

# SB3882



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB3882

Introduced 1/21/2022, by Sen. Laura Fine

#### SYNOPSIS AS INTRODUCED:

New Act  
35 ILCS 5/232 new

Creates the Recovery and Mental Health Tax Credit Act. Provides that the Department of Human Services shall establish and administer a recovery tax credit program to provide tax incentives to qualified employers who employ eligible individuals in recovery from a substance use disorder or mental illness in part-time and full-time positions within Illinois. Creates the Advisory Council on Mental Illness and Substance Use Disorder Impacts on Employment Opportunities within Minority Communities. Sets forth the membership of the Council. Provides that the Council shall advise the Department of Human Services regarding employment of persons with mental illnesses and substance use disorders in minority communities. Amends the Illinois Income Tax Act to make conforming changes.

LRB102 25848 HLH 35197 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 1. Short title. This Act may be cited as the  
5 Recovery and Mental Health Tax Credit Act.

6 Section 5. Findings.

7 (a) In the interest of reducing stigma and increasing the  
8 available pool of potential employees, the General Assembly  
9 finds and declares that those residents of Illinois diagnosed  
10 with mental illness and substance use disorders should be  
11 eligible for and encouraged to seek gainful employment.

12 (b) The General Assembly finds and declares that minority  
13 communities in the State have been more negatively impacted in  
14 employment opportunities for minority residents diagnosed with  
15 mental illness and substance use disorders and should receive  
16 additional employment opportunities and incentives for  
17 employing minority residents diagnosed with mental illness or  
18 substance use disorders.

19 (c) Due to the COVID-19 public health emergency, employers  
20 in the State of Illinois have suffered negative economic  
21 impacts, a loss in workforce, staffing difficulties, and have  
22 found it difficult to recruit new workers.

23 (d) In the interest of providing additional employment

1 opportunities for those residents of Illinois diagnosed with  
2 mental illness or substance use disorders and expanding the  
3 pool of potential workers in the State, the General Assembly  
4 finds and declares that certain qualified employers who employ  
5 eligible individuals should be eligible for a tax credit.

6 Section 10. Definitions. As used in this Act:

7 "Department" means the Department of Human Services.

8 "Eligible individual" means an individual with a substance  
9 use disorder, as that term is defined under Section 1-10 of the  
10 Substance Use Disorder Act, or an individual with a mental  
11 illness as that term is defined under Section 1-129 of the  
12 Mental Health and Developmental Disabilities Code, who is in a  
13 state of wellness and recovery where there is an abatement of  
14 signs and symptoms that characterize active substance use  
15 disorder or mental illness and has demonstrated to the  
16 qualified employer's satisfaction, pursuant to regulations  
17 promulgated by the Department, that he or she has completed a  
18 course of treatment or is currently in receipt of treatment  
19 for such substance use disorder or mental illness. A relapse  
20 in an individual's state of wellness shall not make the  
21 individual ineligible, so long as the individual shows a  
22 continued commitment to recovery that aligns with an  
23 individual's relapse prevention plan, discharge plan, or  
24 recovery plan.

25 "Qualified employer" means an employer operating within

1 the State that has received a certificate of tax credit from  
2 the Department after the Department has determined that the  
3 employer:

4 (1) provides a recovery supportive environment for  
5 their employees evidenced by a formal working relationship  
6 with a substance use disorder treatment provider or  
7 facility or mental health provider or facility, each as  
8 may be licensed or certified within the State of Illinois,  
9 and providing reasonable accommodation to the employees to  
10 address their substance use disorder or mental illness,  
11 all at no cost or expense to the eligible individual; and

12 (2) satisfies all other criteria in this Section and  
13 established by the Department to participate in the  
14 recovery tax program created hereunder.

15 "Taxpayer" means any individual, corporation, partnership,  
16 trust, or other entity subject to the Illinois income tax. For  
17 the purposes of this Act, 2 individuals filing a joint return  
18 shall be considered one taxpayer.

19 Section 15. Authorization of tax credit program for  
20 individuals in recovery from substance use disorders or mental  
21 illness.

22 (a) For taxable years beginning on or after January 1,  
23 2023, the Department is authorized to and shall establish and  
24 administer a recovery tax credit program to provide tax  
25 incentives to qualified employers who employ eligible

1 individuals in recovery from a substance use disorder or  
2 mental illness in part-time and full-time positions within  
3 Illinois. The Department shall award the tax credit by  
4 issuance of a certificate of tax credit to the qualified  
5 employer, who will present the certificate of tax credit to  
6 the Department of Revenue as a credit against the qualified  
7 employer's tax obligation in accordance with this Act.

8 (b) To be a qualified employer, an employer must apply  
9 annually to the Department to claim a credit based upon  
10 eligible individuals employed during the preceding calendar  
11 year, using the forms prescribed by the Department. To be  
12 approved for a credit under this Act, the employer must:

13 (1) agree to provide to the Department the information  
14 necessary to demonstrate that the employer has satisfied  
15 program eligibility requirements and provided all  
16 information requested or needed by the Department,  
17 including the number of hours worked by the eligible  
18 individual and other information necessary for the  
19 Department to calculate the amount of credit permitted;  
20 and

21 (2) agree to provide names, employer identification  
22 numbers, amounts that the employer may claim, and other  
23 information necessary for the Department to calculate any  
24 tax credit.

25 (c) To be an eligible individual, the individual must be  
26 diagnosed with or have been diagnosed with a substance use

1 disorder or mental illness. Disclosure by the eligible  
2 individual of his or her mental illness or substance use  
3 disorder shall be completely voluntary and his or her health  
4 information may not be shared or disclosed under this Act  
5 without the eligible individual's express written consent. The  
6 eligible individual must have been employed by the qualified  
7 employer in the State for a minimum of 500 hours during the  
8 applicable calendar year and the tax credit may only begin on  
9 the date the eligible individual is hired by the qualified  
10 employer and ending on December 31 of that calendar year or the  
11 date that the eligible individual's employment with the  
12 qualified employer ends, whichever occurs first. Only one tax  
13 credit may be awarded for any eligible individual while  
14 employed by the same or related qualified employer. The hours  
15 of employment of 2 or more eligible individuals may not be  
16 aggregated to reach the minimum number of hours. If an  
17 eligible individual has worked in excess of 500 hours between  
18 the date of hiring and December 31 of that year, a qualified  
19 employer can elect to compute and claim a credit for such  
20 eligible individual in that year based on the hours worked by  
21 December 31. Alternatively, the qualified employer may elect  
22 to include such individual in the computation of the credit in  
23 the year immediately succeeding the year in which the eligible  
24 individual was hired. In that case, the credit shall be  
25 computed on the basis of all hours worked by the eligible  
26 individual from the date of hire to the earlier of the last day

1 of employment or December 31 of the succeeding year.

2 (d) The aggregate amount of all credits the Department may  
3 award under this Act in any calendar year may not exceed  
4 \$2,000,000.

5 (e) If the qualified employer's taxable year is a calendar  
6 year, the employer shall be entitled to claim the credit as  
7 shown on the certificate of tax credit on the calendar year  
8 return for which the certificate of tax credit was issued. If  
9 the certified employer's taxable year is a fiscal year, the  
10 qualified employer shall be entitled to claim the credit as  
11 shown on the certificate of tax credit on the return for the  
12 fiscal year that includes the last day of the calendar year  
13 covered by the certificate of tax credit.

14 (f) If Department criteria and all other requirements are  
15 met, a qualified employer shall be entitled to a tax credit  
16 equal to the product of \$1 and the number of hours worked by  
17 each eligible individual during the eligible individual's  
18 period of employment with the qualified employer. The tax  
19 credit awarded hereunder may not exceed \$2,000 per eligible  
20 individual employed by the qualified employer in the State. In  
21 determining the amount of tax credit that any qualified  
22 employer may claim, the Department shall review all claims  
23 submitted for credit by all employers and, to the extent that  
24 the total amount claimed by employers exceeds the amount  
25 allocated for this program in that calendar year, shall issue  
26 tax credits on a pro rata basis corresponding to each

1 qualified employer's share of the total amount claimed.

2 (g) No credit shall be taken under this Act if the taxpayer  
3 claims a federal income tax deduction for the employment of  
4 the eligible individual by a qualified employer.

5 (h) No tax credit awarded under this Act may reduce a  
6 qualified employer's tax obligation to less than zero.

7 (i) The Department of Revenue shall review and accept the  
8 tax credit certificates issued by the Department and apply the  
9 tax credit toward the qualified employer's income tax  
10 obligation. A taxpayer that is a qualified employer that has  
11 received a certificate of tax credit from the Department shall  
12 be allowed a credit against the tax imposed equal to the amount  
13 shown on such certificate of tax credit. If the taxpayer is (i)  
14 a corporation having an election in effect under Subchapter S  
15 of the federal Internal Revenue Code, (ii) a partnership, or  
16 (iii) a limited liability company, the credit provided under  
17 this Act may be claimed by the shareholders of the  
18 corporation, the partners of the partnership, or the members  
19 of the limited liability company in the same manner as those  
20 shareholders, partners, or members account for their  
21 proportionate shares of the income or losses of the  
22 corporation, partnership, or limited liability company, or as  
23 provided in the bylaws or other executed agreement of the  
24 corporation, partnership, or limited liability company. In  
25 carrying out this Act, no patient-specific information shall  
26 be shared or disclosed. Any information collected by the



1 Department or the Department of Revenue shall not be subject  
2 to public disclosure or Freedom of Information Act requests.

3 (j) The credit under this Act is exempt from the  
4 provisions of Section 250 of the Illinois Income Tax Act.

5 Section 20. Advisory Council on Mental Illness and  
6 Substance Use Disorder Impacts on Employment Opportunities  
7 within Minority Communities. The Secretary of the Department  
8 shall appoint the Advisory Council on Mental Illness and  
9 Substance Use Disorder Impacts on Employment Opportunities  
10 within Minority Communities, to be composed of 15 members,  
11 which shall include a balanced representation of recipients,  
12 services providers, employers, local governmental units,  
13 community and welfare advocacy groups, academia, and the  
14 general public. The Advisory Council shall advise the  
15 Department regarding all aspects of employment impacts  
16 resulting from mental illnesses and substance use disorders  
17 within minority communities, tax credits, outreach, marketing,  
18 and education about the tax credit and employment  
19 opportunities, and other areas as deemed appropriate by the  
20 Secretary. In appointing the first Council, the Secretary  
21 shall name 8 members to terms of 2 years and 7 members to serve  
22 terms of 4 years, all of whom shall be appointed within 6  
23 months of the effective date of this Act. All members  
24 appointed thereafter shall serve terms of 4 years. Members  
25 shall serve without compensation other than reimbursement of

1 expenses actually incurred in the performance of their  
2 official duties. At its first meeting, the Advisory Council  
3 shall select a chair from among its members. The Advisory  
4 Council shall meet at least quarterly and at other times at the  
5 call of the chair.

6 Section 25. Powers. The Department shall adopt rules for  
7 the administration of this Act. The Department may enter into  
8 an intergovernmental agreement with the Department of Revenue  
9 for the administration of this Act.

10 Section 90. The Illinois Income Tax Act is amended by  
11 adding Section 232 as follows:

12 (35 ILCS 5/232 new)

13 Sec. 232. Recovery and Mental Health Tax Credit Act. A  
14 taxpayer who has been awarded a credit under the Recovery and  
15 Mental Health Tax Credit Act is entitled to a credit against  
16 the tax imposed by subsections (a) and (b) of Section 201 as  
17 provided in that Act. This Section is exempt from the  
18 provisions of Section 250.