



Rep. Barbara Flynn Currie

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1 AMENDMENT TO SENATE BILL 256

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 256, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

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

7 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

8 Sec. 201. Tax Imposed.

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

16 (b) Rates. The tax imposed by subsection (a) of this

1 Section shall be determined as follows, except as adjusted by  
2 subsection (d-1):

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

7 (2) In the case of an individual, trust or estate, for  
8 taxable years beginning prior to July 1, 1989 and ending  
9 after June 30, 1989, an amount equal to the sum of (i) 2  
10 1/2% of the taxpayer's net income for the period prior to  
11 July 1, 1989, as calculated under Section 202.3, and (ii)  
12 3% of the taxpayer's net income for the period after June  
13 30, 1989, as calculated under Section 202.3.

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

18 (4) (Blank).

19 (5) (Blank).

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

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

1 as calculated under Section 202.3, and (ii) 4.8% of the  
2 taxpayer's net income for the period after June 30, 1989,  
3 as calculated under Section 202.3.

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

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

20 (d) Additional Personal Property Tax Replacement Income  
21 Tax Rates. The personal property tax replacement income tax  
22 imposed by this subsection and subsection (c) of this Section  
23 in the case of a corporation, other than a Subchapter S  
24 corporation and except as adjusted by subsection (d-1), shall  
25 be an additional amount equal to 2.85% of such taxpayer's net  
26 income for the taxable year, except that beginning on January

1 1, 1981, and thereafter, the rate of 2.85% specified in this  
2 subsection shall be reduced to 2.5%, and in the case of a  
3 partnership, trust or a Subchapter S corporation shall be an  
4 additional amount equal to 1.5% of such taxpayer's net income  
5 for the taxable year.

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

1 income by the foreign insurer's state of domicile. For the  
2 purposes of this subsection (d-1), an inter-affiliate includes  
3 a mutual insurer under common management.

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

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

10 (B) the privilege tax imposed by Section 409 of the  
11 Illinois Insurance Code, the fire insurance company  
12 tax imposed by Section 12 of the Fire Investigation  
13 Act, and the fire department taxes imposed under  
14 Section 11-10-1 of the Illinois Municipal Code,  
15 equals 1.25% for taxable years ending prior to December 31,  
16 2003, or 1.75% for taxable years ending on or after  
17 December 31, 2003, of the net taxable premiums written for  
18 the taxable year, as described by subsection (1) of Section  
19 409 of the Illinois Insurance Code. This paragraph will in  
20 no event increase the rates imposed under subsections (b)  
21 and (d).

22 (2) Any reduction in the rates of tax imposed by this  
23 subsection shall be applied first against the rates imposed  
24 by subsection (b) and only after the tax imposed by  
25 subsection (a) net of all credits allowed under this  
26 Section other than the credit allowed under subsection (i)

1           has been reduced to zero, against the rates imposed by  
2           subsection (d).

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

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

8           (1) A taxpayer shall be allowed a credit equal to .5%  
9           of the basis of qualified property placed in service during  
10          the taxable year, provided such property is placed in  
11          service on or after July 1, 1984. There shall be allowed an  
12          additional credit equal to .5% of the basis of qualified  
13          property placed in service during the taxable year,  
14          provided such property is placed in service on or after  
15          July 1, 1986, and the taxpayer's base employment within  
16          Illinois has increased by 1% or more over the preceding  
17          year as determined by the taxpayer's employment records  
18          filed with the Illinois Department of Employment Security.  
19          Taxpayers who are new to Illinois shall be deemed to have  
20          met the 1% growth in base employment for the first year in  
21          which they file employment records with the Illinois  
22          Department of Employment Security. The provisions added to  
23          this Section by Public Act 85-1200 (and restored by Public  
24          Act 87-895) shall be construed as declaratory of existing  
25          law and not as a new enactment. If, in any year, the  
26          increase in base employment within Illinois over the

1 preceding year is less than 1%, the additional credit shall  
2 be limited to that percentage times a fraction, the  
3 numerator of which is .5% and the denominator of which is  
4 1%, but shall not exceed .5%. The investment credit shall  
5 not be allowed to the extent that it would reduce a  
6 taxpayer's liability in any tax year below zero, nor may  
7 any credit for qualified property be allowed for any year  
8 other than the year in which the property was placed in  
9 service in Illinois. For tax years ending on or after  
10 December 31, 1987, and on or before December 31, 1988, the  
11 credit shall be allowed for the tax year in which the  
12 property is placed in service, or, if the amount of the  
13 credit exceeds the tax liability for that year, whether it  
14 exceeds the original liability or the liability as later  
15 amended, such excess may be carried forward and applied to  
16 the tax liability of the 5 taxable years following the  
17 excess credit years if the taxpayer (i) makes investments  
18 which cause the creation of a minimum of 2,000 full-time  
19 equivalent jobs in Illinois, (ii) is located in an  
20 enterprise zone established pursuant to the Illinois  
21 Enterprise Zone Act and (iii) is certified by the  
22 Department of Commerce and Community Affairs (now  
23 Department of Commerce and Economic Opportunity) as  
24 complying with the requirements specified in clause (i) and  
25 (ii) by July 1, 1986. The Department of Commerce and  
26 Community Affairs (now Department of Commerce and Economic

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

14 (2) The term "qualified property" means property  
15 which:

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

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



1 (e);

2 (C) is acquired by purchase as defined in Section  
3 179(d) of the Internal Revenue Code;

4 (D) is used in Illinois by a taxpayer who is  
5 primarily engaged in manufacturing, or in mining coal  
6 or fluorite, or in retailing, or was placed in service  
7 on or after July 1, 2006 in a River Edge Redevelopment  
8 Zone established pursuant to the River Edge  
9 Redevelopment Zone Act; and

10 (E) has not previously been used in Illinois in  
11 such a manner and by such a person as would qualify for  
12 the credit provided by this subsection (e) or  
13 subsection (f).

14 (3) For purposes of this subsection (e),  
15 "manufacturing" means the material staging and production  
16 of tangible personal property by procedures commonly  
17 regarded as manufacturing, processing, fabrication, or  
18 assembling which changes some existing material into new  
19 shapes, new qualities, or new combinations. For purposes of  
20 this subsection (e) the term "mining" shall have the same  
21 meaning as the term "mining" in Section 613(c) of the  
22 Internal Revenue Code. For purposes of this subsection (e),  
23 the term "retailing" means the sale of tangible personal  
24 property for use or consumption and not for resale, or  
25 services rendered in conjunction with the sale of tangible  
26 personal property for use or consumption and not for

1       resale. For purposes of this subsection (e), "tangible  
2       personal property" has the same meaning as when that term  
3       is used in the Retailers' Occupation Tax Act, and, for  
4       taxable years ending after December 31, 2008, does not  
5       include the generation, transmission, or distribution of  
6       electricity ~~consumer goods or commodities.~~

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

10          (5) If the basis of the property for federal income tax  
11       depreciation purposes is increased after it has been placed  
12       in service in Illinois by the taxpayer, the amount of such  
13       increase shall be deemed property placed in service on the  
14       date of such increase in basis.

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

17          (7) If during any taxable year, any property ceases to  
18       be qualified property in the hands of the taxpayer within  
19       48 months after being placed in service, or the situs of  
20       any qualified property is moved outside Illinois within 48  
21       months after being placed in service, the Personal Property  
22       Tax Replacement Income Tax for such taxable year shall be  
23       increased. Such increase shall be determined by (i)  
24       recomputing the investment credit which would have been  
25       allowed for the year in which credit for such property was  
26       originally allowed by eliminating such property from such

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

7 (8) Unless the investment credit is extended by law,  
8 the basis of qualified property shall not include costs  
9 incurred after December 31, 2008, except for costs incurred  
10 pursuant to a binding contract entered into on or before  
11 December 31, 2008.

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

1 shall be irrevocable.

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

16 (f) Investment credit; Enterprise Zone; River Edge  
17 Redevelopment Zone.

18 (1) A taxpayer shall be allowed a credit against the  
19 tax imposed by subsections (a) and (b) of this Section for  
20 investment in qualified property which is placed in service  
21 in an Enterprise Zone created pursuant to the Illinois  
22 Enterprise Zone Act or, for property placed in service on  
23 or after July 1, 2006, a River Edge Redevelopment Zone  
24 established pursuant to the River Edge Redevelopment Zone  
25 Act. For partners, shareholders of Subchapter S  
26 corporations, and owners of limited liability companies,

1 if the liability company is treated as a partnership for  
2 purposes of federal and State income taxation, there shall  
3 be allowed a credit under this subsection (f) to be  
4 determined in accordance with the determination of income  
5 and distributive share of income under Sections 702 and 704  
6 and Subchapter S of the Internal Revenue Code. The credit  
7 shall be .5% of the basis for such property. The credit  
8 shall be available only in the taxable year in which the  
9 property is placed in service in the Enterprise Zone or  
10 River Edge Redevelopment Zone and shall not be allowed to  
11 the extent that it would reduce a taxpayer's liability for  
12 the tax imposed by subsections (a) and (b) of this Section  
13 to below zero. For tax years ending on or after December  
14 31, 1985, the credit shall be allowed for the tax year in  
15 which the property is placed in service, or, if the amount  
16 of the credit exceeds the tax liability for that year,  
17 whether it exceeds the original liability or the liability  
18 as later amended, such excess may be carried forward and  
19 applied to the tax liability of the 5 taxable years  
20 following the excess credit year. The credit shall be  
21 applied to the earliest year for which there is a  
22 liability. If there is credit from more than one tax year  
23 that is available to offset a liability, the credit  
24 accruing first in time shall be applied first.

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

26 (A) is tangible, whether new or used, including

1 buildings and structural components of buildings;

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

7 (C) is acquired by purchase as defined in Section  
8 179(d) of the Internal Revenue Code;

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

11 (E) has not been previously used in Illinois in  
12 such a manner and by such a person as would qualify for  
13 the credit provided by this subsection (f) or  
14 subsection (e).

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

18 (4) If the basis of the property for federal income tax  
19 depreciation purposes is increased after it has been placed  
20 in service in the Enterprise Zone or River Edge  
21 Redevelopment Zone by the taxpayer, the amount of such  
22 increase shall be deemed property placed in service on the  
23 date of such increase in basis.

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

26 (6) If during any taxable year, any property ceases to

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

17 (7) There shall be allowed an additional credit equal  
18 to 0.5% of the basis of qualified property placed in  
19 service during the taxable year in a River Edge  
20 Redevelopment Zone, provided such property is placed in  
21 service on or after July 1, 2006, and the taxpayer's base  
22 employment within Illinois has increased by 1% or more over  
23 the preceding year as determined by the taxpayer's  
24 employment records filed with the Illinois Department of  
25 Employment Security. Taxpayers who are new to Illinois  
26 shall be deemed to have met the 1% growth in base

1 employment for the first year in which they file employment  
2 records with the Illinois Department of Employment  
3 Security. If, in any year, the increase in base employment  
4 within Illinois over the preceding year is less than 1%,  
5 the additional credit shall be limited to that percentage  
6 times a fraction, the numerator of which is 0.5% and the  
7 denominator of which is 1%, but shall not exceed 0.5%.

8 (g) Jobs Tax Credit; Enterprise Zone, River Edge  
9 Redevelopment Zone, and Foreign Trade Zone or Sub-Zone.

10 (1) A taxpayer conducting a trade or business in an  
11 enterprise zone or a High Impact Business designated by the  
12 Department of Commerce and Economic Opportunity or for  
13 taxable years ending on or after December 31, 2006, in a  
14 River Edge Redevelopment Zone conducting a trade or  
15 business in a federally designated Foreign Trade Zone or  
16 Sub-Zone shall be allowed a credit against the tax imposed  
17 by subsections (a) and (b) of this Section in the amount of  
18 \$500 per eligible employee hired to work in the zone during  
19 the taxable year.

20 (2) To qualify for the credit:

21 (A) the taxpayer must hire 5 or more eligible  
22 employees to work in an enterprise zone, River Edge  
23 Redevelopment Zone, or federally designated Foreign  
24 Trade Zone or Sub-Zone during the taxable year;

25 (B) the taxpayer's total employment within the  
26 enterprise zone, River Edge Redevelopment Zone, or



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

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

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

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

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

23           (C) Employed in the enterprise zone, River Edge  
24           Redevelopment Zone, or Foreign Trade Zone or Sub-Zone.  
25           An employee is employed in an enterprise zone or  
26           federally designated Foreign Trade Zone or Sub-Zone if

1 his services are rendered there or it is the base of  
2 operations for the services performed.

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

5 (4) For tax years ending on or after December 31, 1985  
6 and prior to December 31, 1988, the credit shall be allowed  
7 for the tax year in which the eligible employees are hired.  
8 For tax years ending on or after December 31, 1988, the  
9 credit shall be allowed for the tax year immediately  
10 following the tax year in which the eligible employees are  
11 hired. If the amount of the credit exceeds the tax  
12 liability for that year, whether it exceeds the original  
13 liability or the liability as later amended, such excess  
14 may be carried forward and applied to the tax liability of  
15 the 5 taxable years following the excess credit year. The  
16 credit shall be applied to the earliest year for which  
17 there is a liability. If there is credit from more than one  
18 tax year that is available to offset a liability, earlier  
19 credit shall be applied first.

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

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

25 (h) Investment credit; High Impact Business.

26 (1) Subject to subsections (b) and (b-5) of Section 5.5

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

1 and (b) of this Section to below zero. For tax years ending  
2 on or after December 31, 1987, the credit shall be allowed  
3 for the tax year in which the property is placed in  
4 service, or, if the amount of the credit exceeds the tax  
5 liability for that year, whether it exceeds the original  
6 liability or the liability as later amended, such excess  
7 may be carried forward and applied to the tax liability of  
8 the 5 taxable years following the excess credit year. The  
9 credit shall be applied to the earliest year for which  
10 there is a liability. If there is credit from more than one  
11 tax year that is available to offset a liability, the  
12 credit accruing first in time shall be 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 tax  
7 depreciation purposes is increased after it has been placed  
8 in service in a federally designated Foreign Trade Zone or  
9 Sub-Zone located in Illinois by the taxpayer, the amount of  
10 such increase shall be deemed property placed in service on  
11 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 under  
20 subsections (a) and (b) of this Section for such taxable  
21 year shall be increased. Such increase shall be determined  
22 by (i) recomputing the investment credit which would have  
23 been allowed for the year in which credit for such property  
24 was originally allowed by eliminating such property from  
25 such computation, and (ii) subtracting such recomputed  
26 credit from the amount of credit previously allowed. For

1 the purposes of this paragraph (6), a reduction of the  
2 basis of qualified property resulting from a  
3 redetermination of the purchase price shall be deemed a  
4 disposition of qualified property to the extent of such  
5 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 Section  
11 18-183 of the Property Tax Code, the tax imposed under  
12 subsections (a) and (b) of this Section shall be increased  
13 for the taxable year in which the taxpayer relocated its  
14 facility by an amount equal to the amount of credit  
15 received by the taxpayer under this subsection (h).

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

26 Any credit earned on or after December 31, 1986 under this

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

14 If, during any taxable year ending on or after December 31,  
15 1986, the tax imposed by subsections (c) and (d) of this  
16 Section for which a taxpayer has claimed a credit under this  
17 subsection (i) is reduced, the amount of credit for such tax  
18 shall also be reduced. Such reduction shall be determined by  
19 recomputing the credit to take into account the reduced tax  
20 imposed by subsections (c) and (d). If any portion of the  
21 reduced amount of credit has been carried to a different  
22 taxable year, an amended return shall be filed for such taxable  
23 year to reduce the amount of credit claimed.

24 (j) Training expense credit. Beginning with tax years  
25 ending on or after December 31, 1986 and prior to December 31,  
26 2003, a taxpayer shall be allowed a credit against the tax

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

17 Any credit allowed under this subsection which is unused in  
18 the year the credit is earned may be carried forward to each of  
19 the 5 taxable years following the year for which the credit is  
20 first computed until it is used. This credit shall be applied  
21 first to the earliest year for which there is a liability. If  
22 there is a credit under this subsection from more than one tax  
23 year that is available to offset a liability the earliest  
24 credit arising under this subsection shall be applied first. No  
25 carryforward credit may be claimed in any tax year ending on or  
26 after December 31, 2003.



1 (k) Research and development credit.

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

18 For purposes of this subsection, "qualifying expenditures"  
19 means the qualifying expenditures as defined for the federal  
20 credit for increasing research activities which would be  
21 allowable under Section 41 of the Internal Revenue Code and  
22 which are conducted in this State, "qualifying expenditures for  
23 increasing research activities in this State" means the excess  
24 of qualifying expenditures for the taxable year in which  
25 incurred over qualifying expenditures for the base period,  
26 "qualifying expenditures for the base period" means the average

1 of the qualifying expenditures for each year in the base  
2 period, and "base period" means the 3 taxable years immediately  
3 preceding the taxable year for which the determination is being  
4 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 over  
8 as a credit against the tax liability for the following 5  
9 taxable years or until it has been fully used, whichever occurs  
10 first; provided that no credit earned in a tax year ending  
11 prior to December 31, 2003 may be carried forward to any year  
12 ending on or after December 31, 2003.

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

25 No inference shall be drawn from this amendatory Act of the  
26 91st General Assembly in construing this Section for taxable

1 years beginning before January 1, 1999.

2 (1) Environmental Remediation Tax Credit.

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

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

24 (ii) A credit allowed under this subsection that is  
25 unused in the year the credit is earned may be carried  
26 forward to each of the 5 taxable years following the year

1 for which the credit is first earned until it is used. The  
2 term "unused credit" does not include any amounts of  
3 unreimbursed eligible remediation costs in excess of the  
4 maximum credit per site authorized under paragraph (i).  
5 This credit shall be applied first to the earliest year for  
6 which there is a liability. If there is a credit under this  
7 subsection from more than one tax year that is available to  
8 offset a liability, the earliest credit arising under this  
9 subsection shall be applied first. A credit allowed under  
10 this subsection may be sold to a buyer as part of a sale of  
11 all or part of the remediation site for which the credit  
12 was granted. The purchaser of a remediation site and the  
13 tax credit shall succeed to the unused credit and remaining  
14 carry-forward period of the seller. To perfect the  
15 transfer, the assignor shall record the transfer in the  
16 chain of title for the site and provide written notice to  
17 the Director of the Illinois Department of Revenue of the  
18 assignor's intent to sell the remediation site and the  
19 amount of the tax credit to be transferred as a portion of  
20 the sale. In no event may a credit be transferred to any  
21 taxpayer if the taxpayer or a related party would not be  
22 eligible under the provisions 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 custodian  
2 of one or more qualifying pupils shall be allowed a credit  
3 against the tax imposed by subsections (a) and (b) of this  
4 Section for qualified education expenses incurred on behalf of  
5 the qualifying pupils. The credit shall be equal to 25% of  
6 qualified education expenses, but in no event may the total  
7 credit under this subsection claimed by a family that is the  
8 custodian of qualifying pupils exceed \$500. In no event shall a  
9 credit under this subsection reduce the taxpayer's liability  
10 under this Act to less than zero. This subsection is exempt  
11 from the provisions of Section 250 of this Act.

12 For purposes of this subsection:

13 "Qualifying pupils" means individuals who (i) are  
14 residents of the State of Illinois, (ii) are under the age of  
15 21 at the close of the school year for which a credit is  
16 sought, and (iii) during the school year for which a credit is  
17 sought were full-time pupils enrolled in a kindergarten through  
18 twelfth grade education program at any school, as defined in  
19 this subsection.

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

24 "School" means any public or nonpublic elementary or  
25 secondary school in Illinois that is in compliance with Title  
26 VI of the Civil Rights Act of 1964 and attendance at which

1 satisfies the requirements of Section 26-1 of the School Code,  
2 except that nothing shall be construed to require a child to  
3 attend any particular public or nonpublic school to qualify for  
4 the credit under this Section.

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

8 (n) River Edge Redevelopment Zone site remediation tax  
9 credit.

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

1       respect, a release of regulated substances on, in, or under  
2       the site that was identified and addressed by the remedial  
3       action pursuant to the Site Remediation Program of the  
4       Environmental Protection Act. Determinations as to credit  
5       availability for purposes of this Section shall be made  
6       consistent with rules adopted by the Pollution Control  
7       Board pursuant to the Illinois Administrative Procedure  
8       Act for the administration and enforcement of Section 58.9  
9       of the Environmental Protection Act. For purposes of this  
10      Section, "taxpayer" includes a person whose tax attributes  
11      the taxpayer has succeeded to under Section 381 of the  
12      Internal Revenue Code and "related party" includes the  
13      persons disallowed a deduction for losses by paragraphs  
14      (b), (c), and (f)(1) of Section 267 of the Internal Revenue  
15      Code by virtue of being a related taxpayer, as well as any  
16      of its partners. The credit allowed against the tax imposed  
17      by subsections (a) and (b) shall be equal to 25% of the  
18      unreimbursed eligible remediation costs in excess of  
19      \$100,000 per site.

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



1 offset a liability, the earliest credit arising under this  
2 subsection shall be applied first. A credit allowed under  
3 this subsection may be sold to a buyer as part of a sale of  
4 all or part of the remediation site for which the credit  
5 was granted. The purchaser of a remediation site and the  
6 tax credit shall succeed to the unused credit and remaining  
7 carry-forward period of the seller. To perfect the  
8 transfer, the assignor shall record the transfer in the  
9 chain of title for the site and provide written notice to  
10 the Director of the Illinois Department of Revenue of the  
11 assignor's intent to sell the remediation site and the  
12 amount of the tax credit to be transferred as a portion of  
13 the sale. In no event may a credit be transferred to any  
14 taxpayer if the taxpayer or a related party would not be  
15 eligible under the provisions of subsection (i).

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

19 (iv) This subsection is exempt from the provisions of  
20 Section 250.

21 (Source: P.A. 94-1021, eff. 7-12-06; 95-454, eff. 8-27-07.)

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law."