown on its final completed return carried
8 over as a credit against the tax liability for the following
9 5 taxable years or until it has been fully used, whichever
10 occurs first.

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

23 Unless extended by law, the credit shall not include
24 costs incurred after December 31, 2004, except for costs
25 incurred pursuant to a binding contract entered into on or
26 before December 31, 2004.

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

30 (1) Environmental Remediation Tax Credit.

31 (i) For tax years ending after December 31, 1997
32 and on or before December 31, 2001, a taxpayer shall be
33 allowed a credit against the tax imposed by subsections
34 (a) and (b) of this Section for certain amounts paid for

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

1 contained in an enterprise zone as determined by the
2 Department of Commerce and Community Affairs. The total
3 credit allowed shall not exceed \$40,000 per year with a
4 maximum total of \$150,000 per site. For partners and
5 shareholders of subchapter S corporations, there shall be
6 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.
14 The 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
19 under 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
25 a remediation site and the tax credit shall succeed to
26 the unused credit and remaining carry-forward period of
27 the seller. To perfect the transfer, the assignor shall
28 record the transfer in the chain of title for the site
29 and provide written notice to the Director of the
30 Illinois Department of Revenue of the assignor's intent
31 to sell the remediation site and the amount of the tax
32 credit to be transferred as a portion of the sale. In no
33 event may a credit be transferred to any taxpayer if the
34 taxpayer or a related party would not be eligible under

1 the provisions of subsection (i).

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

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

18 For purposes of this subsection:

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

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

30 "School" means any public or nonpublic elementary or
31 secondary school in Illinois that is in compliance with Title
32 VI of the Civil Rights Act of 1964 and attendance at which
33 satisfies the requirements of Section 26-1 of the School
34 Code, except that nothing shall be construed to require a

1 child to attend any particular public or nonpublic school to
2 qualify for the credit under this Section.

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

6 (n) Paid leave due to domestic or sexual violence
7 credit.

8 (1) In general. An employer shall be allowed a
9 credit against the tax imposed under subsections (a) and
10 (b) for leave taken by an employee due to domestic or
11 sexual violence in an amount equal to 100% of the wages
12 paid by the employer to an employee under the Victims'
13 Economic Security and Safety Act during the taxable year.

14 (2) Limitations. The tax credit provided by
15 paragraph (1) does not include wages paid:

16 (A) pursuant to Section 25 of the Victims'
17 Economic Security and Safety Act; or

18 (B) after the initial filing of a civil action
19 filed pursuant to Section 35 of that Act.

20 (o) Workplace safety program credit.

21 (1) In general. An employer shall be allowed a
22 credit against the tax imposed under subsections (a) and
23 (b) in an amount equal to 40% of the domestic and sexual
24 violence safety and education costs paid or incurred by
25 such employer during the taxable year.

26 (2) Definitions. For purposes of this subsection
27 (o):

28 (A) Domestic and sexual violence safety and
29 education cost.

30 (i) In general. "Domestic and sexual
31 violence safety and education cost" means any
32 cost certified by the employer as being for the
33 purpose of:

34 (aa) ensuring the safety of

1 employees from domestic or sexual
2 violence,

3 (bb) providing assistance to
4 employees and family and household members
5 of employees with respect to domestic or
6 sexual violence,

7 (cc) providing legal or medical
8 services to employees and family and
9 household members of employees subjected
10 to, or at risk from, domestic or sexual
11 violence,

12 (dd) educating employees about the
13 issue of domestic or sexual violence, or

14 (ee) implementing human resource or
15 personnel policies initiated to protect
16 employees from domestic or sexual violence
17 or to support employees who have been
18 victims of domestic or sexual violence.

19 (ii) Types of costs. The term includes
20 costs certified by the employer as being for
21 the purpose of:

22 (aa) the hiring of new security
23 personnel in order to address domestic or
24 sexual violence,

25 (bb) the creation of buddy systems
26 or escort systems for walking employees to
27 parking lots, parked cars, subway
28 stations, or bus stops, in order to
29 address domestic or sexual violence,

30 (cc) the purchase or installation of
31 new security equipment, including
32 surveillance equipment, lighting fixtures,
33 cardkey access systems, and identification
34 systems, in order to address domestic or

1 sexual violence,

2 (dd) the establishment of an
3 employee assistance line or other employee
4 assistance services, in order to address
5 domestic or sexual violence, for the use
6 of individual employees, including
7 counseling or referral services undertaken
8 in consultation and coordination with
9 national, State, or local domestic
10 violence coalitions, sexual assault
11 coalitions, domestic violence programs, or
12 sexual assault programs,

13 (ee) the retention of an attorney to
14 provide legal services to employees
15 seeking restraining orders or other legal
16 recourse from domestic or sexual violence,

17 (ff) the establishment of medical
18 services addressing the medical needs of
19 employees who are victims of domestic or
20 sexual violence,

21 (gg) the retention of a financial
22 expert or an accountant to provide
23 financial counseling to employees seeking
24 to escape from domestic or sexual
25 violence,

26 (hh) the establishment of an
27 education program for employees,
28 consisting of seminars or training
29 sessions about domestic or sexual violence
30 undertaken in consultation and
31 coordination with national, State, or
32 local domestic violence coalitions, sexual
33 assault coalitions, domestic violence
34 programs, or sexual assault programs,

1 (ii) studies of the cost, impact, or
2 extent of domestic or sexual violence at
3 the employer's place of business, if such
4 studies are made available to the public
5 and protect the identity of employees
6 included in the study,

7 (jj) the publication of a regularly
8 disseminated newsletter or other regularly
9 disseminated educational materials about
10 domestic or sexual violence,

11 (kk) the implementation of leave
12 policies for the purpose of allowing or
13 accommodating the needs of victims of
14 domestic or sexual violence to pursue
15 counseling, legal assistance, or safety
16 planning, including leave from work to
17 attend meetings with attorneys, to give
18 evidentiary statements or depositions, and
19 to attend hearings or trials in court,

20 (ll) the implementation of flexible
21 work policies for the purpose of allowing
22 or accommodating the needs of employees
23 who are victims of domestic or sexual
24 violence, or employees at risk with
25 respect to such crimes, to avoid
26 assailants,

27 (mm) the implementation of transfer
28 policies for the purpose of allowing or
29 accommodating the needs of employees
30 subjected to domestic or sexual violence
31 to change office locations within the
32 company in order to avoid assailants or to
33 allow the transfer of an employee who has
34 perpetrated domestic or sexual violence in

1 order to protect the victim, including
2 payment of costs for the transfer and
3 relocation of an employee to another city,
4 county, State, or country for the purpose
5 of maintaining an employee's safety from
6 domestic or sexual violence, or

7 (nn) the provision of any of the
8 services described in clauses (dd) through
9 (hh) to the family or household members of
10 employees.

11 (iii) Notification of possible tax
12 consequences. In no event shall any cost for
13 goods or services which may be included in the
14 income of any employee receiving or benefiting
15 from such goods or services be treated as a
16 domestic and sexual violence safety and
17 education cost unless the employer notifies the
18 employee in writing of the possibility of such
19 inclusion.

20 (B) "Domestic or sexual violence" means
21 domestic violence, sexual assault, or stalking, as
22 those terms are defined in Section 10 of the
23 Victims' Economic Security and Safety Act.

24 (C) "Domestic violence coalition" and "sexual
25 assault coalition" have the meanings given the terms
26 in Section 10 of the Victims' Economic Security and
27 Safety Act.

28 (D) "Employee" means a person who is an
29 employee, as defined in Section 10 of the Victims'
30 Economic Security and Safety Act.

31 (E) "Employer" means a person who is an
32 employer, as defined in Section 10 of the Victims'
33 Economic Security and Safety Act.

34 (2) Coordination with other provisions. No credit

1 or deduction shall be allowed under any other provision
2 of this Act for any amount for which a credit is allowed
3 under this subsection (o).

4 (p) Credit not a defense in legal actions. The allowance
5 of a credit under subsections (n) and (o) does not absolve
6 employers of their responsibilities under any other law and
7 shall not be construed as a defense to any legal action.

8 (q) Applicability. The changes made to this Section by
9 this amendatory Act of the 93rd General Assembly apply to
10 taxable years beginning after December 31, 2003.

11 (Source: P.A. 91-9, eff. 1-1-00; 91-357, eff. 7-29-99;
12 91-643, eff. 8-20-99; 91-644, eff. 8-20-99; 91-860, eff.
13 6-22-00; 91-913, eff. 1-1-01; 92-12, eff. 7-1-01; 92-16, eff.
14 6-28-01; 92-651, eff. 7-11-02; 92-846, eff. 8-23-02.)

15 Section 905. Severability. If any provision of this Act,
16 any amendment made by this Act, or the application of such
17 provision or amendment to any person or circumstance is held
18 to be in violation of the U.S. or State Constitution, the
19 remainder of the provisions of this Act, the amendments made
20 by this Act, and the application of such provisions or
21 amendments to any person or circumstance shall not be
22 affected.

23 Section 999. Effective date. This Act takes effect upon
24 becoming law.