

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 Corporate Accountability for Tax
5 Expenditures Act is amended by changing Section 25 as follows:

6 (20 ILCS 715/25)

7 Sec. 25. Recapture.

8 (a) All development assistance agreements shall contain,
9 at a minimum, the following recapture provisions:

10 (1) The recipient must (i) make the level of capital
11 investment in the economic development project specified
12 in the development assistance agreement; (ii) create or
13 retain, or both, the requisite number of jobs, paying not
14 less than specified wages for the created and retained
15 jobs, within and for the duration of the time period
16 specified in the legislation authorizing, or the
17 administrative rules implementing, the development
18 assistance programs and the development assistance
19 agreement.

20 (2) If the recipient fails to create or retain the
21 requisite number of jobs within and for the time period
22 specified, in the legislation authorizing, or the
23 administrative rules implementing, the development

1 assistance programs and the development assistance
2 agreement, the recipient shall be deemed to no longer
3 qualify for the State economic assistance and the
4 applicable recapture provisions shall take effect.

5 (3) If the recipient receives State economic
6 assistance in the form of a High Impact Business
7 designation pursuant to Section 5.5 of the Illinois
8 Enterprise Zone Act and the business receives the benefit
9 of the exemption authorized under Section 51 of the
10 Retailers' Occupation Tax Act (for the sale of building
11 materials incorporated into a High Impact Business
12 location) and the recipient fails to create or retain the
13 requisite number of jobs, as determined by the legislation
14 authorizing the development assistance programs or the
15 administrative rules implementing such legislation, or
16 both, within the requisite period of time, the recipient
17 shall be required to pay to the State the full amount of
18 the State tax exemption that it received as a result of the
19 High Impact Business designation.

20 (4) If the recipient receives a grant or loan pursuant
21 to the Large Business Development Program, the Business
22 Development Public Infrastructure Program, or the
23 Industrial Training Program and the recipient fails to
24 create or retain the requisite number of jobs for the
25 requisite time period, as provided in the legislation
26 authorizing the development assistance programs or the

1 administrative rules implementing such legislation, or
2 both, or in the development assistance agreement, the
3 recipient shall be required to repay to the State a pro
4 rata amount of the grant; that amount shall reflect the
5 percentage of the deficiency between the requisite number
6 of jobs to be created or retained by the recipient and the
7 actual number of such jobs in existence as of the date the
8 Department determines the recipient is in breach of the job
9 creation or retention covenants contained in the
10 development assistance agreement. If the recipient of
11 development assistance under the Large Business
12 Development Program, the Business Development Public
13 Infrastructure Program, or the Industrial Training Program
14 ceases operations at the specific project site, during the
15 5-year period commencing on the date of assistance, the
16 recipient shall be required to repay the entire amount of
17 the grant or to accelerate repayment of the loan back to
18 the State.

19 (5) If the recipient receives a tax credit under the
20 Economic Development for a Growing Economy tax credit
21 program, the development assistance agreement must provide
22 that (i) if the number of new or retained employees falls
23 below the requisite number set forth in the development
24 assistance agreement, the allowance of the credit shall be
25 automatically suspended until the number of new and
26 retained employees equals or exceeds the requisite number

1 in the development assistance agreement; (ii) if the
2 recipient discontinues operations at the specific project
3 site during the 5-year period after the beginning of the
4 first tax year for which the Department issues a tax credit
5 certificate ~~the first 5 years of the 10 year term of the~~
6 ~~development assistance agreement~~, the recipient shall
7 forfeit all credits taken by the recipient during such
8 5-year period; and (iii) in the event of a revocation or
9 suspension of the credit, the Department shall contact the
10 Director of Revenue to initiate proceedings against the
11 recipient to recover wrongfully exempted Illinois State
12 income taxes and the recipient shall promptly repay to the
13 Department of Revenue any wrongfully exempted Illinois
14 State income taxes. The forfeited amount of credits shall
15 be deemed assessed on the date the Department contacts the
16 Department of Revenue and the recipient shall promptly
17 repay to the Department of Revenue any wrongfully exempted
18 Illinois State income taxes.

19 (b) The Director may elect to waive enforcement of any
20 contractual provision arising out of the development
21 assistance agreement required by this Act based on a finding
22 that the waiver is necessary to avert an imminent and
23 demonstrable hardship to the recipient that may result in such
24 recipient's insolvency or discharge of workers. If a waiver is
25 granted, the recipient must agree to a contractual
26 modification, including recapture provisions, to the

1 development assistance agreement. The existence of any waiver
2 granted pursuant to this subsection (c), the date of the
3 granting of such waiver, and a brief summary of the reasons
4 supporting the granting of such waiver shall be disclosed
5 consistent with the provisions of Section 25 of this Act.

6 (c) Beginning June 1, 2004, the Department shall annually
7 compile a report on the outcomes and effectiveness of recapture
8 provisions by program, including but not limited to: (i) the
9 total number of companies that receive development assistance
10 as defined in this Act; (ii) the total number of recipients in
11 violation of development agreements with the Department; (iii)
12 the total number of completed recapture efforts; (iv) the total
13 number of recapture efforts initiated; and (v) the number of
14 waivers granted. This report shall be disclosed consistent with
15 the provisions of Section 20 of this Act.

16 (d) For the purposes of this Act, recapture provisions do
17 not include the Illinois Department of Transportation Economic
18 Development Program, any grants under the Industrial Training
19 Program that are not given as an incentive to a recipient
20 business organization, or any successor programs as described
21 in the term "development assistance" in Section 5 of this Act.

22 (Source: P.A. 93-552, eff. 8-20-03.)

23 Section 10. The Illinois Income Tax Act is amended by
24 changing Section 201 as follows:

1 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

2 Sec. 201. Tax Imposed.

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

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

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

17 (2) In the case of an individual, trust or estate, for
18 taxable years beginning prior to July 1, 1989 and ending
19 after June 30, 1989, an amount equal to the sum of (i) 2
20 1/2% of the taxpayer's net income for the period prior to
21 July 1, 1989, as calculated under Section 202.3, and (ii)
22 3% of the taxpayer's net income for the period after June
23 30, 1989, as calculated under Section 202.3.

24 (3) In the case of an individual, trust or estate, for
25 taxable years beginning after June 30, 1989, and ending
26 prior to January 1, 2011, an amount equal to 3% of the

1 taxpayer's net income for the taxable year.

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

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

13 (5.1) In the case of an individual, trust, or estate,
14 for taxable years beginning prior to January 1, 2015, and
15 ending after December 31, 2014, an amount equal to the sum
16 of (i) 5% of the taxpayer's net income for the period prior
17 to January 1, 2015, as calculated under Section 202.5, and
18 (ii) 3.75% of the taxpayer's net income for the period
19 after December 31, 2014, as calculated under Section 202.5.

20 (5.2) In the case of an individual, trust, or estate,
21 for taxable years beginning on or after January 1, 2015,
22 and ending prior to January 1, 2025, an amount equal to
23 3.75% of the taxpayer's net income for the taxable year.

24 (5.3) In the case of an individual, trust, or estate,
25 for taxable years beginning prior to January 1, 2025, and
26 ending after December 31, 2024, an amount equal to the sum

1 of (i) 3.75% of the taxpayer's net income for the period
2 prior to January 1, 2025, as calculated under Section
3 202.5, and (ii) 3.25% of the taxpayer's net income for the
4 period after December 31, 2024, as calculated under Section
5 202.5.

6 (5.4) In the case of an individual, trust, or estate,
7 for taxable years beginning on or after January 1, 2025, an
8 amount equal to 3.25% of the taxpayer's net income for the
9 taxable year.

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

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

20 (8) In the case of a corporation, for taxable years
21 beginning after June 30, 1989, and ending prior to January
22 1, 2011, an amount equal to 4.8% of the taxpayer's net
23 income for the taxable year.

24 (9) In the case of a corporation, for taxable years
25 beginning prior to January 1, 2011, and ending after
26 December 31, 2010, an amount equal to the sum of (i) 4.8%

1 of the taxpayer's net income for the period prior to
2 January 1, 2011, as calculated under Section 202.5, and
3 (ii) 7% of the taxpayer's net income for the period after
4 December 31, 2010, as calculated under Section 202.5.

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

9 (11) In the case of a corporation, for taxable years
10 beginning prior to January 1, 2015, and ending after
11 December 31, 2014, an amount equal to the sum of (i) 7% of
12 the taxpayer's net income for the period prior to January
13 1, 2015, as calculated under Section 202.5, and (ii) 5.25%
14 of the taxpayer's net income for the period after December
15 31, 2014, as calculated under Section 202.5.

16 (12) In the case of a corporation, for taxable years
17 beginning on or after January 1, 2015, and ending prior to
18 January 1, 2025, an amount equal to 5.25% of the taxpayer's
19 net income for the taxable year.

20 (13) In the case of a corporation, for taxable years
21 beginning prior to January 1, 2025, and ending after
22 December 31, 2024, an amount equal to the sum of (i) 5.25%
23 of the taxpayer's net income for the period prior to
24 January 1, 2025, as calculated under Section 202.5, and
25 (ii) 4.8% of the taxpayer's net income for the period after
26 December 31, 2024, as calculated under Section 202.5.

1 (14) In the case of a corporation, for taxable years
2 beginning on or after January 1, 2025, an amount equal to
3 4.8% of the taxpayer's net income for the taxable year.

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

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

19 (d) Additional Personal Property Tax Replacement Income
20 Tax Rates. The personal property tax replacement income tax
21 imposed by this subsection and subsection (c) of this Section
22 in the case of a corporation, other than a Subchapter S
23 corporation and except as adjusted by subsection (d-1), shall
24 be an additional amount equal to 2.85% of such taxpayer's net
25 income for the taxable year, except that beginning on January
26 1, 1981, and thereafter, the rate of 2.85% specified in this

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

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

1 purposes of this subsection (d-1), an inter-affiliate includes
2 a mutual insurer under common management.

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

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

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

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

1 subsection (d).

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

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

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

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

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

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

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

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

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

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

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

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

1 personal property" has the same meaning as when that term
2 is used in the Retailers' Occupation Tax Act, and, for
3 taxable years ending after December 31, 2008, does not
4 include the generation, transmission, or distribution of
5 electricity.

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

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

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

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

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

6 (8) Unless the investment credit is extended by law,
7 the basis of qualified property shall not include costs
8 incurred after December 31, 2013, except for costs incurred
9 pursuant to a binding contract entered into on or before
10 December 31, 2013.

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

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

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

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

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

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

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

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

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

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

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

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 the Enterprise Zone or River Edge
20 Redevelopment Zone by the taxpayer, the amount of such
21 increase shall be deemed property placed in service on the
22 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, any property ceases to
26 be qualified property in the hands of the taxpayer within

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

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

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

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

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

19 (2) To qualify for the credit:

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

24 (B) the taxpayer's total employment within the
25 enterprise zone, River Edge Redevelopment Zone, or
26 federally designated Foreign Trade Zone or Sub-Zone

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

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

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

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

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

22 (C) Employed in the enterprise zone, River Edge
23 Redevelopment Zone, or Foreign Trade Zone or Sub-Zone.
24 An employee is employed in an enterprise zone or
25 federally designated Foreign Trade Zone or Sub-Zone if
26 his services are rendered there or it is the base of

1 operations for the services performed.

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

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

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

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

24 (h) Investment credit; High Impact Business.

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

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

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

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

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

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

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

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

25 (D) is not eligible for the Enterprise Zone
26 Investment Credit provided by subsection (f) of this

1 Section.

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

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

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

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

1 basis of qualified property resulting from a
2 redetermination of the purchase price shall be deemed a
3 disposition of qualified property to the extent of such
4 reduction.

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

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

25 Any credit earned on or after December 31, 1986 under this
26 subsection which is unused in the year the credit is computed

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

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

23 (j) Training expense credit. Beginning with tax years
24 ending on or after December 31, 1986 and prior to December 31,
25 2003, a taxpayer shall be allowed a credit against the tax
26 imposed by subsections (a) and (b) under this Section for all

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

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

26 (k) Research and development credit.

1 For tax years ending after July 1, 1990 and prior to
2 December 31, 2003, and beginning again for tax years ending on
3 or after December 31, 2004, and ending prior to January 1,
4 2011, a taxpayer shall be allowed a credit against the tax
5 imposed by subsections (a) and (b) of this Section for
6 increasing research activities in this State. The credit
7 allowed against the tax imposed by subsections (a) and (b)
8 shall be equal to 6 1/2% of the qualifying expenditures for
9 increasing research activities in this State. For partners,
10 shareholders of subchapter S corporations, and owners of
11 limited liability companies, if the liability company is
12 treated as a partnership for purposes of federal and State
13 income taxation, there shall be allowed a credit under this
14 subsection to be determined in accordance with the
15 determination of income and distributive share of income under
16 Sections 702 and 704 and subchapter S of the Internal Revenue
17 Code.

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

1 of the qualifying expenditures for each year in the base
2 period, and "base period" means the 3 taxable years immediately
3 preceding the taxable year for which the determination is being
4 made.

5 Any credit in excess of the tax liability for the taxable
6 year may be carried forward. A taxpayer may elect to have the
7 unused credit shown on its final completed return carried over
8 as a credit against the tax liability for the following 5
9 taxable years or until it has been fully used, whichever occurs
10 first; provided that no credit earned in a tax year ending
11 prior to December 31, 2003 may be carried forward to any year
12 ending on or after December 31, 2003, and no credit may be
13 carried forward to any taxable year ending on or after January
14 1, 2011.

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

1 No inference shall be drawn from this amendatory Act of the
2 91st General Assembly in construing this Section for taxable
3 years beginning before January 1, 1999.

4 (1) Environmental Remediation Tax Credit.

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

1 Administrative Procedure Act for the administration and
2 enforcement of Section 58.9 of the Environmental
3 Protection Act, determinations as to credit availability
4 for purposes of this Section shall be made consistent with
5 those rules. For purposes of this Section, "taxpayer"
6 includes a person whose tax attributes the taxpayer has
7 succeeded to under Section 381 of the Internal Revenue Code
8 and "related party" includes the persons disallowed a
9 deduction for losses by paragraphs (b), (c), and (f)(1) of
10 Section 267 of the Internal Revenue Code by virtue of being
11 a related taxpayer, as well as any of its partners. The
12 credit allowed against the tax imposed by subsections (a)
13 and (b) shall be equal to 25% of the unreimbursed eligible
14 remediation costs in excess of \$100,000 per site, except
15 that the \$100,000 threshold shall not apply to any site
16 contained in an enterprise zone as determined by the
17 Department of Commerce and Community Affairs (now
18 Department of Commerce and Economic Opportunity). The
19 total credit allowed shall not exceed \$40,000 per year with
20 a maximum total of \$150,000 per site. For partners and
21 shareholders of subchapter S corporations, there shall be
22 allowed a credit under this subsection to be determined in
23 accordance with the determination of income and
24 distributive share of income under Sections 702 and 704 and
25 subchapter S of the Internal Revenue Code.

26 (ii) A credit allowed under this subsection that is

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

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

1 Environmental Protection Act.

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

14 For purposes of this subsection:

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

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

26 "School" means any public or nonpublic elementary or

1 secondary school in Illinois that is in compliance with Title
2 VI of the Civil Rights Act of 1964 and attendance at which
3 satisfies the requirements of Section 26-1 of the School Code,
4 except that nothing shall be construed to require a child to
5 attend any particular public or nonpublic school to qualify for
6 the credit under this Section.

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

10 (n) River Edge Redevelopment Zone site remediation tax
11 credit.

12 (i) For tax years ending on or after December 31, 2006,
13 a taxpayer shall be allowed a credit against the tax
14 imposed by subsections (a) and (b) of this Section for
15 certain amounts paid for unreimbursed eligible remediation
16 costs, as specified in this subsection. For purposes of
17 this Section, "unreimbursed eligible remediation costs"
18 means costs approved by the Illinois Environmental
19 Protection Agency ("Agency") under Section 58.14a of the
20 Environmental Protection Act that were paid in performing
21 environmental remediation at a site within a River Edge
22 Redevelopment Zone for which a No Further Remediation
23 Letter was issued by the Agency and recorded under Section
24 58.10 of the Environmental Protection Act. The credit must
25 be claimed for the taxable year in which Agency approval of
26 the eligible remediation costs is granted. The credit is

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

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

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

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

21 ~~(iv) This subsection is exempt from the provisions of~~
22 ~~Section 250.~~

23 (Source: P.A. 95-454, eff. 8-27-07; 96-115, eff. 7-31-09;
24 96-116, eff. 7-31-09; 96-937, eff. 6-23-10; 96-1000, eff.
25 7-2-10; 96-1496, eff. 1-13-11.)

1 Section 15. The Economic Development for a Growing Economy
2 Tax Credit Act is amended by changing Sections 5-15 and 5-50
3 and by adding Section 5-77 as follows:

4 (35 ILCS 10/5-15)

5 Sec. 5-15. Tax Credit Awards. Subject to the conditions set
6 forth in this Act, a Taxpayer is entitled to a Credit against
7 or, as described in subsection (g) of this Section, a payment
8 towards taxes imposed pursuant to subsections (a) and (b) of
9 Section 201 of the Illinois Income Tax Act that may be imposed
10 on the Taxpayer for a taxable year beginning on or after
11 January 1, 1999, if the Taxpayer is awarded a Credit by the
12 Department under this Act for that taxable year.

13 (a) The Department shall make Credit awards under this Act
14 to foster job creation and retention in Illinois.

15 (b) A person that proposes a project to create new jobs in
16 Illinois must enter into an Agreement with the Department for
17 the Credit under this Act.

18 (c) The Credit shall be claimed for the taxable years
19 specified in the Agreement.

20 (d) The Credit shall not exceed the Incremental Income Tax
21 attributable to the project that is the subject of the
22 Agreement.

23 (e) Nothing herein shall prohibit a Tax Credit Award to an
24 Applicant that uses a PEO if all other award criteria are
25 satisfied.

1 (f) In lieu of the Credit allowed under this Act against
2 the taxes imposed pursuant to subsections (a) and (b) of
3 Section 201 of the Illinois Income Tax Act for any taxable year
4 ending on or after December 31, 2009, the Taxpayer may elect to
5 claim the Credit against its obligation to pay over withholding
6 under Section 704A of the Illinois Income Tax Act.

7 (1) The election under this subsection (f) may be made
8 only by a Taxpayer that (i) is primarily engaged in one of
9 the following business activities: water purification and
10 treatment, motor vehicle metal stamping, automobile
11 manufacturing, automobile and light duty motor vehicle
12 manufacturing, motor vehicle manufacturing, light truck
13 and utility vehicle manufacturing, heavy duty truck
14 manufacturing, ~~or~~ motor vehicle body manufacturing, cable
15 television infrastructure design or manufacturing, or
16 wireless telecommunication or computing terminal device
17 design or manufacturing for use on public networks and (ii)
18 meets the following criteria:

19 (A) the Taxpayer (i) had an Illinois net loss or an
20 Illinois net loss deduction under Section 207 of the
21 Illinois Income Tax Act for the taxable year in which
22 the Credit is awarded, (ii) employed a minimum of 1,000
23 full-time employees in this State during the taxable
24 year in which the Credit is awarded, (iii) has an
25 Agreement under this Act on December 14, 2009 (the
26 effective date of Public Act 96-834), and (iv) is in

1 compliance with all provisions of that Agreement;

2 (B) the Taxpayer (i) had an Illinois net loss or an
3 Illinois net loss deduction under Section 207 of the
4 Illinois Income Tax Act for the taxable year in which
5 the Credit is awarded, (ii) employed a minimum of 1,000
6 full-time employees in this State during the taxable
7 year in which the Credit is awarded, and (iii) has
8 applied for an Agreement within 365 days after December
9 14, 2009 (the effective date of Public Act 96-834);

10 (C) the Taxpayer (i) had an Illinois net operating
11 loss carryforward under Section 207 of the Illinois
12 Income Tax Act in a taxable year ending during calendar
13 year 2008, (ii) has applied for an Agreement within 150
14 days after the effective date of this amendatory Act of
15 the 96th General Assembly, (iii) creates at least 400
16 new jobs in Illinois, (iv) retains at least 2,000 jobs
17 in Illinois that would have been at risk of relocation
18 out of Illinois over a 10-year period, and (v) makes a
19 capital investment of at least \$75,000,000; ~~or~~

20 (D) the Taxpayer (i) had an Illinois net operating
21 loss carryforward under Section 207 of the Illinois
22 Income Tax Act in a taxable year ending during calendar
23 year 2009, (ii) has applied for an Agreement within 150
24 days after the effective date of this amendatory Act of
25 the 96th General Assembly, (iii) creates at least 150
26 new jobs, (iv) retains at least 1,000 jobs in Illinois

1 that would have been at risk of relocation out of
2 Illinois over a 10-year period, and (v) makes a capital
3 investment of at least \$57,000,000; or-

4 (E) the Taxpayer (i) employed at least 2,500
5 full-time employees in the State during the year in
6 which the Credit is awarded, (ii) commits to make at
7 least \$500,000,000 in combined capital improvements
8 and project costs under the Agreement, (iii) applies
9 for an Agreement between January 1, 2011 and June 30,
10 2011, (iv) executes an Agreement for the Credit during
11 calendar year 2011, and (v) was incorporated no more
12 than 5 years before the filing of an application for an
13 Agreement.

14 (1.5) The election under this subsection (f) may also
15 be made by a Taxpayer for any Credit awarded pursuant to an
16 agreement that was executed between January 1, 2011 and
17 June 30, 2011, if the Taxpayer (i) is primarily engaged in
18 the manufacture of inner tubes or tires, or both, from
19 natural and synthetic rubber, (ii) employs a minimum of
20 2,400 full-time employees in Illinois at the time of
21 application, (iii) creates at least 350 full-time jobs and
22 retains at least 250 full-time jobs in Illinois that would
23 have been at risk of being created or retained outside of
24 Illinois, and (iv) makes a capital investment of at least
25 \$200,000,000 at the project location.

26 (2) An election under this subsection shall allow the

1 credit to be taken against payments otherwise due under
2 Section 704A of the Illinois Income Tax Act during the
3 first calendar year beginning after the end of the taxable
4 year in which the credit is awarded under this Act.

5 (3) The election shall be made in the form and manner
6 required by the Illinois Department of Revenue and, once
7 made, shall be irrevocable.

8 (4) If a Taxpayer who meets the requirements of
9 subparagraph (A) of paragraph (1) of this subsection (f)
10 elects to claim the Credit against its withholdings as
11 provided in this subsection (f), then, on and after the
12 date of the election, the terms of the Agreement between
13 the Taxpayer and the Department may not be further amended
14 during the term of the Agreement.

15 (g) A pass-through entity that has been awarded a credit
16 under this Act, its shareholders, or its partners may treat
17 some or all of the credit awarded pursuant to this Act as a tax
18 payment for purposes of the Illinois Income Tax Act. The term
19 "tax payment" means a payment as described in Article 6 or
20 Article 8 of the Illinois Income Tax Act or a composite payment
21 made by a pass-through entity on behalf of any of its
22 shareholders or partners to satisfy such shareholders' or
23 partners' taxes imposed pursuant to subsections (a) and (b) of
24 Section 201 of the Illinois Income Tax Act. In no event shall
25 the amount of the award credited pursuant to this Act exceed
26 the Illinois income tax liability of the pass-through entity or

1 its shareholders or partners for the taxable year.

2 (Source: P.A. 95-375, eff. 8-23-07; 96-834, eff. 12-14-09;
3 96-836, eff. 12-16-09; 96-905, eff. 6-4-10; 96-1000, eff.
4 7-2-10; 96-1534, eff. 3-4-11.)

5 (35 ILCS 10/5-50)

6 Sec. 5-50. Contents of Agreements with Applicants. The
7 Department shall enter into an Agreement with an Applicant that
8 is awarded a Credit under this Act. The Agreement must include
9 all of the following:

10 (1) A detailed description of the project that is the
11 subject of the Agreement, including the location and amount
12 of the investment and jobs created or retained.

13 (2) The duration of the Credit and the first taxable
14 year for which the Credit may be claimed.

15 (3) The Credit amount that will be allowed for each
16 taxable year.

17 (4) A requirement that the Taxpayer shall maintain
18 operations at the project location that shall be stated as
19 a minimum number of years not to exceed 10.

20 (5) A specific method for determining the number of New
21 Employees employed during a taxable year.

22 (6) A requirement that the Taxpayer shall annually
23 report to the Department the number of New Employees, the
24 Incremental Income Tax withheld in connection with the New
25 Employees, and any other information the Director needs to

1 perform the Director's duties under this Act.

2 (7) A requirement that the Director is authorized to
3 verify with the appropriate State agencies the amounts
4 reported under paragraph (6), and after doing so shall
5 issue a certificate to the Taxpayer stating that the
6 amounts have been verified.

7 (8) A requirement that the Taxpayer shall provide
8 written notification to the Director not more than 30 days
9 after the Taxpayer makes or receives a proposal that would
10 transfer the Taxpayer's State tax liability obligations to
11 a successor Taxpayer.

12 (9) A detailed description of the number of New
13 Employees to be hired, and the occupation and payroll of
14 the full-time jobs to be created or retained as a result of
15 the project.

16 (10) The minimum investment the business enterprise
17 will make in capital improvements, the time period for
18 placing the property in service, and the designated
19 location in Illinois for the investment.

20 (11) A requirement that the Taxpayer shall provide
21 written notification to the Director and the Committee not
22 more than 30 days after the Taxpayer determines that the
23 minimum job creation or retention, employment payroll, or
24 investment no longer is being or will be achieved or
25 maintained as set forth in the terms and conditions of the
26 Agreement.

1 (12) A provision that, if the total number of New
2 Employees falls below a specified level, the allowance of
3 Credit shall be suspended until the number of New Employees
4 equals or exceeds the Agreement amount.

5 (13) A detailed description of the items for which the
6 costs incurred by the Taxpayer will be included in the
7 limitation on the Credit provided in Section 5-30.

8 (13.5) A provision that, if the Taxpayer never meets
9 either the investment or job creation and retention
10 requirements specified in the Agreement during the entire
11 5-year period beginning on the first day of the first
12 taxable year in which the Agreement is executed and ending
13 on the last day of the fifth taxable year after the
14 Agreement is executed, then the Agreement is automatically
15 terminated on the last day of the fifth taxable year after
16 the Agreement is executed and the Taxpayer is not entitled
17 to the award of any credits for any of that 5-year period.

18 (14) Any other performance conditions or contract
19 provisions as the Department determines are appropriate.

20 (Source: P.A. 91-476, eff. 8-11-99.)

21 (35 ILCS 10/5-77 new)

22 Sec. 5-77. Sunset of new Agreements. The Department shall
23 not enter into any new Agreements under the provisions of
24 Section 5-50 of this Act after December 31, 2016.

1 Section 20. The Film Production Services Tax Credit Act of
2 2008 is amended by adding Section 42 as follows:

3 (35 ILCS 16/42 new)

4 Sec. 42. Sunset of credits. The application of credits
5 awarded pursuant to this Act shall be limited by a reasonable
6 and appropriate sunset date. A taxpayer shall not be entitled
7 to take a credit awarded pursuant to this Act for tax years
8 beginning on or after 5 years after the effective date of this
9 amendatory Act of the 97th General Assembly.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.