AMENDMENT TO SENATE BILL 3882

AMENDMENT NO. ______. Amend Senate Bill 3882, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Article may be cited as the Recovery and Mental Health Tax Credit Act. References in this Article to "this Act" mean this Article.

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 this 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 this 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 rules adopted
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 by attaching the certificate to its tax return, as a credit against the qualified employer's income tax liability in accordance with the Illinois Income Tax Act. The Department shall maintain an electronic listing of the certificates issued by which the Department of Revenue may verify tax credit certificates issued.

(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 this 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) 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 under this Act may not exceed $2,000 per eligible individual employed by the qualified employer in this 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.

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

(f) A taxpayer who is a qualified employer who 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.

(g) The credit must be claimed in the taxable year in which the tax credit certificate is issued. The credit cannot reduce a taxpayer's liability to less than zero. If the amount of the credit exceeds the tax liability for the year, the credit may not be carried forward.

(h) If the taxpayer is a partnership or Subchapter S corporation the credit shall be allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code.

(i) In carrying out this Act, no patient-specific information shall be shared or disclosed. Any individual or patient-specific 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 provisions of Section 250 of the Illinois Income Tax Act.
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 30. 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. For taxable years beginning on or after January 1, 2023, 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."