

SB0163



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB0163

Introduced 1/31/2023, by Sen. Donald P. DeWitte

SYNOPSIS AS INTRODUCED:

35 ILCS 5/201

Amends the Illinois Income Tax Act. Increases the research and development credit by providing that the increase in research and development activities shall be based on an increase over 50% of the average of the qualifying expenditures for each year in the base period (instead of 100% of the average of the qualifying expenditures for each year in the base period). Provides that the research and development credit applies on a permanent basis. Effective immediately.

LRB103 25037 HLH 51371 b

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 201 as follows:

6 (35 ILCS 5/201)

7 Sec. 201. Tax imposed.

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

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

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

22 (2) In the case of an individual, trust or estate, for
23 taxable years beginning prior to July 1, 1989 and ending

1 after June 30, 1989, an amount equal to the sum of (i) 2
2 1/2% of the taxpayer's net income for the period prior to
3 July 1, 1989, as calculated under Section 202.3, and (ii)
4 3% of the taxpayer's net income for the period after June
5 30, 1989, as calculated under Section 202.3.

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

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

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

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

1 after December 31, 2014, as calculated under Section
2 202.5.

3 (5.2) In the case of an individual, trust, or estate,
4 for taxable years beginning on or after January 1, 2015,
5 and ending prior to July 1, 2017, an amount equal to 3.75%
6 of the taxpayer's net income for the taxable year.

7 (5.3) In the case of an individual, trust, or estate,
8 for taxable years beginning prior to July 1, 2017, and
9 ending after June 30, 2017, an amount equal to the sum of
10 (i) 3.75% of the taxpayer's net income for the period
11 prior to July 1, 2017, as calculated under Section 202.5,
12 and (ii) 4.95% of the taxpayer's net income for the period
13 after June 30, 2017, as calculated under Section 202.5.

14 (5.4) In the case of an individual, trust, or estate,
15 for taxable years beginning on or after July 1, 2017, an
16 amount equal to 4.95% of the taxpayer's net income for the
17 taxable year.

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

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

1 1989, as calculated under Section 202.3.

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

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

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

17 (11) In the case of a corporation, for taxable years
18 beginning prior to January 1, 2015, and ending after
19 December 31, 2014, an amount equal to the sum of (i) 7% of
20 the taxpayer's net income for the period prior to January
21 1, 2015, as calculated under Section 202.5, and (ii) 5.25%
22 of the taxpayer's net income for the period after December
23 31, 2014, as calculated under Section 202.5.

24 (12) In the case of a corporation, for taxable years
25 beginning on or after January 1, 2015, and ending prior to
26 July 1, 2017, an amount equal to 5.25% of the taxpayer's

1 net income for the taxable year.

2 (13) In the case of a corporation, for taxable years
3 beginning prior to July 1, 2017, and ending after June 30,
4 2017, an amount equal to the sum of (i) 5.25% of the
5 taxpayer's net income for the period prior to July 1,
6 2017, as calculated under Section 202.5, and (ii) 7% of
7 the taxpayer's net income for the period after June 30,
8 2017, as calculated under Section 202.5.

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

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

14 (b-5) Surcharge; sale or exchange of assets, properties,
15 and intangibles of organization gaming licensees. For each of
16 taxable years 2019 through 2027, a surcharge is imposed on all
17 taxpayers on income arising from the sale or exchange of
18 capital assets, depreciable business property, real property
19 used in the trade or business, and Section 197 intangibles (i)
20 of an organization licensee under the Illinois Horse Racing
21 Act of 1975 and (ii) of an organization gaming licensee under
22 the Illinois Gambling Act. The amount of the surcharge is
23 equal to the amount of federal income tax liability for the
24 taxable year attributable to those sales and exchanges. The
25 surcharge imposed shall not apply if:

26 (1) the organization gaming license, organization

1 license, or racetrack property is transferred as a result
2 of any of the following:

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

7 (B) cancellation, revocation, or termination of
8 any such license by the Illinois Gaming Board or the
9 Illinois Racing Board;

10 (C) a determination by the Illinois Gaming Board
11 that transfer of the license is in the best interests
12 of Illinois gaming;

13 (D) the death of an owner of the equity interest in
14 a licensee;

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

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

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

23 (2) the controlling interest in the organization
24 gaming license, organization license, or racetrack
25 property is transferred in a transaction to lineal
26 descendants in which no gain or loss is recognized or as a

1 result of a transaction in accordance with Section 351 of
2 the Internal Revenue Code in which no gain or loss is
3 recognized; or

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

8 The transfer of an organization gaming license,
9 organization license, or racetrack property by a person other
10 than the initial licensee to receive the organization gaming
11 license is not subject to a surcharge. The Department shall
12 adopt rules necessary to implement and administer this
13 subsection.

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

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

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

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

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

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

17 (B) the privilege tax imposed by Section 409 of
18 the Illinois Insurance Code, the fire insurance
19 company tax imposed by Section 12 of the Fire
20 Investigation Act, and the fire department taxes
21 imposed under Section 11-10-1 of the Illinois
22 Municipal Code,

23 equals 1.25% for taxable years ending prior to December
24 31, 2003, or 1.75% for taxable years ending on or after
25 December 31, 2003, of the net taxable premiums written for
26 the taxable year, as described by subsection (1) of

1 Section 409 of the Illinois Insurance Code. This paragraph
2 will in no event increase the rates imposed under
3 subsections (b) and (d).

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

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

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

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

1 Security. Taxpayers who are new to Illinois shall be
2 deemed to have met the 1% growth in base employment for the
3 first year in which they file employment records with the
4 Illinois Department of Employment Security. The provisions
5 added to this Section by Public Act 85-1200 (and restored
6 by Public Act 87-895) shall be construed as declaratory of
7 existing law and not as a new enactment. If, in any year,
8 the increase in base employment within Illinois over the
9 preceding year is less than 1%, the additional credit
10 shall be limited to that percentage times a fraction, the
11 numerator of which is .5% and the denominator of which is
12 1%, but shall not exceed .5%. The investment credit shall
13 not be allowed to the extent that it would reduce a
14 taxpayer's liability in any tax year below zero, nor may
15 any credit for qualified property be allowed for any year
16 other than the year in which the property was placed in
17 service in Illinois. For tax years ending on or after
18 December 31, 1987, and on or before December 31, 1988, the
19 credit shall be allowed for the tax year in which the
20 property is placed in service, or, if the amount of the
21 credit exceeds the tax liability for that year, whether it
22 exceeds the original liability or the liability as later
23 amended, such excess may be carried forward and applied to
24 the tax liability of the 5 taxable years following the
25 excess credit years if the taxpayer (i) makes investments
26 which cause the creation of a minimum of 2,000 full-time

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

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

24 (A) is tangible, whether new or used, including
25 buildings and structural components of buildings and
26 signs that are real property, but not including land

1 or improvements to real property that are not a
2 structural component of a building such as
3 landscaping, sewer lines, local access roads, fencing,
4 parking lots, and other appurtenances;

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

10 (C) is acquired by purchase as defined in Section
11 179(d) of the Internal Revenue Code;

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

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

22 (3) For purposes of this subsection (e),
23 "manufacturing" means the material staging and production
24 of tangible personal property by procedures commonly
25 regarded as manufacturing, processing, fabrication, or
26 assembling which changes some existing material into new

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

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

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

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

25 (7) If during any taxable year, any property ceases to
26 be qualified property in the hands of the taxpayer within

1 48 months after being placed in service, or the situs of
2 any qualified property is moved outside Illinois within 48
3 months after being placed in service, the Personal
4 Property Tax Replacement Income Tax for such taxable year
5 shall be increased. Such increase shall be determined by
6 (i) recomputing the investment credit which would have
7 been allowed for the year in which credit for such
8 property was originally allowed by eliminating such
9 property from such computation and, (ii) subtracting such
10 recomputed credit from the amount of credit previously
11 allowed. For the purposes of this paragraph (7), a
12 reduction of the basis of qualified property resulting
13 from a redetermination of the purchase price shall be
14 deemed a disposition of qualified property to the extent
15 of such reduction.

16 (8) Unless the investment credit is extended by law,
17 the basis of qualified property shall not include costs
18 incurred after December 31, 2018, except for costs
19 incurred pursuant to a binding contract entered into on or
20 before December 31, 2018.

21 (9) Each taxable year ending before December 31, 2000,
22 a partnership may elect to pass through to its partners
23 the credits to which the partnership is entitled under
24 this subsection (e) for the taxable year. A partner may
25 use the credit allocated to him or her under this
26 paragraph only against the tax imposed in subsections (c)

1 and (d) of this Section. If the partnership makes that
2 election, those credits shall be allocated among the
3 partners in the partnership in accordance with the rules
4 set forth in Section 704(b) of the Internal Revenue Code,
5 and the rules promulgated under that Section, and the
6 allocated amount of the credits shall be allowed to the
7 partners for that taxable year. The partnership shall make
8 this election on its Personal Property Tax Replacement
9 Income Tax return for that taxable year. The election to
10 pass through the credits shall be irrevocable.

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

25 (f) Investment credit; Enterprise Zone; River Edge
26 Redevelopment Zone.

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

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

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

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

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

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

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

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

25 (3) The basis of qualified property shall be the basis
26 used to compute the depreciation deduction for federal

1 income tax purposes.

2 (4) If the basis of the property for federal income
3 tax depreciation purposes is increased after it has been
4 placed in service in the Enterprise Zone or River Edge
5 Redevelopment Zone by the taxpayer, the amount of such
6 increase shall be deemed property placed in service on the
7 date of such increase in basis.

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

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

1 of such reduction.

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

20 (8) For taxable years beginning on or after January 1,
21 2021, there shall be allowed an Enterprise Zone
22 construction jobs credit against the taxes imposed under
23 subsections (a) and (b) of this Section as provided in
24 Section 13 of the Illinois Enterprise Zone Act.

25 The credit or credits may not reduce the taxpayer's
26 liability to less than zero. If the amount of the credit or

1 credits exceeds the taxpayer's liability, the excess may
2 be carried forward and applied against the taxpayer's
3 liability in succeeding calendar years in the same manner
4 provided under paragraph (4) of Section 211 of this Act.
5 The credit or credits shall be applied to the earliest
6 year for which there is a tax liability. If there are
7 credits from more than one taxable year that are available
8 to offset a liability, the earlier credit shall be applied
9 first.

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

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

21 This paragraph (8) is exempt from the provisions of
22 Section 250.

23 (g) (Blank).

24 (h) Investment credit; High Impact Business.

25 (1) Subject to subsections (b) and (b-5) of Section
26 5.5 of the Illinois Enterprise Zone Act, a taxpayer shall

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

1 tax years ending on or after December 31, 1987, the credit
2 shall be allowed for the tax year in which the property is
3 placed in service, or, if the amount of the credit exceeds
4 the tax liability for that year, whether it exceeds the
5 original liability or the liability as later amended, such
6 excess may be carried forward and applied to the tax
7 liability of the 5 taxable years following the excess
8 credit year. The credit shall be applied to the earliest
9 year for which there is a liability. If there is credit
10 from more than one tax year that is available to offset a
11 liability, the credit accruing first in time shall be
12 applied first.

13 Changes made in this subdivision (h) (1) by Public Act
14 88-670 restore changes made by Public Act 85-1182 and
15 reflect existing law.

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

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

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

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

26 (D) is not eligible for the Enterprise Zone

1 Investment Credit provided by subsection (f) of this
2 Section.

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

6 (4) If the basis of the property for federal income
7 tax depreciation purposes is increased after it has been
8 placed in service in a federally designated Foreign Trade
9 Zone or Sub-Zone located in Illinois by the taxpayer, the
10 amount of such increase shall be deemed property placed in
11 service on the date of such increase in basis.

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

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

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

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

16 (h-5) High Impact Business construction jobs credit. For
17 taxable years beginning on or after January 1, 2021, there
18 shall also be allowed a High Impact Business construction jobs
19 credit against the tax imposed under subsections (a) and (b)
20 of this Section as provided in subsections (i) and (j) of
21 Section 5.5 of the Illinois Enterprise Zone Act.

22 The credit or credits may not reduce the taxpayer's
23 liability to less than zero. If the amount of the credit or
24 credits exceeds the taxpayer's liability, the excess may be
25 carried forward and applied against the taxpayer's liability
26 in succeeding calendar years in the manner provided under

1 paragraph (4) of Section 211 of this Act. The credit or credits
2 shall be applied to the earliest year for which there is a tax
3 liability. If there are credits from more than one taxable
4 year that are available to offset a liability, the earlier
5 credit shall be applied first.

6 For partners, shareholders of Subchapter S corporations,
7 and owners of limited liability companies, if the liability
8 company is treated as a partnership for the purposes of
9 federal and State income taxation, there shall be allowed a
10 credit under this Section to be determined in accordance with
11 the determination of income and distributive share of income
12 under Sections 702 and 704 and Subchapter S of the Internal
13 Revenue Code.

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

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

19 (i) Credit for Personal Property Tax Replacement Income
20 Tax. For tax years ending prior to December 31, 2003, a credit
21 shall be allowed against the tax imposed by subsections (a)
22 and (b) of this Section for the tax imposed by subsections (c)
23 and (d) of this Section. This credit shall be computed by
24 multiplying the tax imposed by subsections (c) and (d) of this
25 Section by a fraction, the numerator of which is base income
26 allocable to Illinois and the denominator of which is Illinois

1 base income, and further multiplying the product by the tax
2 rate imposed by subsections (a) and (b) of this Section.

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

17 If, during any taxable year ending on or after December
18 31, 1986, the tax imposed by subsections (c) and (d) of this
19 Section for which a taxpayer has claimed a credit under this
20 subsection (i) is reduced, the amount of credit for such tax
21 shall also be reduced. Such reduction shall be determined by
22 recomputing the credit to take into account the reduced tax
23 imposed by subsections (c) and (d). If any portion of the
24 reduced amount of credit has been carried to a different
25 taxable year, an amended return shall be filed for such
26 taxable year to reduce the amount of credit claimed.

1 (j) Training expense credit. Beginning with tax years
2 ending on or after December 31, 1986 and prior to December 31,
3 2003, a taxpayer shall be allowed a credit against the tax
4 imposed by subsections (a) and (b) under this Section for all
5 amounts paid or accrued, on behalf of all persons employed by
6 the taxpayer in Illinois or Illinois residents employed
7 outside of Illinois by a taxpayer, for educational or
8 vocational training in semi-technical or technical fields or
9 semi-skilled or skilled fields, which were deducted from gross
10 income in the computation of taxable income. The credit
11 against the tax imposed by subsections (a) and (b) shall be
12 1.6% of such training expenses. For partners, shareholders of
13 subchapter S corporations, and owners of limited liability
14 companies, if the liability company is treated as a
15 partnership for purposes of federal and State income taxation,
16 there shall be allowed a credit under this subsection (j) to be
17 determined in accordance with the determination of income and
18 distributive share of income under Sections 702 and 704 and
19 subchapter S of the Internal Revenue Code.

20 Any credit allowed under this subsection which is unused
21 in the year the credit is earned may be carried forward to each
22 of the 5 taxable years following the year for which the credit
23 is first computed until it is used. This credit shall be
24 applied first to the earliest year for which there is a
25 liability. If there is a credit under this subsection from
26 more than one tax year that is available to offset a liability,

1 the earliest credit arising under this subsection shall be
2 applied first. No carryforward credit may be claimed in any
3 tax year ending on or after December 31, 2003.

4 (k) Research and development credit. For tax years ending
5 after July 1, 1990 and prior to December 31, 2003, and
6 beginning again for tax years ending on or after December 31,
7 2004, ~~and ending prior to January 1, 2027,~~ a taxpayer shall be
8 allowed a credit against the tax imposed by subsections (a)
9 and (b) of this Section for increasing research activities in
10 this State. The credit allowed against the tax imposed by
11 subsections (a) and (b) shall be equal to 6 1/2% of the
12 qualifying expenditures for increasing research activities in
13 this State. For partners, shareholders of subchapter S
14 corporations, and owners of limited liability companies, if
15 the liability company is treated as a partnership for purposes
16 of federal and State income taxation, there shall be allowed a
17 credit under this subsection to be determined in accordance
18 with the determination of income and distributive share of
19 income under Sections 702 and 704 and subchapter S of the
20 Internal Revenue Code.

21 As used in this subsection: ~~For purposes of this~~
22 ~~subsection~~

23 "Base period" means the 3 taxable years immediately
24 preceding the taxable year for which the determination is
25 being made.

26 "Qualifying, ~~"qualifying~~ expenditures" means the

1 qualifying expenditures as defined for the federal credit
2 for increasing research activities that ~~which~~ would be
3 allowable under Section 41 of the Internal Revenue Code
4 and that ~~which~~ are conducted in this State.

5 ~~"Qualifying, "qualifying~~ expenditures for increasing
6 research activities in this State" means the excess of
7 qualifying expenditures for the taxable year in which
8 incurred over ~~qualifying expenditures for the base period.~~

9 ~~"Qualifying, "qualifying~~ expenditures for the base
10 period" means: (1) for taxable years ending prior to
11 December 31, 2023, the average of the qualifying
12 expenditures for each year in the base period; and (2) for
13 taxable years ending on or after December 31, 2023, 50% of
14 the average of the qualifying expenditures for each year
15 in the base period.

16 ~~, and "base period" means the 3 taxable years immediately~~
17 ~~preceding the taxable year for which the determination is~~
18 ~~being made.~~

19 Any credit in excess of the tax liability for the taxable
20 year may be carried forward. A taxpayer may elect to have the
21 unused credit shown on its final completed return carried over
22 as a credit against the tax liability for the following 5
23 taxable years or until it has been fully used, whichever
24 occurs first; provided that no credit earned in a tax year
25 ending prior to December 31, 2003 may be carried forward to any
26 year ending on or after December 31, 2003.

1 If an unused credit is carried forward to a given year from
2 2 or more earlier years, that credit arising in the earliest
3 year will be applied first against the tax liability for the
4 given year. If a tax liability for the given year still
5 remains, the credit from the next earliest year will then be
6 applied, and so on, until all credits have been used or no tax
7 liability for the given year remains. Any remaining unused
8 credit or credits then will be carried forward to the next
9 following year in which a tax liability is incurred, except
10 that no credit can be carried forward to a year which is more
11 than 5 years after the year in which the expense for which the
12 credit is given was incurred.

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

16 It is the intent of the General Assembly that the research
17 and development credit under this subsection (k) shall apply
18 continuously for all tax years ending on or after December 31,
19 2004 and ending prior to January 1, 2027, including, but not
20 limited to, the period beginning on January 1, 2016 and ending
21 on July 6, 2017 (the effective date of Public Act 100-22). All
22 actions taken in reliance on the continuation of the credit
23 under this subsection (k) by any taxpayer are hereby
24 validated.

25 This subsection (k) is exempt from the provisions of
26 Section 250.

1 (1) Environmental Remediation Tax Credit.

2 (i) For tax years ending after December 31, 1997 and
3 on or before December 31, 2001, a taxpayer shall be
4 allowed a credit against the tax imposed by subsections
5 (a) and (b) of this Section for certain amounts paid for
6 unreimbursed eligible remediation costs, as specified in
7 this subsection. For purposes of this Section,
8 "unreimbursed eligible remediation costs" means costs
9 approved by the Illinois Environmental Protection Agency
10 ("Agency") under Section 58.14 of the Environmental
11 Protection Act that were paid in performing environmental
12 remediation at a site for which a No Further Remediation
13 Letter was issued by the Agency and recorded under Section
14 58.10 of the Environmental Protection Act. The credit must
15 be claimed for the taxable year in which Agency approval
16 of the eligible remediation costs is granted. The credit
17 is not available to any taxpayer if the taxpayer or any
18 related party caused or contributed to, in any material
19 respect, a release of regulated substances on, in, or
20 under the site that was identified and addressed by the
21 remedial action pursuant to the Site Remediation Program
22 of the Environmental Protection Act. After the Pollution
23 Control Board rules are adopted pursuant to the Illinois
24 Administrative Procedure Act for the administration and
25 enforcement of Section 58.9 of the Environmental
26 Protection Act, determinations as to credit availability

1 for purposes of this Section shall be made consistent with
2 those rules. For purposes of this Section, "taxpayer"
3 includes a person whose tax attributes the taxpayer has
4 succeeded to under Section 381 of the Internal Revenue
5 Code and "related party" includes the persons disallowed a
6 deduction for losses by paragraphs (b), (c), and (f)(1) of
7 Section 267 of the Internal Revenue Code by virtue of
8 being a related taxpayer, as well as any of its partners.
9 The credit allowed against the tax imposed by subsections
10 (a) and (b) shall be equal to 25% of the unreimbursed
11 eligible remediation costs in excess of \$100,000 per site,
12 except that the \$100,000 threshold shall not apply to any
13 site contained in an enterprise zone as determined by the
14 Department of Commerce and Community Affairs (now
15 Department of Commerce and Economic Opportunity). The
16 total credit allowed shall not exceed \$40,000 per year
17 with a maximum total of \$150,000 per site. For partners
18 and shareholders of subchapter S corporations, there shall
19 be allowed a credit under this subsection to be determined
20 in accordance with the determination of income and
21 distributive share of income under Sections 702 and 704
22 and subchapter S of the Internal Revenue Code.

23 (ii) A credit allowed under this subsection that is
24 unused in the year the credit is earned may be carried
25 forward to each of the 5 taxable years following the year
26 for which the credit is first earned until it is used. The

1 term "unused credit" does not include any amounts of
2 unreimbursed eligible remediation costs in excess of the
3 maximum credit per site authorized under paragraph (i).
4 This credit shall be applied first to the earliest year
5 for which there is a liability. If there is a credit under
6 this subsection from more than one tax year that is
7 available to offset a liability, the earliest credit
8 arising under this subsection shall be applied first. A
9 credit allowed under this subsection may be sold to a
10 buyer as part of a sale of all or part of the remediation
11 site for which the credit was granted. The purchaser of a
12 remediation site and the tax credit shall succeed to the
13 unused credit and remaining carry-forward period of the
14 seller. To perfect the transfer, the assignor shall record
15 the transfer in the chain of title for the site and provide
16 written notice to the Director of the Illinois Department
17 of Revenue of the assignor's intent to sell the
18 remediation site and the amount of the tax credit to be
19 transferred as a portion of the sale. In no event may a
20 credit be transferred to any taxpayer if the taxpayer or a
21 related party would not be eligible under the provisions
22 of subsection (i).

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

26 (m) Education expense credit. Beginning with tax years

1 ending after December 31, 1999, a taxpayer who is the
2 custodian of one or more qualifying pupils shall be allowed a
3 credit against the tax imposed by subsections (a) and (b) of
4 this Section for qualified education expenses incurred on
5 behalf of the qualifying pupils. The credit shall be equal to
6 25% of qualified education expenses, but in no event may the
7 total credit under this subsection claimed by a family that is
8 the custodian of qualifying pupils exceed (i) \$500 for tax
9 years ending prior to December 31, 2017, and (ii) \$750 for tax
10 years ending on or after December 31, 2017. In no event shall a
11 credit under this subsection reduce the taxpayer's liability
12 under this Act to less than zero. Notwithstanding any other
13 provision of law, for taxable years beginning on or after
14 January 1, 2017, no taxpayer may claim a credit under this
15 subsection (m) if the taxpayer's adjusted gross income for the
16 taxable year exceeds (i) \$500,000, in the case of spouses
17 filing a joint federal tax return or (ii) \$250,000, in the case
18 of all other taxpayers. This subsection is exempt from the
19 provisions of Section 250 of this Act.

20 For purposes of this subsection:

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

1 defined in this subsection.

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

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

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

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

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

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

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

2 (ii) A credit allowed under this subsection that is
3 unused in the year the credit is earned may be carried
4 forward to each of the 5 taxable years following the year
5 for which the credit is first earned until it is used. This
6 credit shall be applied first to the earliest year for
7 which there is a liability. If there is a credit under this
8 subsection from more than one tax year that is available
9 to offset a liability, the earliest credit arising under
10 this subsection shall be applied first. A credit allowed
11 under this subsection may be sold to a buyer as part of a
12 sale of all or part of the remediation site for which the
13 credit was granted. The purchaser of a remediation site
14 and the tax credit shall succeed to the unused credit and
15 remaining carry-forward period of the seller. To perfect
16 the transfer, the assignor shall record the transfer in
17 the chain of title for the site and provide written notice
18 to the Director of the Illinois Department of Revenue of
19 the assignor's intent to sell the remediation site and the
20 amount of the tax credit to be transferred as a portion of
21 the sale. In no event may a credit be transferred to any
22 taxpayer if the taxpayer or a related party would not be
23 eligible under the provisions of subsection (i).

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

1 (o) For each of taxable years during the Compassionate Use
2 of Medical Cannabis Program, a surcharge is imposed on all
3 taxpayers on income arising from the sale or exchange of
4 capital assets, depreciable business property, real property
5 used in the trade or business, and Section 197 intangibles of
6 an organization registrant under the Compassionate Use of
7 Medical Cannabis Program Act. The amount of the surcharge is
8 equal to the amount of federal income tax liability for the
9 taxable year attributable to those sales and exchanges. The
10 surcharge imposed does not apply if:

11 (1) the medical cannabis cultivation center
12 registration, medical cannabis dispensary registration, or
13 the property of a registration is transferred as a result
14 of any of the following:

15 (A) bankruptcy, a receivership, or a debt
16 adjustment initiated by or against the initial
17 registration or the substantial owners of the initial
18 registration;

19 (B) cancellation, revocation, or termination of
20 any registration by the Illinois Department of Public
21 Health;

22 (C) a determination by the Illinois Department of
23 Public Health that transfer of the registration is in
24 the best interests of Illinois qualifying patients as
25 defined by the Compassionate Use of Medical Cannabis
26 Program Act;

1 (D) the death of an owner of the equity interest in
2 a registrant;

3 (E) the acquisition of a controlling interest in
4 the stock or substantially all of the assets of a
5 publicly traded company;

6 (F) a transfer by a parent company to a wholly
7 owned subsidiary; or

8 (G) the transfer or sale to or by one person to
9 another person where both persons were initial owners
10 of the registration when the registration was issued;
11 or

12 (2) the cannabis cultivation center registration,
13 medical cannabis dispensary registration, or the
14 controlling interest in a registrant's property is
15 transferred in a transaction to lineal descendants in
16 which no gain or loss is recognized or as a result of a
17 transaction in accordance with Section 351 of the Internal
18 Revenue Code in which no gain or loss is recognized.

19 (p) Pass-through entity tax.

20 (1) For taxable years ending on or after December 31,
21 2021 and beginning prior to January 1, 2026, a partnership
22 (other than a publicly traded partnership under Section
23 7704 of the Internal Revenue Code) or Subchapter S
24 corporation may elect to apply the provisions of this
25 subsection. A separate election shall be made for each
26 taxable year. Such election shall be made at such time,

1 and in such form and manner as prescribed by the
2 Department, and, once made, is irrevocable.

3 (2) Entity-level tax. A partnership or Subchapter S
4 corporation electing to apply the provisions of this
5 subsection shall be subject to a tax for the privilege of
6 earning or receiving income in this State in an amount
7 equal to 4.95% of the taxpayer's net income for the
8 taxable year.

9 (3) Net income defined.

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

14 (i) the standard exemption allowed under
15 Section 204;

16 (ii) the deduction for net losses allowed
17 under Section 207;

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

20 (iv) in the case of a partnership, the
21 modifications under Section 203(d)(2)(H) and
22 Section 203(d)(2)(I).

23 (B) Special rule for tiered partnerships. If a
24 taxpayer making the election under paragraph (1) is a
25 partner of another taxpayer making the election under
26 paragraph (1), net income shall be computed as

1 provided in subparagraph (A), except that the taxpayer
2 shall subtract its distributive share of the net
3 income of the electing partnership (including its
4 distributive share of the net income of the electing
5 partnership derived as a distributive share from
6 electing partnerships in which it is a partner).

7 (4) Credit for entity level tax. Each partner or
8 shareholder of a taxpayer making the election under this
9 Section shall be allowed a credit against the tax imposed
10 under subsections (a) and (b) of Section 201 of this Act
11 for the taxable year of the partnership or Subchapter S
12 corporation for which an election is in effect ending
13 within or with the taxable year of the partner or
14 shareholder in an amount equal to 4.95% times the partner
15 or shareholder's distributive share of the net income of
16 the electing partnership or Subchapter S corporation, but
17 not to exceed the partner's or shareholder's share of the
18 tax imposed under paragraph (1) which is actually paid by
19 the partnership or Subchapter S corporation. If the
20 taxpayer is a partnership or Subchapter S corporation that
21 is itself a partner of a partnership making the election
22 under paragraph (1), the credit under this paragraph shall
23 be allowed to the taxpayer's partners or shareholders (or
24 if the partner is a partnership or Subchapter S
25 corporation then its partners or shareholders) in
26 accordance with the determination of income and

1 distributive share of income under Sections 702 and 704
2 and Subchapter S of the Internal Revenue Code. If the
3 amount of the credit allowed under this paragraph exceeds
4 the partner's or shareholder's liability for tax imposed
5 under subsections (a) and (b) of Section 201 of this Act
6 for the taxable year, such excess shall be treated as an
7 overpayment for purposes of Section 909 of this Act.

8 (5) Nonresidents. A nonresident individual who is a
9 partner or shareholder of a partnership or Subchapter S
10 corporation for a taxable year for which an election is in
11 effect under paragraph (1) shall not be required to file
12 an income tax return under this Act for such taxable year
13 if the only source of net income of the individual (or the
14 individual and the individual's spouse in the case of a
15 joint return) is from an entity making the election under
16 paragraph (1) and the credit allowed to the partner or
17 shareholder under paragraph (4) equals or exceeds the
18 individual's liability for the tax imposed under
19 subsections (a) and (b) of Section 201 of this Act for the
20 taxable year.

21 (6) Liability for tax. Except as provided in this
22 paragraph, a partnership or Subchapter S making the
23 election under paragraph (1) is liable for the
24 entity-level tax imposed under paragraph (2). If the
25 electing partnership or corporation fails to pay the full
26 amount of tax deemed assessed under paragraph (2), the

1 partners or shareholders shall be liable to pay the tax
2 assessed (including penalties and interest). Each partner
3 or shareholder shall be liable for the unpaid assessment
4 based on the ratio of the partner's or shareholder's share
5 of the net income of the partnership over the total net
6 income of the partnership. If the partnership or
7 Subchapter S corporation fails to pay the tax assessed
8 (including penalties and interest) and thereafter an
9 amount of such tax is paid by the partners or
10 shareholders, such amount shall not be collected from the
11 partnership or corporation.

12 (7) Foreign tax. For purposes of the credit allowed
13 under Section 601(b)(3) of this Act, tax paid by a
14 partnership or Subchapter S corporation to another state
15 which, as determined by the Department, is substantially
16 similar to the tax imposed under this subsection, shall be
17 considered tax paid by the partner or shareholder to the
18 extent that the partner's or shareholder's share of the
19 income of the partnership or Subchapter S corporation
20 allocated and apportioned to such other state bears to the
21 total income of the partnership or Subchapter S
22 corporation allocated or apportioned to such other state.

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

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

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

11 (Source: P.A. 101-9, eff. 6-5-19; 101-31, eff. 6-28-19;
12 101-207, eff. 8-2-19; 101-363, eff. 8-9-19; 102-558, eff.
13 8-20-21; 102-658, eff. 8-27-21.)

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