102ND GENERAL ASSEMBLY
State of Illinois
2021 and 2022
SB3882

Introduced 1/21/2022, by Sen. Laura Fine

SYNOPSIS AS INTRODUCED:

New Act
35 ILCS 5/232 new

Creates the Recovery and Mental Health Tax Credit Act. Provides that the Department of Human Services shall establish and administer a recovery tax credit program to provide tax incentives to qualified employers who employ eligible individuals in recovery from a substance use disorder or mental illness in part-time and full-time positions within Illinois. Creates the Advisory Council on Mental Illness and Substance Use Disorder Impacts on Employment Opportunities within Minority Communities. Sets forth the membership of the Council. Provides that the Council shall advise the Department of Human Services regarding employment of persons with mental illnesses and substance use disorders in minority communities. Amends the Illinois Income Tax Act to make conforming changes.

LRB102 25848 HLH 35197 b
AN ACT concerning revenue.

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

Section 1. Short title. This Act may be cited as the Recovery and Mental Health Tax Credit Act.

Section 5. Findings.

(a) In the interest of reducing stigma and increasing the available pool of potential employees, the General Assembly finds and declares that those residents of Illinois diagnosed with mental illness and substance use disorders should be eligible for and encouraged to seek gainful employment.

(b) The General Assembly finds and declares that minority communities in the State have been more negatively impacted in employment opportunities for minority residents diagnosed with mental illness and substance use disorders and should receive additional employment opportunities and incentives for employing minority residents diagnosed with mental illness or substance use disorders.

(c) Due to the COVID-19 public health emergency, employers in the State of Illinois have suffered negative economic impacts, a loss in workforce, staffing difficulties, and have found it difficult to recruit new workers.

(d) In the interest of providing additional employment
opportunities for those residents of Illinois diagnosed with mental illness or substance use disorders and expanding the pool of potential workers in the State, the General Assembly finds and declares that certain qualified employers who employ eligible individuals should be eligible for a tax credit.

Section 10. Definitions. As used in this Act:

"Department" means the Department of Human Services.

"Eligible individual" means an individual with a substance use disorder, as that term is defined under Section 1-10 of the Substance Use Disorder Act, or an individual with a mental illness as that term is defined under Section 1-129 of the Mental Health and Developmental Disabilities Code, who is in a state of wellness and recovery where there is an abatement of signs and symptoms that characterize active substance use disorder or mental illness and has demonstrated to the qualified employer's satisfaction, pursuant to regulations promulgated by the Department, that he or she has completed a course of treatment or is currently in receipt of treatment for such substance use disorder or mental illness. A relapse in an individual's state of wellness shall not make the individual ineligible, so long as the individual shows a continued commitment to recovery that aligns with an individual's relapse prevention plan, discharge plan, or recovery plan.

"Qualified employer" means an employer operating within
the State that has received a certificate of tax credit from
the Department after the Department has determined that the
employer:

(1) provides a recovery supportive environment for
their employees evidenced by a formal working relationship
with a substance use disorder treatment provider or
facility or mental health provider or facility, each as
may be licensed or certified within the State of Illinois,
and providing reasonable accommodation to the employees to
address their substance use disorder or mental illness,
all at no cost or expense to the eligible individual; and

(2) satisfies all other criteria in this Section and
established by the Department to participate in the
recovery tax program created hereunder.

"Taxpayer" means any individual, corporation, partnership,
trust, or other entity subject to the Illinois income tax. For
the purposes of this Act, 2 individuals filing a joint return
shall be considered one taxpayer.

Section 15. Authorization of tax credit program for
individuals in recovery from substance use disorders or mental
illness.

(a) For taxable years beginning on or after January 1,
2023, the Department is authorized to and shall establish and
administer a recovery tax credit program to provide tax
incentives to qualified employers who employ eligible
individuals in recovery from a substance use disorder or mental illness in part-time and full-time positions within Illinois. The Department shall award the tax credit by issuance of a certificate of tax credit to the qualified employer, who will present the certificate of tax credit to the Department of Revenue as a credit against the qualified employer's tax obligation in accordance with this Act.

(b) To be a qualified employer, an employer must apply annually to the Department to claim a credit based upon eligible individuals employed during the preceding calendar year, using the forms prescribed by the Department. To be approved for a credit under this Act, the employer must:

(1) agree to provide to the Department the information necessary to demonstrate that the employer has satisfied program eligibility requirements and provided all information requested or needed by the Department, including the number of hours worked by the eligible individual and other information necessary for the Department to calculate the amount of credit permitted; and

(2) agree to provide names, employer identification numbers, amounts that the employer may claim, and other information necessary for the Department to calculate any tax credit.

(c) To be an eligible individual, the individual must be diagnosed with or have been diagnosed with a substance use
disorder or mental illness. Disclosure by the eligible individual of his or her mental illness or substance use disorder shall be completely voluntary and his or her health information may not be shared or disclosed under this Act without the eligible individual's express written consent. The eligible individual must have been employed by the qualified employer in the State for a minimum of 500 hours during the applicable calendar year and the tax credit may only begin on the date the eligible individual is hired by the qualified employer and ending on December 31 of that calendar year or the date that the eligible individual's employment with the qualified employer ends, whichever occurs first. Only one tax credit may be awarded for any eligible individual while employed by the same or related qualified employer. The hours of employment of 2 or more eligible individuals may not be aggregated to reach the minimum number of hours. If an eligible individual has worked in excess of 500 hours between the date of hiring and December 31 of that year, a qualified employer can elect to compute and claim a credit for such eligible individual in that year based on the hours worked by December 31. Alternatively, the qualified employer may elect to include such individual in the computation of the credit in the year immediately succeeding the year in which the eligible individual was hired. In that case, the credit shall be computed on the basis of all hours worked by the eligible individual from the date of hire to the earlier of the last day
of employment or December 31 of the succeeding year.

(d) The aggregate amount of all credits the Department may award under this Act in any calendar year may not exceed $2,000,000.

(e) If the qualified employer's taxable year is a calendar year, the employer shall be entitled to claim the credit as shown on the certificate of tax credit on the calendar year return for which the certificate of tax credit was issued. If the certified employer's taxable year is a fiscal year, the qualified employer shall be entitled to claim the credit as shown on the certificate of tax credit on the return for the fiscal year that includes the last day of the calendar year covered by the certificate of tax credit.

(f) If Department criteria and all other requirements are met, a qualified employer shall be entitled to a tax credit equal to the product of $1 and the number of hours worked by each eligible individual during the eligible individual's period of employment with the qualified employer. The tax credit awarded hereunder may not exceed $2,000 per eligible individual employed by the qualified employer in the State. In determining the amount of tax credit that any qualified employer may claim, the Department shall review all claims submitted for credit by all employers and, to the extent that the total amount claimed by employers exceeds the amount allocated for this program in that calendar year, shall issue tax credits on a pro rata basis corresponding to each
qualified employer's share of the total amount claimed.

(g) No credit shall be taken under this Act if the taxpayer
claims a federal income tax deduction for the employment of
the eligible individual by a qualified employer.

(h) No tax credit awarded under this Act may reduce a
qualified employer's tax obligation to less than zero.

(i) The Department of Revenue shall review and accept the
tax credit certificates issued by the Department and apply the
tax credit toward the qualified employer's income tax
obligation. A taxpayer that is a qualified employer that has
received a certificate of tax credit from the Department shall
be allowed a credit against the tax imposed equal to the amount
shown on such certificate of tax credit. If the taxpayer is (i)
a corporation having an election in effect under Subchapter S
of the federal Internal Revenue Code, (ii) a partnership, or
(iii) a limited liability company, the credit provided under
this Act may be claimed by the shareholders of the
corporation, the partners of the partnership, or the members
of the limited liability company in the same manner as those
shareholders, partners, or members account for their
proportionate shares of the income or losses of the
corporation, partnership, or limited liability company, or as
provided in the bylaws or other executed agreement of the
corporation, partnership, or limited liability company. In
carrying out this Act, no patient-specific information shall
be shared or disclosed. Any information collected by the
Department or the Department of Revenue shall not be subject
to public disclosure or Freedom of Information Act requests.

(j) The credit under this Act is exempt from the

Section 20. Advisory Council on Mental Illness and
Substance Use Disorder Impacts on Employment Opportunities
within Minority Communities. The Secretary of the Department
shall appoint the Advisory Council on Mental Illness and
Substance Use Disorder Impacts on Employment Opportunities
within Minority Communities, to be composed of 15 members,
which shall include a balanced representation of recipients,
services providers, employers, local governmental units,
community and welfare advocacy groups, academia, and the
general public. The Advisory Council shall advise the
Department regarding all aspects of employment impacts
resulting from mental illnesses and substance use disorders
within minority communities, tax credits, outreach, marketing,
and education about the tax credit and employment
opportunities, and other areas as deemed appropriate by the
Secretary. In appointing the first Council, the Secretary
shall name 8 members to terms of 2 years and 7 members to serve
terms of 4 years, all of whom shall be appointed within 6
months of the effective date of this Act. All members
appointed thereafter shall serve terms of 4 years. Members
shall serve without compensation other than reimbursement of
expenses actually incurred in the performance of their official duties. At its first meeting, the Advisory Council shall select a chair from among its members. The Advisory Council shall meet at least quarterly and at other times at the call of the chair.

Section 25. Powers. The Department shall adopt rules for the administration of this Act. The Department may enter into an intergovernmental agreement with the Department of Revenue for the administration of this Act.

Section 90. The Illinois Income Tax Act is amended by adding Section 232 as follows:

(35 ILCS 5/232 new)

Sec. 232. Recovery and Mental Health Tax Credit Act. A taxpayer who has been awarded a credit under the Recovery and Mental Health Tax Credit Act is entitled to a credit against the tax imposed by subsections (a) and (b) of Section 201 as provided in that Act. This Section is exempt from the provisions of Section 250.