

# SB1871



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB1871

Introduced 2/20/2009, by Sen. Dan Kotowski

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/201

from Ch. 120, par. 2-201

Amends the Illinois Income Tax Act. Makes a technical change in a Section concerning the tax imposed.

LRB096 11302 HLH 21733 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) (from Ch. 120, par. 2-201)

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 ~~and~~ estate  
10 for each taxable year ending after July 31, 1969 on the  
11 privilege of earning or receiving income in or as a resident of  
12 this State. Such tax shall be in addition to all other  
13 occupation or privilege taxes imposed by this State or by any  
14 municipal 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 equal  
20 to 2 1/2% of the taxpayer's net income for the taxable  
21 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, an amount  
8 equal to 3% of the taxpayer's net income for the taxable  
9 year.

10 (4) (Blank).

11 (5) (Blank).

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

15 (7) In the case of a corporation, for taxable years  
16 beginning prior to July 1, 1989 and ending after June 30,  
17 1989, an amount equal to the sum of (i) 4% of the  
18 taxpayer's net income for the period prior to July 1, 1989,  
19 as calculated under Section 202.3, and (ii) 4.8% of the  
20 taxpayer's net income for the period after June 30, 1989,  
21 as calculated under Section 202.3.

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

25 (c) Personal Property Tax Replacement Income Tax.  
26 Beginning on July 1, 1979 and thereafter, in addition to such

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

12 (d) Additional Personal Property Tax Replacement Income  
13 Tax Rates. The personal property tax replacement income tax  
14 imposed by this subsection and subsection (c) of this Section  
15 in the case of a corporation, other than a Subchapter S  
16 corporation and except as adjusted by subsection (d-1), shall  
17 be an additional amount equal to 2.85% of such taxpayer's net  
18 income for the taxable year, except that beginning on January  
19 1, 1981, and thereafter, the rate of 2.85% specified in this  
20 subsection shall be reduced to 2.5%, and in the case of a  
21 partnership, trust or a Subchapter S corporation shall be an  
22 additional amount equal to 1.5% of such taxpayer's net income  
23 for the taxable year.

24 (d-1) Rate reduction for certain foreign insurers. In the  
25 case of a foreign insurer, as defined by Section 35A-5 of the  
26 Illinois Insurance Code, whose state or country of domicile

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

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

25 (A) the total amount of tax imposed on such foreign  
26 insurer under this Act for a taxable year, net of all

1 credits allowed under this Act, plus

2 (B) the privilege tax imposed by Section 409 of the  
3 Illinois Insurance Code, the fire insurance company  
4 tax imposed by Section 12 of the Fire Investigation  
5 Act, and the fire department taxes imposed under  
6 Section 11-10-1 of the Illinois Municipal Code,  
7 equals 1.25% for taxable years ending prior to December 31,  
8 2003, or 1.75% for taxable years ending on or after  
9 December 31, 2003, of the net taxable premiums written for  
10 the taxable year, as described by subsection (1) of Section  
11 409 of the Illinois Insurance Code. This paragraph will in  
12 no event increase the rates imposed under subsections (b)  
13 and (d).

14 (2) Any reduction in the rates of tax imposed by this  
15 subsection shall be applied first against the rates imposed  
16 by subsection (b) and only after the tax imposed by  
17 subsection (a) net of all credits allowed under this  
18 Section other than the credit allowed under subsection (i)  
19 has been reduced to zero, against the rates imposed by  
20 subsection (d).

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

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

26 (1) A taxpayer shall be allowed a credit equal to .5%

1 of the basis of qualified property placed in service during  
2 the taxable year, provided such property is placed in  
3 service on or after July 1, 1984. There shall be allowed an  
4 additional credit equal to .5% of the basis of qualified  
5 property placed in service during the taxable year,  
6 provided such property is placed in service on or after  
7 July 1, 1986, and the taxpayer's base employment within  
8 Illinois has increased by 1% or more over the preceding  
9 year as determined by the taxpayer's employment records  
10 filed with the Illinois Department of Employment Security.  
11 Taxpayers who are new to Illinois shall be deemed to have  
12 met the 1% growth in base employment for the first year in  
13 which they file employment records with the Illinois  
14 Department of Employment Security. The provisions added to  
15 this Section by Public Act 85-1200 (and restored by Public  
16 Act 87-895) shall be construed as declaratory of existing  
17 law and not as a new enactment. If, in any year, the  
18 increase in base employment within Illinois over the  
19 preceding year is less than 1%, the additional credit shall  
20 be limited to that percentage times a fraction, the  
21 numerator of which is .5% and the denominator of which is  
22 1%, but shall not exceed .5%. The investment credit shall  
23 not be allowed to the extent that it would reduce a  
24 taxpayer's liability in any tax year below zero, nor may  
25 any credit for qualified property be allowed for any year  
26 other than the year in which the property was placed in

1 service in Illinois. For tax years ending on or after  
2 December 31, 1987, and on or before December 31, 1988, the  
3 credit shall be allowed for the tax year in which the  
4 property is placed in service, or, if the amount of the  
5 credit exceeds the tax liability for that year, whether it  
6 exceeds the original liability or the liability as later  
7 amended, such excess may be carried forward and applied to  
8 the tax liability of the 5 taxable years following the  
9 excess credit years if the taxpayer (i) makes investments  
10 which cause the creation of a minimum of 2,000 full-time  
11 equivalent jobs in Illinois, (ii) is located in an  
12 enterprise zone established pursuant to the Illinois  
13 Enterprise Zone Act and (iii) is certified by the  
14 Department of Commerce and Community Affairs (now  
15 Department of Commerce and Economic Opportunity) as  
16 complying with the requirements specified in clause (i) and  
17 (ii) by July 1, 1986. The Department of Commerce and  
18 Community Affairs (now Department of Commerce and Economic  
19 Opportunity) shall notify the Department of Revenue of all  
20 such certifications immediately. For tax years ending  
21 after December 31, 1988, the credit shall be allowed for  
22 the tax year in which the property is placed in service,  
23 or, if the amount of the credit exceeds the tax liability  
24 for that year, whether it exceeds the original liability or  
25 the liability as later amended, such excess may be carried  
26 forward and applied to the tax liability of the 5 taxable



1 years following the excess credit years. The credit shall  
2 be applied to the earliest year for which there is a  
3 liability. If there is credit from more than one tax year  
4 that is available to offset a liability, earlier credit  
5 shall be applied first.

6 (2) The term "qualified property" means property  
7 which:

8 (A) is tangible, whether new or used, including  
9 buildings and structural components of buildings and  
10 signs that are real property, but not including land or  
11 improvements to real property that are not a structural  
12 component of a building such as landscaping, sewer  
13 lines, local access roads, fencing, parking lots, and  
14 other appurtenances;

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

20 (C) is acquired by purchase as defined in Section  
21 179(d) of the Internal Revenue Code;

22 (D) is used in Illinois by a taxpayer who is  
23 primarily engaged in manufacturing, or in mining coal  
24 or fluorite, or in retailing, or was placed in service  
25 on or after July 1, 2006 in a River Edge Redevelopment  
26 Zone established pursuant to the River Edge

1           Redevelopment Zone Act; and

2                   (E) has not previously been used in Illinois in  
3           such a manner and by such a person as would qualify for  
4           the credit provided by this subsection (e) or  
5           subsection (f).

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

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

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

26          (6) The term "placed in service" shall have the same

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

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

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

23 (9) Each taxable year ending before December 31, 2000,  
24 a partnership may elect to pass through to its partners the  
25 credits to which the partnership is entitled under this  
26 subsection (e) for the taxable year. A partner may use the

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

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

1 (f) Investment credit; Enterprise Zone; River Edge  
2 Redevelopment Zone.

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

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

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

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

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

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

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

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

26 (3) The basis of qualified property shall be the basis

1 used to compute the depreciation deduction for federal  
2 income tax purposes.

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

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

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

1 property to the extent 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 over  
8 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 employment  
13 records with the Illinois Department of Employment  
14 Security. If, in any year, the increase in base employment  
15 within Illinois over the preceding year is less than 1%,  
16 the additional credit shall be limited to that percentage  
17 times a fraction, the numerator of which is 0.5% and the  
18 denominator of which is 1%, but shall not exceed 0.5%.

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

21 (1) A taxpayer conducting a trade or business in an  
22 enterprise zone or a High Impact Business designated by the  
23 Department of Commerce and Economic Opportunity or for  
24 taxable years ending on or after December 31, 2006, in a  
25 River Edge Redevelopment Zone conducting a trade or  
26 business in a federally designated Foreign Trade Zone or



1 Sub-Zone shall be allowed a credit against the tax imposed  
2 by subsections (a) and (b) of this Section in the amount of  
3 \$500 per eligible employee hired to work in the zone during  
4 the taxable year.

5 (2) To qualify for the credit:

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

10 (B) the taxpayer's total employment within the  
11 enterprise zone, River Edge Redevelopment Zone, or  
12 federally designated Foreign Trade Zone or Sub-Zone  
13 must increase by 5 or more full-time employees beyond  
14 the total employed in that zone at the end of the  
15 previous tax year for which a jobs tax credit under  
16 this Section was taken, or beyond the total employed by  
17 the taxpayer as of December 31, 1985, whichever is  
18 later; and

19 (C) the eligible employees must be employed 180  
20 consecutive days in order to be deemed hired for  
21 purposes of this subsection.

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

23 (A) Certified by the Department of Commerce and  
24 Economic Opportunity as "eligible for services"  
25 pursuant to regulations promulgated in accordance with  
26 Title II of the Job Training Partnership Act, Training

1 Services for the Disadvantaged or Title III of the Job  
2 Training Partnership Act, Employment and Training  
3 Assistance for Dislocated Workers Program.

4 (B) Hired after the enterprise zone, River Edge  
5 Redevelopment Zone, or federally designated Foreign  
6 Trade Zone or Sub-Zone was designated or the trade or  
7 business was located in that zone, whichever is later.

8 (C) Employed in the enterprise zone, River Edge  
9 Redevelopment Zone, or Foreign Trade Zone or Sub-Zone.  
10 An employee is employed in an enterprise zone or  
11 federally designated Foreign Trade Zone or Sub-Zone if  
12 his services are rendered there or it is the base of  
13 operations for the services performed.

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

16 (4) For tax years ending on or after December 31, 1985  
17 and prior to December 31, 1988, the credit shall be allowed  
18 for the tax year in which the eligible employees are hired.  
19 For tax years ending on or after December 31, 1988, the  
20 credit shall be allowed for the tax year immediately  
21 following the tax year in which the eligible employees are  
22 hired. If the amount of the credit exceeds the tax  
23 liability for that year, whether it exceeds the original  
24 liability or the liability as later amended, such excess  
25 may be carried forward and applied to the tax liability of  
26 the 5 taxable years following the excess credit year. The

1 credit shall be applied to the earliest year for which  
2 there is a liability. If there is credit from more than one  
3 tax year that is available to offset a liability, earlier  
4 credit shall be applied first.

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

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

10 (h) Investment credit; High Impact Business.

11 (1) Subject to subsections (b) and (b-5) of Section 5.5  
12 of the Illinois Enterprise Zone Act, a taxpayer shall be  
13 allowed a credit against the tax imposed by subsections (a)  
14 and (b) of this Section for investment in qualified  
15 property which is placed in service by a Department of  
16 Commerce and Economic Opportunity designated High Impact  
17 Business. The credit shall be .5% of the basis for such  
18 property. The credit shall not be available (i) until the  
19 minimum investments in qualified property set forth in  
20 subdivision (a)(3)(A) of Section 5.5 of the Illinois  
21 Enterprise Zone Act have been satisfied or (ii) until the  
22 time authorized in subsection (b-5) of the Illinois  
23 Enterprise Zone Act for entities designated as High Impact  
24 Businesses under subdivisions (a)(3)(B), (a)(3)(C), and  
25 (a)(3)(D) of Section 5.5 of the Illinois Enterprise Zone  
26 Act, and shall not be allowed to the extent that it would

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

24 Changes made in this subdivision (h) (1) by Public Act  
25 88-670 restore changes made by Public Act 85-1182 and  
26 reflect existing law.

- 1           (2) The term qualified property means property which:
- 2                 (A) is tangible, whether new or used, including
- 3 buildings and structural components of buildings;
- 4                 (B) is depreciable pursuant to Section 167 of the
- 5 Internal Revenue Code, except that "3-year property"
- 6 as defined in Section 168(c)(2)(A) of that Code is not
- 7 eligible for the credit provided by this subsection
- 8 (h);
- 9                 (C) is acquired by purchase as defined in Section
- 10 179(d) of the Internal Revenue Code; and
- 11                 (D) is not eligible for the Enterprise Zone
- 12 Investment Credit provided by subsection (f) of this
- 13 Section.
- 14           (3) The basis of qualified property shall be the basis
- 15 used to compute the depreciation deduction for federal
- 16 income tax purposes.
- 17           (4) If the basis of the property for federal income tax
- 18 depreciation purposes is increased after it has been placed
- 19 in service in a federally designated Foreign Trade Zone or
- 20 Sub-Zone located in Illinois by the taxpayer, the amount of
- 21 such increase shall be deemed property placed in service on
- 22 the date of such increase in basis.
- 23           (5) The term "placed in service" shall have the same
- 24 meaning as under Section 46 of the Internal Revenue Code.
- 25           (6) If during any taxable year ending on or before
- 26 December 31, 1996, any property ceases to be qualified

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

17 (7) Beginning with tax years ending after December 31,  
18 1996, if a taxpayer qualifies for the credit under this  
19 subsection (h) and thereby is granted a tax abatement and  
20 the taxpayer relocates its entire facility in violation of  
21 the explicit terms and length of the contract under Section  
22 18-183 of the Property Tax Code, the tax imposed under  
23 subsections (a) and (b) of this Section shall be increased  
24 for the taxable year in which the taxpayer relocated its  
25 facility by an amount equal to the amount of credit  
26 received by the taxpayer under this subsection (h).

1           (i) Credit for Personal Property Tax Replacement Income  
2 Tax. For tax years ending prior to December 31, 2003, a credit  
3 shall be allowed against the tax imposed by subsections (a) and  
4 (b) of this Section for the tax imposed by subsections (c) and  
5 (d) of this Section. This credit shall be computed by  
6 multiplying the tax imposed by subsections (c) and (d) of this  
7 Section by a fraction, the numerator of which is base income  
8 allocable to Illinois and the denominator of which is Illinois  
9 base income, and further multiplying the product by the tax  
10 rate imposed by subsections (a) and (b) of this Section.

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

25           If, during any taxable year ending on or after December 31,  
26 1986, the tax imposed by subsections (c) and (d) of this

1 Section for which a taxpayer has claimed a credit under this  
2 subsection (i) is reduced, the amount of credit for such tax  
3 shall also be reduced. Such reduction shall be determined by  
4 recomputing the credit to take into account the reduced tax  
5 imposed by subsections (c) and (d). If any portion of the  
6 reduced amount of credit has been carried to a different  
7 taxable year, an amended return shall be filed for such taxable  
8 year to reduce the amount of credit claimed.

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



1 Internal Revenue Code.

2 Any credit allowed under this subsection which is unused in  
3 the year the credit is earned may be carried forward to each of  
4 the 5 taxable years following the year for which the credit is  
5 first computed until it is used. This credit shall be applied  
6 first to the earliest year for which there is a liability. If  
7 there is a credit under this subsection from more than one tax  
8 year that is available to offset a liability the earliest  
9 credit arising under this subsection shall be applied first. No  
10 carryforward credit may be claimed in any tax year ending on or  
11 after December 31, 2003.

12 (k) Research and development credit.

13 For tax years ending after July 1, 1990 and prior to  
14 December 31, 2003, and beginning again for tax years ending on  
15 or after December 31, 2004, a taxpayer shall be allowed a  
16 credit against the tax imposed by subsections (a) and (b) of  
17 this Section for increasing research activities in this State.  
18 The credit allowed against the tax imposed by subsections (a)  
19 and (b) shall be equal to 6 1/2% of the qualifying expenditures  
20 for increasing research activities in this State. For partners,  
21 shareholders of subchapter S corporations, and owners of  
22 limited liability companies, if the liability company is  
23 treated as a partnership for purposes of federal and State  
24 income taxation, there shall be allowed a credit under this  
25 subsection to be determined in accordance with the  
26 determination of income and distributive share of income under

1 Sections 702 and 704 and subchapter S of the Internal Revenue  
2 Code.

3 For purposes of this subsection, "qualifying expenditures"  
4 means the qualifying expenditures as defined for the federal  
5 credit for increasing research activities which would be  
6 allowable under Section 41 of the Internal Revenue Code and  
7 which are conducted in this State, "qualifying expenditures for  
8 increasing research activities in this State" means the excess  
9 of qualifying expenditures for the taxable year in which  
10 incurred over qualifying expenditures for the base period,  
11 "qualifying expenditures for the base period" means the average  
12 of the qualifying expenditures for each year in the base  
13 period, and "base period" means the 3 taxable years immediately  
14 preceding the taxable year for which the determination is being  
15 made.

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

24 If an unused credit is carried forward to a given year from  
25 2 or more earlier years, that credit arising in the earliest  
26 year will be applied first against the tax liability for the

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

10 No inference shall be drawn from this amendatory Act of the  
11 91st General Assembly in construing this Section for taxable  
12 years beginning before January 1, 1999.

13 (1) Environmental Remediation Tax Credit.

14 (i) For tax years ending after December 31, 1997 and on  
15 or before December 31, 2001, a taxpayer shall be allowed a  
16 credit against the tax imposed by subsections (a) and (b)  
17 of this Section for certain amounts paid for unreimbursed  
18 eligible remediation costs, as specified in this  
19 subsection. For purposes of this Section, "unreimbursed  
20 eligible remediation costs" means costs approved by the  
21 Illinois Environmental Protection Agency ("Agency") under  
22 Section 58.14 of the Environmental Protection Act that were  
23 paid in performing environmental remediation at a site for  
24 which a No Further Remediation Letter was issued by the  
25 Agency and recorded under Section 58.10 of the  
26 Environmental Protection Act. The credit must be claimed

1 for the taxable year in which Agency approval of the  
2 eligible remediation costs is granted. The credit is not  
3 available to any taxpayer if the taxpayer or any related  
4 party caused or contributed to, in any material respect, a  
5 release of regulated substances on, in, or under the site  
6 that was identified and addressed by the remedial action  
7 pursuant to the Site Remediation Program of the  
8 Environmental Protection Act. After the Pollution Control  
9 Board rules are adopted pursuant to the Illinois  
10 Administrative Procedure Act for the administration and  
11 enforcement of Section 58.9 of the Environmental  
12 Protection Act, determinations as to credit availability  
13 for purposes of this Section shall be made consistent with  
14 those rules. For purposes of this Section, "taxpayer"  
15 includes a person whose tax attributes the taxpayer has  
16 succeeded to under Section 381 of the Internal Revenue Code  
17 and "related party" includes the persons disallowed a  
18 deduction for losses by paragraphs (b), (c), and (f)(1) of  
19 Section 267 of the Internal Revenue Code by virtue of being  
20 a related taxpayer, as well as any of its partners. The  
21 credit allowed against the tax imposed by subsections (a)  
22 and (b) shall be equal to 25% of the unreimbursed eligible  
23 remediation costs in excess of \$100,000 per site, except  
24 that the \$100,000 threshold shall not apply to any site  
25 contained in an enterprise zone as determined by the  
26 Department of Commerce and Community Affairs (now

1 Department of Commerce and Economic Opportunity). The  
2 total credit allowed shall not exceed \$40,000 per year with  
3 a maximum total of \$150,000 per site. For partners and  
4 shareholders of subchapter S corporations, there shall be  
5 allowed a credit under this subsection to be determined in  
6 accordance with the determination of income and  
7 distributive share of income under Sections 702 and 704 and  
8 subchapter S of the Internal Revenue Code.

9 (ii) A credit allowed under this subsection that is  
10 unused in the year the credit is earned may be carried  
11 forward to each of the 5 taxable years following the year  
12 for which the credit is first earned until it is used. The  
13 term "unused credit" does not include any amounts of  
14 unreimbursed eligible remediation costs in excess of the  
15 maximum credit per site authorized under paragraph (i).  
16 This credit shall be applied first to the earliest year for  
17 which there is a liability. If there is a credit under this  
18 subsection from more than one tax year that is available to  
19 offset a liability, the earliest credit arising under this  
20 subsection shall be applied first. A credit allowed under  
21 this subsection may be sold to a buyer as part of a sale of  
22 all or part of the remediation site for which the credit  
23 was granted. The purchaser of a remediation site and the  
24 tax credit shall succeed to the unused credit and remaining  
25 carry-forward period of the seller. To perfect the  
26 transfer, the assignor shall record the transfer in the

1 chain of title for the site and provide written notice to  
2 the Director of the Illinois Department of Revenue of the  
3 assignor's intent to sell the remediation site and the  
4 amount of the tax credit to be transferred as a portion of  
5 the sale. In no event may a credit be transferred to any  
6 taxpayer if the taxpayer or a related party would not be  
7 eligible under the provisions of subsection (i).

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

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

23 For purposes of this subsection:

24 "Qualifying pupils" means individuals who (i) are  
25 residents of the State of Illinois, (ii) are under the age of  
26 21 at the close of the school year for which a credit is

1 sought, and (iii) during the school year for which a credit is  
2 sought were full-time pupils enrolled in a kindergarten through  
3 twelfth grade education program at any school, as defined in  
4 this subsection.

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

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

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

19 (n) River Edge Redevelopment Zone site remediation tax  
20 credit.

21 (i) For tax years ending on or after December 31, 2006,  
22 a taxpayer shall be allowed a credit against the tax  
23 imposed by subsections (a) and (b) of this Section for  
24 certain amounts paid for unreimbursed eligible remediation  
25 costs, as specified in this subsection. For purposes of  
26 this Section, "unreimbursed eligible remediation costs"

1 means costs approved by the Illinois Environmental  
2 Protection Agency ("Agency") under Section 58.14a of the  
3 Environmental Protection Act that were paid in performing  
4 environmental remediation at a site within a River Edge  
5 Redevelopment Zone for which a No Further Remediation  
6 Letter was issued by the Agency and recorded under Section  
7 58.10 of the Environmental Protection Act. The credit must  
8 be claimed for the taxable year in which Agency approval of  
9 the eligible remediation costs is granted. The credit is  
10 not available to any taxpayer if the taxpayer or any  
11 related party caused or contributed to, in any material  
12 respect, a release of regulated substances on, in, or under  
13 the site that was identified and addressed by the remedial  
14 action pursuant to the Site Remediation Program of the  
15 Environmental Protection Act. Determinations as to credit  
16 availability for purposes of this Section shall be made  
17 consistent with rules adopted by the Pollution Control  
18 Board pursuant to the Illinois Administrative Procedure  
19 Act for the administration and enforcement of Section 58.9  
20 of the Environmental Protection Act. For purposes of this  
21 Section, "taxpayer" includes a person whose tax attributes  
22 the taxpayer has succeeded to under Section 381 of the  
23 Internal Revenue Code and "related party" includes the  
24 persons disallowed a deduction for losses by paragraphs  
25 (b), (c), and (f)(1) of Section 267 of the Internal Revenue  
26 Code by virtue of being a related taxpayer, as well as any



1 of its partners. The credit allowed against the tax imposed  
2 by subsections (a) and (b) shall be equal to 25% of the  
3 unreimbursed eligible remediation costs in excess of  
4 \$100,000 per site.

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

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

4           (iv) This subsection is exempt from the provisions of  
5           Section 250.

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