

**SB3394**



**98TH GENERAL ASSEMBLY**

**State of Illinois**

**2013 and 2014**

**SB3394**

Introduced 2/14/2014, by Sen. Dan Kotowski

**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 years (instead of 5 years). Increases the amount of the research and development credit by providing that the increase in qualifying expenditures shall be an increase over 50% (instead of 100%) of the average of the qualifying expenditures for each year in the base period.

LRB098 19698 HLH 54907 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 January 1, 2025, an amount equal to  
5 3.75% 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 January 1, 2025, and  
8 ending after December 31, 2024, an amount equal to the sum  
9 of (i) 3.75% of the taxpayer's net income for the period  
10 prior to January 1, 2025, as calculated under Section  
11 202.5, and (ii) 3.25% of the taxpayer's net income for the  
12 period after December 31, 2024, as calculated under Section  
13 202.5.

14 (5.4) In the case of an individual, trust, or estate,  
15 for taxable years beginning on or after January 1, 2025, an  
16 amount equal to 3.25% of the taxpayer's net income for the  
17 taxable year.

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

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

1 as calculated under Section 202.3.

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

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

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

17 (11) In the case of a corporation, for taxable years  
18 beginning prior to January 1, 2015, and ending after  
19 December 31, 2014, an amount equal to the sum of (i) 7% of  
20 the taxpayer's net income for the period prior to January  
21 1, 2015, as calculated under Section 202.5, and (ii) 5.25%  
22 of the taxpayer's net income for the period after December  
23 31, 2014, as calculated under Section 202.5.

24 (12) In the case of a corporation, for taxable years  
25 beginning on or after January 1, 2015, and ending prior to  
26 January 1, 2025, an amount equal to 5.25% of the taxpayer's

1 net income for the taxable year.

2 (13) In the case of a corporation, for taxable years  
3 beginning prior to January 1, 2025, and ending after  
4 December 31, 2024, an amount equal to the sum of (i) 5.25%  
5 of the taxpayer's net income for the period prior to  
6 January 1, 2025, as calculated under Section 202.5, and  
7 (ii) 4.8% of the taxpayer's net income for the period after  
8 December 31, 2024, as calculated under Section 202.5.

9 (14) In the case of a corporation, for taxable years  
10 beginning on or after January 1, 2025, an amount equal to  
11 4.8% of the taxpayer's net income for the taxable year.

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

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

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

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

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

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

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

17 (B) the privilege tax imposed by Section 409 of the  
18 Illinois Insurance Code, the fire insurance company  
19 tax imposed by Section 12 of the Fire Investigation  
20 Act, and the fire department taxes imposed under  
21 Section 11-10-1 of the Illinois Municipal Code,

22 equals 1.25% for taxable years ending prior to December 31,  
23 2003, or 1.75% for taxable years ending on or after  
24 December 31, 2003, of the net taxable premiums written for  
25 the taxable year, as described by subsection (1) of Section  
26 409 of the Illinois Insurance Code. This paragraph will in



1 no event increase the rates imposed under subsections (b)  
2 and (d).

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

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

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

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

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

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

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

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

1 component of a building such as landscaping, sewer  
2 lines, local access roads, fencing, parking lots, and  
3 other appurtenances;

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

9 (C) is acquired by purchase as defined in Section  
10 179(d) of the Internal Revenue Code;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (1) A taxpayer shall be allowed a credit against the  
26 tax imposed by subsections (a) and (b) of this Section for

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



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

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 (f);

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

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

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

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

25 (4) If the basis of the property for federal income tax  
26 depreciation purposes is increased after it has been placed

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

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

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

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

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

15      (g) (Blank).

16      (h) Investment credit; High Impact Business.

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

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

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

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

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

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

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

15                (C) is acquired by purchase as defined in Section  
16 179(d) of the Internal Revenue Code; and

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

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

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

1 such increase shall be deemed property placed in service on  
2 the date of such increase in basis.

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

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

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

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

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

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

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

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

15 (j) Training expense credit. Beginning with tax years  
16 ending on or after December 31, 1986 and prior to December 31,  
17 2003, a taxpayer shall be allowed a credit against the tax  
18 imposed by subsections (a) and (b) under this Section for all  
19 amounts paid or accrued, on behalf of all persons employed by  
20 the taxpayer in Illinois or Illinois residents employed outside  
21 of Illinois by a taxpayer, for educational or vocational  
22 training in semi-technical or technical fields or semi-skilled  
23 or skilled fields, which were deducted from gross income in the  
24 computation of taxable income. The credit against the tax  
25 imposed by subsections (a) and (b) shall be 1.6% of such  
26 training expenses. 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 (j) 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 Any credit allowed under this subsection which is unused in  
9 the year the credit is earned may be carried forward to each of  
10 the 5 taxable years following the year for which the credit is  
11 first computed until it is used. This credit shall be applied  
12 first to the earliest year for which there is a liability. If  
13 there is a credit under this subsection from more than one tax  
14 year that is available to offset a liability the earliest  
15 credit arising under this subsection shall be applied first. No  
16 carryforward credit may be claimed in any tax year ending on or  
17 after December 31, 2003.

18 (k) Research and development credit. For tax years ending  
19 after July 1, 1990 and prior to December 31, 2003, and  
20 beginning again for tax years ending on or after December 31,  
21 ~~2004, and ending prior to January 1, 2016,~~ a taxpayer shall be  
22 allowed a credit against the tax imposed by subsections (a) and  
23 (b) of this Section for increasing research activities in this  
24 State. The credit allowed against the tax imposed by  
25 subsections (a) and (b) shall be equal to 6 1/2% of the  
26 qualifying expenditures for increasing research activities in

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

9 For purposes of this subsection, "qualifying expenditures"  
10 means the qualifying expenditures as defined for the federal  
11 credit for increasing research activities which would be  
12 allowable under Section 41 of the Internal Revenue Code and  
13 which are conducted in this State, "qualifying expenditures for  
14 increasing research activities in this State" means the excess  
15 of qualifying expenditures for the taxable year in which  
16 incurred over qualifying expenditures for the base period,  
17 "qualifying expenditures for the base period" means: (1) for  
18 tax years ending prior to December 31, 2014, the average of the  
19 qualifying expenditures for each year in the base period; and  
20 (2) for for tax years ending on or after December 31, 2014, 50%  
21 of the average of the qualifying expenditures for each year in  
22 the base period, and "base period" means the 3 taxable years  
23 immediately preceding the taxable year for which the  
24 determination is being made.

25 Any credit in excess of the tax liability for the taxable  
26 year may be carried forward. A taxpayer may elect to have the

1 unused credit shown on its final completed return carried over  
2 as a credit against the tax liability for the following 20 ~~5~~  
3 taxable years or until it has been fully used, whichever occurs  
4 first; provided that no credit earned in a tax year ending  
5 prior to December 31, 2003 may be carried forward to any year  
6 ending on or after December 31, 2003.

7 If an unused credit is carried forward to a given year from  
8 2 or more earlier years, that credit arising in the earliest  
9 year will be applied first against the tax liability for the  
10 given year. If a tax liability for the given year still  
11 remains, the credit from the next earliest year will then be  
12 applied, and so on, until all credits have been used or no tax  
13 liability for the given year remains. Any remaining unused  
14 credit or credits then will be carried forward to the next  
15 following year in which a tax liability is incurred, except  
16 that no credit can be carried forward to a year which is more  
17 than 5 years after the year in which the expense for which the  
18 credit is given was incurred.

19 No inference shall be drawn from this amendatory Act of the  
20 91st General Assembly in construing this Section for taxable  
21 years beginning before January 1, 1999.

22 This subsection (k) is exempt from the provisions of  
23 Section 250.

24 (1) Environmental Remediation Tax Credit.

25 (i) For tax years ending after December 31, 1997 and on  
26 or before December 31, 2001, a taxpayer shall be allowed a

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

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

20 (ii) A credit allowed under this subsection that is  
21 unused in the year the credit is earned may be carried  
22 forward to each of the 5 taxable years following the year  
23 for which the credit is first earned until it is used. The  
24 term "unused credit" does not include any amounts of  
25 unreimbursed eligible remediation costs in excess of the  
26 maximum credit per site authorized under paragraph (i).

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

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

22           (m) Education expense credit. Beginning with tax years  
23      ending after December 31, 1999, a taxpayer who is the custodian  
24      of one or more qualifying pupils shall be allowed a credit  
25      against the tax imposed by subsections (a) and (b) of this  
26      Section for qualified education expenses incurred on behalf of

1 the qualifying pupils. The credit shall be equal to 25% of  
2 qualified education expenses, but in no event may the total  
3 credit under this subsection claimed by a family that is the  
4 custodian of qualifying pupils exceed \$500. In no event shall a  
5 credit under this subsection reduce the taxpayer's liability  
6 under this Act to less than zero. This subsection is exempt  
7 from the provisions of Section 250 of this Act.

8 For purposes of this subsection:

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

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

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

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

4 (n) River Edge Redevelopment Zone site remediation tax  
5 credit.

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



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

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

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

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

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

25 (1) the medical cannabis cultivation center  
26 registration, medical cannabis dispensary registration, or

1 the property of a registration is transferred as a result  
2 of any of the following:

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

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

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

15 (D) the death of an owner of the equity interest in  
16 a registrant;

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

20 (F) a transfer by a parent company to a wholly  
21 owned subsidiary; or

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

26 (2) the cannabis cultivation center registration,

1           medical cannabis dispensary registration, or the  
2           controlling interest in a registrant's property is  
3           transferred in a transaction to lineal descendants in which  
4           no gain or loss is recognized or as a result of a  
5           transaction in accordance with Section 351 of the Internal  
6           Revenue Code in which no gain or loss is recognized.

7           (Source: P.A. 97-2, eff. 5-6-11; 97-636, eff. 6-1-12; 97-905,  
8           eff. 8-7-12; 98-109, eff. 7-25-13; 98-122, eff. 1-1-14; revised  
9           8-9-13.)