

# SB1905



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB1905

Introduced 2/15/2019, by Sen. Melinda Bush

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/201

from Ch. 120, par. 2-201

Amends the Illinois Income Tax Act. Provides that the research and development credit applies on a permanent basis. Provides that the credit may be carried forward for a period of 20 taxable years (currently, 5 taxable years). Makes changes concerning the calculation of the credit. Effective immediately.

LRB101 10790 HLH 55916 b

FISCAL NOTE ACT  
MAY APPLY

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 estate for  
10 each taxable year ending after July 31, 1969 on the privilege  
11 of earning or receiving income in or as a resident of this  
12 State. Such tax shall be in addition to all other occupation or  
13 privilege taxes imposed by this State or by any municipal  
14 corporation or political subdivision thereof.

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

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

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

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

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

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

2 (5.2) In the case of an individual, trust, or estate,  
3 for taxable years beginning on or after January 1, 2015,  
4 and ending prior to July 1, 2017, an amount equal to 3.75%  
5 of the taxpayer's net income for the taxable year.

6 (5.3) In the case of an individual, trust, or estate,  
7 for taxable years beginning prior to July 1, 2017, and  
8 ending after June 30, 2017, an amount equal to the sum of  
9 (i) 3.75% of the taxpayer's net income for the period prior  
10 to July 1, 2017, as calculated under Section 202.5, and  
11 (ii) 4.95% of the taxpayer's net income for the period  
12 after June 30, 2017, as calculated under Section 202.5.

13 (5.4) In the case of an individual, trust, or estate,  
14 for taxable years beginning on or after July 1, 2017, an  
15 amount equal to 4.95% of the taxpayer's net income for the  
16 taxable year.

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

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

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

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

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

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

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

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

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

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

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

26           (d) Additional Personal Property Tax Replacement Income

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

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

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

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

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

16 (B) the privilege tax imposed by Section 409 of the  
17 Illinois Insurance Code, the fire insurance company  
18 tax imposed by Section 12 of the Fire Investigation  
19 Act, and the fire department taxes imposed under  
20 Section 11-10-1 of the Illinois Municipal Code,  
21 equals 1.25% for taxable years ending prior to December 31,  
22 2003, or 1.75% for taxable years ending on or after  
23 December 31, 2003, of the net taxable premiums written for  
24 the taxable year, as described by subsection (1) of Section  
25 409 of the Illinois Insurance Code. This paragraph will in  
26 no event increase the rates imposed under subsections (b)



1 and (d).

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

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

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

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

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

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

20 (2) The term "qualified property" means property  
21 which:

22 (A) is tangible, whether new or used, including  
23 buildings and structural components of buildings and  
24 signs that are real property, but not including land or  
25 improvements to real property that are not a structural  
26 component of a building such as landscaping, sewer

1 lines, local access roads, fencing, parking lots, and  
2 other appurtenances;

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

8 (C) is acquired by purchase as defined in Section  
9 179(d) of the Internal Revenue Code;

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

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

20 (3) For purposes of this subsection (e),  
21 "manufacturing" means the material staging and production  
22 of tangible personal property by procedures commonly  
23 regarded as manufacturing, processing, fabrication, or  
24 assembling which changes some existing material into new  
25 shapes, new qualities, or new combinations. For purposes of  
26 this subsection (e) the term "mining" shall have the same

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

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

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

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

23 (7) If during any taxable year, any property ceases to  
24 be qualified property in the hands of the taxpayer within  
25 48 months after being placed in service, or the situs of  
26 any qualified property is moved outside Illinois within 48

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

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

18 (9) Each taxable year ending before December 31, 2000,  
19 a partnership may elect to pass through to its partners the  
20 credits to which the partnership is entitled under this  
21 subsection (e) for the taxable year. A partner may use the  
22 credit allocated to him or her under this paragraph only  
23 against the tax imposed in subsections (c) and (d) of this  
24 Section. If the partnership makes that election, those  
25 credits shall be allocated among the partners in the  
26 partnership in accordance with the rules set forth in

1 Section 704(b) of the Internal Revenue Code, and the rules  
2 promulgated under that Section, and the allocated amount of  
3 the credits shall be allowed to the partners for that  
4 taxable year. The partnership shall make this election on  
5 its Personal Property Tax Replacement Income Tax return for  
6 that taxable year. The election to pass through the credits  
7 shall be irrevocable.

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

22 (f) Investment credit; Enterprise Zone; River Edge  
23 Redevelopment Zone.

24 (1) A taxpayer shall be allowed a credit against the  
25 tax imposed by subsections (a) and (b) of this Section for  
26 investment in qualified property which is placed in service

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



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

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

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

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

13 (C) is acquired by purchase as defined in Section  
14 179(d) of the Internal Revenue Code;

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

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

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

24 (4) If the basis of the property for federal income tax  
25 depreciation purposes is increased after it has been placed  
26 in service in the Enterprise Zone or River Edge

1           Redevelopment Zone by the taxpayer, the amount of such  
2           increase shall be deemed property placed in service on the  
3           date of such increase in basis.

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

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

23          (7) There shall be allowed an additional credit equal  
24          to 0.5% of the basis of qualified property placed in  
25          service during the taxable year in a River Edge  
26          Redevelopment Zone, provided such property is placed in

1 service on or after July 1, 2006, and the taxpayer's base  
2 employment within Illinois has increased by 1% or more over  
3 the preceding year as determined by the taxpayer's  
4 employment records filed with the Illinois Department of  
5 Employment Security. Taxpayers who are new to Illinois  
6 shall be deemed to have met the 1% growth in base  
7 employment for the first year in which they file employment  
8 records with the Illinois Department of Employment  
9 Security. If, in any year, the increase in base employment  
10 within Illinois over the preceding year is less than 1%,  
11 the additional credit shall be limited to that percentage  
12 times a fraction, the numerator of which is 0.5% and the  
13 denominator of which is 1%, but shall not exceed 0.5%.

14 (g) (Blank).

15 (h) Investment credit; High Impact Business.

16 (1) Subject to subsections (b) and (b-5) of Section 5.5  
17 of the Illinois Enterprise Zone Act, a taxpayer shall be  
18 allowed a credit against the tax imposed by subsections (a)  
19 and (b) of this Section for investment in qualified  
20 property which is placed in service by a Department of  
21 Commerce and Economic Opportunity designated High Impact  
22 Business. The credit shall be .5% of the basis for such  
23 property. The credit shall not be available (i) until the  
24 minimum investments in qualified property set forth in  
25 subdivision (a)(3)(A) of Section 5.5 of the Illinois  
26 Enterprise Zone Act have been satisfied or (ii) until the

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

1 tax year that is available to offset a liability, the  
2 credit accruing first in time shall be applied first.

3 Changes made in this subdivision (h) (1) by Public Act  
4 88-670 restore changes made by Public Act 85-1182 and  
5 reflect existing law.

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

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

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

14 (C) is acquired by purchase as defined in Section  
15 179(d) of the Internal Revenue Code; and

16 (D) is not eligible for the Enterprise Zone  
17 Investment Credit provided by subsection (f) of this  
18 Section.

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

22 (4) If the basis of the property for federal income tax  
23 depreciation purposes is increased after it has been placed  
24 in service in a federally designated Foreign Trade Zone or  
25 Sub-Zone located in Illinois by the taxpayer, the amount of  
26 such increase shall be deemed property placed in service on

1 the date of such increase in basis.

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

4 (6) If during any taxable year ending on or before  
5 December 31, 1996, any property ceases to be qualified  
6 property in the hands of the taxpayer within 48 months  
7 after being placed in service, or the situs of any  
8 qualified property is moved outside Illinois within 48  
9 months after being placed in service, the tax imposed under  
10 subsections (a) and (b) of this Section for such taxable  
11 year shall be increased. Such increase shall be determined  
12 by (i) recomputing the investment credit which would have  
13 been allowed for the year in which credit for such property  
14 was originally allowed by eliminating such property from  
15 such computation, and (ii) subtracting such recomputed  
16 credit from the amount of credit previously allowed. For  
17 the purposes of this paragraph (6), a reduction of the  
18 basis of qualified property resulting from a  
19 redetermination of the purchase price shall be deemed a  
20 disposition of qualified property to the extent of such  
21 reduction.

22 (7) Beginning with tax years ending after December 31,  
23 1996, if a taxpayer qualifies for the credit under this  
24 subsection (h) and thereby is granted a tax abatement and  
25 the taxpayer relocates its entire facility in violation of  
26 the explicit terms and length of the contract under Section

1 18-183 of the Property Tax Code, the tax imposed under  
2 subsections (a) and (b) of this Section shall be increased  
3 for the taxable year in which the taxpayer relocated its  
4 facility by an amount equal to the amount of credit  
5 received by the taxpayer under this subsection (h).

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

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

1 than one tax year that is available to offset a liability the  
2 earliest credit arising under this subsection shall be applied  
3 first.

4 If, during any taxable year ending on or after December 31,  
5 1986, the tax imposed by subsections (c) and (d) of this  
6 Section for which a taxpayer has claimed a credit under this  
7 subsection (i) is reduced, the amount of credit for such tax  
8 shall also be reduced. Such reduction shall be determined by  
9 recomputing the credit to take into account the reduced tax  
10 imposed by subsections (c) and (d). If any portion of the  
11 reduced amount of credit has been carried to a different  
12 taxable year, an amended return shall be filed for such taxable  
13 year to reduce the amount of credit claimed.

14 (j) Training expense credit. Beginning with tax years  
15 ending on or after December 31, 1986 and prior to December 31,  
16 2003, a taxpayer shall be allowed a credit against the tax  
17 imposed by subsections (a) and (b) under this Section for all  
18 amounts paid or accrued, on behalf of all persons employed by  
19 the taxpayer in Illinois or Illinois residents employed outside  
20 of Illinois by a taxpayer, for educational or vocational  
21 training in semi-technical or technical fields or semi-skilled  
22 or skilled fields, which were deducted from gross income in the  
23 computation of taxable income. The credit against the tax  
24 imposed by subsections (a) and (b) shall be 1.6% of such  
25 training expenses. For partners, shareholders of subchapter S  
26 corporations, and owners of limited liability companies, if the



1 liability company is treated as a partnership for purposes of  
2 federal and State income taxation, there shall be allowed a  
3 credit under this subsection (j) to be determined in accordance  
4 with the determination of income and distributive share of  
5 income under Sections 702 and 704 and subchapter S of the  
6 Internal Revenue Code.

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

17 (k) Research and development credit. For tax years ending  
18 after July 1, 1990 and prior to December 31, 2003, and  
19 beginning again for tax years ending on or after December 31,  
20 ~~2004, and ending prior to January 1, 2022,~~ a taxpayer shall be  
21 allowed a credit against the tax imposed by subsections (a) and  
22 (b) of this Section for increasing research activities in this  
23 State. The credit allowed against the tax imposed by  
24 subsections (a) and (b) shall be equal to 6 1/2% of the  
25 qualifying expenditures for increasing research activities in  
26 this State. For partners, shareholders of subchapter S

1 corporations, and owners of limited liability companies, if the  
2 liability company is treated as a partnership for purposes of  
3 federal and State income taxation, there shall be allowed a  
4 credit under this subsection to be determined in accordance  
5 with the determination of income and distributive share of  
6 income under Sections 702 and 704 and subchapter S of the  
7 Internal Revenue Code.

8 For purposes of this subsection, "qualifying expenditures"  
9 means the qualifying expenditures as defined for the federal  
10 credit for increasing research activities which would be  
11 allowable under Section 41 of the Internal Revenue Code and  
12 which are conducted in this State, "qualifying expenditures for  
13 increasing research activities in this State" means the excess  
14 of qualifying expenditures for the taxable year in which  
15 incurred over qualifying expenditures for the base period,  
16 "qualifying expenditures for the base period" means: for tax  
17 years ending prior to December 31, 2019, the average of the  
18 qualifying expenditures for each year in the base period; and  
19 (2) for tax years ending on or after December 31, 2019, 50% of  
20 the average of the qualifying expenditures for each year in the  
21 base period. "Base, ~~and~~ "base period" means the 3 taxable years  
22 immediately preceding the taxable year for which the  
23 determination is being made.

24 Any credit in excess of the tax liability for the taxable  
25 year may be carried forward. A taxpayer may elect to have the  
26 unused credit shown on its final completed return carried over

1 as a credit against the tax liability for the carry forward  
2 period following 5 taxable years or until it has been fully  
3 used, whichever occurs first; provided that no credit earned in  
4 a tax year ending prior to December 31, 2003 may be carried  
5 forward to any year ending on or after December 31, 2003. For  
6 purposes of this subsection, "carry forward period" means (i)  
7 for credits earned prior to the effective date of this  
8 amendatory Act of the 101st General Assembly, the following 5  
9 taxable years or until the credit has been fully used,  
10 whichever occurs first, and (ii) for credits earned on or after  
11 the effective date of this amendatory Act of the 101st General  
12 Assembly, the following 20 taxable years or until the credit  
13 has been fully used, whichever occurs first.

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

26 No inference shall be drawn from this amendatory Act of the

1 91st General Assembly in construing this Section for taxable  
2 years beginning before January 1, 1999.

3 It is the intent of the General Assembly that the research  
4 and development credit under this subsection (k) shall apply  
5 continuously for all tax years ending on or after December 31,  
6 2004 and ending prior to January 1, 2022, including, but not  
7 limited to, the period beginning on January 1, 2016 and ending  
8 on the effective date of this amendatory Act of the 100th  
9 General Assembly. All actions taken in reliance on the  
10 continuation of the credit under this subsection (k) by any  
11 taxpayer are hereby validated.

12 This subsection is exempt from the provisions of Section  
13 250 of this Act.

14 (1) Environmental Remediation Tax Credit.

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

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

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

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

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

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

12 (m) Education expense credit. Beginning with tax years  
13 ending after December 31, 1999, a taxpayer who is the custodian  
14 of one or more qualifying pupils shall be allowed a credit  
15 against the tax imposed by subsections (a) and (b) of this  
16 Section for qualified education expenses incurred on behalf of  
17 the qualifying pupils. The credit shall be equal to 25% of  
18 qualified education expenses, but in no event may the total  
19 credit under this subsection claimed by a family that is the  
20 custodian of qualifying pupils exceed (i) \$500 for tax years  
21 ending prior to December 31, 2017, and (ii) \$750 for tax years  
22 ending on or after December 31, 2017. In no event shall a  
23 credit under this subsection reduce the taxpayer's liability  
24 under this Act to less than zero. Notwithstanding any other  
25 provision of law, for taxable years beginning on or after  
26 January 1, 2017, no taxpayer may claim a credit under this

1 subsection (m) if the taxpayer's adjusted gross income for the  
2 taxable year exceeds (i) \$500,000, in the case of spouses  
3 filing a joint federal tax return or (ii) \$250,000, in the case  
4 of all other taxpayers. This subsection is exempt from the  
5 provisions of Section 250 of this Act.

6 For purposes of this subsection:

7 "Qualifying pupils" means individuals who (i) are  
8 residents of the State of Illinois, (ii) are under the age of  
9 21 at the close of the school year for which a credit is  
10 sought, and (iii) during the school year for which a credit is  
11 sought were full-time pupils enrolled in a kindergarten through  
12 twelfth grade education program at any school, as defined in  
13 this subsection.

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

18 "School" means any public or nonpublic elementary or  
19 secondary school in Illinois that is in compliance with Title  
20 VI of the Civil Rights Act of 1964 and attendance at which  
21 satisfies the requirements of Section 26-1 of the School Code,  
22 except that nothing shall be construed to require a child to  
23 attend any particular public or nonpublic school to qualify for  
24 the credit under this Section.

25 "Custodian" means, with respect to qualifying pupils, an  
26 Illinois resident who is a parent, the parents, a legal



1 guardian, or the legal guardians of the qualifying pupils.

2 (n) River Edge Redevelopment Zone site remediation tax  
3 credit.

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

1 Board pursuant to the Illinois Administrative Procedure  
2 Act for the administration and enforcement of Section 58.9  
3 of the Environmental Protection Act. For purposes of this  
4 Section, "taxpayer" includes a person whose tax attributes  
5 the taxpayer has succeeded to under Section 381 of the  
6 Internal Revenue Code and "related party" includes the  
7 persons disallowed a deduction for losses by paragraphs  
8 (b), (c), and (f) (1) of Section 267 of the Internal Revenue  
9 Code by virtue of being a related taxpayer, as well as any  
10 of its partners. The credit allowed against the tax imposed  
11 by subsections (a) and (b) shall be equal to 25% of the  
12 unreimbursed eligible remediation costs in excess of  
13 \$100,000 per site.

14 (ii) A credit allowed under this subsection that is  
15 unused in the year the credit is earned may be carried  
16 forward to each of the 5 taxable years following the year  
17 for which the credit is first earned until it is used. This  
18 credit shall be applied first to the earliest year for  
19 which there is a liability. If there is a credit under this  
20 subsection from more than one tax year that is available to  
21 offset a liability, the earliest credit arising under this  
22 subsection shall be applied first. A credit allowed under  
23 this subsection may be sold to a buyer as part of a sale of  
24 all or part of the remediation site for which the credit  
25 was granted. The purchaser of a remediation site and the  
26 tax credit shall succeed to the unused credit and remaining

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

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

13 (o) For each of taxable years during the Compassionate Use  
14 of Medical Cannabis Pilot Program, a surcharge is imposed on  
15 all taxpayers on income arising from the sale or exchange of  
16 capital assets, depreciable business property, real property  
17 used in the trade or business, and Section 197 intangibles of  
18 an organization registrant under the Compassionate Use of  
19 Medical Cannabis Pilot Program Act. The amount of the surcharge  
20 is equal to the amount of federal income tax liability for the  
21 taxable year attributable to those sales and exchanges. The  
22 surcharge imposed does not apply if:

23 (1) the medical cannabis cultivation center  
24 registration, medical cannabis dispensary registration, or  
25 the property of a registration is transferred as a result  
26 of any of the following:

1           (A) bankruptcy, a receivership, or a debt  
2 adjustment initiated by or against the initial  
3 registration or the substantial owners of the initial  
4 registration;

5           (B) cancellation, revocation, or termination of  
6 any registration by the Illinois Department of Public  
7 Health;

8           (C) a determination by the Illinois Department of  
9 Public Health that transfer of the registration is in  
10 the best interests of Illinois qualifying patients as  
11 defined by the Compassionate Use of Medical Cannabis  
12 Pilot Program Act;

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

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

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

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

24           (2) the cannabis cultivation center registration,  
25 medical cannabis dispensary registration, or the  
26 controlling interest in a registrant's property is

1 transferred in a transaction to lineal descendants in which  
2 no gain or loss is recognized or as a result of a  
3 transaction in accordance with Section 351 of the Internal  
4 Revenue Code in which no gain or loss is recognized.

5 (Source: P.A. 100-22, eff. 7-6-17.)

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law.