

1 AN ACT concerning taxation of trusts and estates.

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

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

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

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

29 (3) In the case of an individual, trust or estate,
30 for taxable years beginning after June 30, 1989 and
31 ending before December 31, 2001, an amount equal to 3% of

1 the taxpayer's net income for the taxable year.

2 (4) In the case of an individual, for taxable years
3 ending on or after December 31, 2001, an amount equal to
4 3% of the taxpayer's net income for the taxable year
5 {Blank}.

6 (5) In the case of a trust or an estate, for
7 taxable years ending on or after December 31, 2001, no
8 tax is imposed {Blank}.

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

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

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

22 (c) Beginning on July 1, 1979 and thereafter, in
23 addition to such income tax, there is also hereby imposed the
24 Personal Property Tax Replacement Income Tax measured by net
25 income on every corporation (including Subchapter S
26 corporations), partnership and trust, for each taxable year
27 ending after June 30, 1979. Such taxes are imposed on the
28 privilege of earning or receiving income in or as a resident
29 of this State. The Personal Property Tax Replacement Income
30 Tax shall be in addition to the income tax imposed by
31 subsections (a) and (b) of this Section and in addition to
32 all other occupation or privilege taxes imposed by this State
33 or by any municipal corporation or political subdivision
34 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
14 the case of a foreign insurer, as defined by Section 35A-5 of
15 the Illinois Insurance Code, whose state or country of
16 domicile imposes on insurers domiciled in Illinois a
17 retaliatory tax (excluding any insurer whose premiums from
18 reinsurance assumed are 50% or more of its total insurance
19 premiums as determined under paragraph (2) of subsection (b)
20 of Section 304, except that for purposes of this
21 determination premiums from reinsurance do not include
22 premiums from inter-affiliate reinsurance arrangements),
23 beginning with taxable years ending on or after December 31,
24 1999, the sum of the rates of tax imposed by subsections (b)
25 and (d) shall be reduced (but not increased) to the rate at
26 which the total amount of tax imposed under this Act, net of
27 all credits allowed under this Act, shall equal (i) the total
28 amount of tax that would be imposed on the foreign insurer's
29 net income allocable to Illinois for the taxable year by such
30 foreign insurer's state or country of domicile if that net
31 income were subject to all income taxes and taxes measured by
32 net income imposed by such foreign insurer's state or country
33 of domicile, net of all credits allowed or (ii) a rate of
34 zero if no such tax is imposed on such income by the foreign

1 insurer's state of domicile. For the purposes of this
2 subsection (d-1), an inter-affiliate includes a mutual
3 insurer under common management.

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

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

11 (B) the privilege tax imposed by Section 409
12 of the Illinois Insurance Code, the fire insurance
13 company tax imposed by Section 12 of the Fire
14 Investigation Act, and the fire department taxes
15 imposed under Section 11-10-1 of the Illinois
16 Municipal Code,

17 equals 1.25% of the net taxable premiums written for the
18 taxable year, as described by subsection (1) of Section
19 409 of the Illinois Insurance Code. This paragraph will
20 in no event increase the rates imposed under subsections
21 (b) and (d).

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

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

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

34 (1) A taxpayer shall be allowed a credit equal to

1 .5% of the basis of qualified property placed in service
2 during the taxable year, provided such property is placed
3 in service on or after July 1, 1984. There shall be
4 allowed an additional credit equal to .5% of the basis of
5 qualified property placed in service during the taxable
6 year, provided such property is placed in service on or
7 after July 1, 1986, and the taxpayer's base employment
8 within Illinois has increased by 1% or more over the
9 preceding year as determined by the taxpayer's employment
10 records filed with the Illinois Department of Employment
11 Security. Taxpayers who are new to Illinois shall be
12 deemed to have met the 1% growth in base employment for
13 the first year in which they file employment records with
14 the Illinois Department of Employment Security. The
15 provisions added to this Section by Public Act 85-1200
16 (and restored by Public Act 87-895) shall be construed as
17 declaratory of existing law and not as a new enactment.
18 If, in any year, the increase in base employment within
19 Illinois over the preceding year is less than 1%, the
20 additional credit shall be limited to that percentage
21 times a fraction, the numerator of which is .5% and the
22 denominator of which is 1%, but shall not exceed .5%.
23 The investment credit shall not be allowed to the extent
24 that it would reduce a taxpayer's liability in any tax
25 year below zero, nor may any credit for qualified
26 property be allowed for any year other than the year in
27 which the property was placed in service in Illinois. For
28 tax years ending on or after December 31, 1987, and on or
29 before December 31, 1988, the credit shall be allowed for
30 the tax year in which the property is placed in service,
31 or, if the amount of the credit exceeds the tax liability
32 for that year, whether it exceeds the original liability
33 or the liability as later amended, such excess may be
34 carried forward and applied to the tax liability of the 5

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

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

25 (A) is tangible, whether new or used,
26 including buildings and structural components of
27 buildings and signs that are real property, but not
28 including land or improvements to real property that
29 are not a structural component of a building such as
30 landscaping, sewer lines, local access roads,
31 fencing, parking lots, and other appurtenances;

32 (B) is depreciable pursuant to Section 167 of
33 the Internal Revenue Code, except that "3-year
34 property" as defined in Section 168(c)(2)(A) of that

1 Code is not eligible for the credit provided by this
2 subsection (e);

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

5 (D) is used in Illinois by a taxpayer who is
6 primarily engaged in manufacturing, or in mining
7 coal or fluorite, or in retailing; and

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

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

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

28 (5) If the basis of the property for federal income
29 tax depreciation purposes is increased after it has been
30 placed in service in Illinois by the taxpayer, the amount
31 of such increase shall be deemed property placed in
32 service on the date of such increase in basis.

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

1 Code.

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

19 (8) Unless the investment credit is extended by
20 law, the basis of qualified property shall not include
21 costs incurred after December 31, 2003, except for costs
22 incurred pursuant to a binding contract entered into on
23 or before December 31, 2003.

24 (9) Each taxable year ending before December 31,
25 2000, a partnership may elect to pass through to its
26 partners the credits to which the partnership is entitled
27 under this subsection (e) for the taxable year. A
28 partner may use the credit allocated to him or her under
29 this paragraph only against the tax imposed in
30 subsections (c) and (d) of this Section. If the
31 partnership makes that election, those credits shall be
32 allocated among the partners in the partnership in
33 accordance with the rules set forth in Section 704(b) of
34 the Internal Revenue Code, and the rules promulgated

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

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

21 (f) Investment credit; Enterprise Zone.

22 (1) A taxpayer shall be allowed a credit against
23 the tax imposed by subsections (a) and (b) of this
24 Section for investment in qualified property which is
25 placed in service in an Enterprise Zone created pursuant
26 to the Illinois Enterprise Zone Act. For partners,
27 shareholders of Subchapter S corporations, and owners of
28 limited liability companies, if the liability company is
29 treated as a partnership for purposes of federal and
30 State income taxation, there shall be allowed a credit
31 under this subsection (f) to be determined in accordance
32 with the determination of income and distributive share
33 of income under Sections 702 and 704 and Subchapter S of
34 the Internal Revenue Code. The credit shall be .5% of the

1 basis for such property. The credit shall be available
2 only in the taxable year in which the property is placed
3 in service in the Enterprise Zone and shall not be
4 allowed to the extent that it would reduce a taxpayer's
5 liability for the tax imposed by subsections (a) and (b)
6 of this Section to below zero. For tax years ending on or
7 after December 31, 1985, the credit shall be allowed for
8 the tax year in which the property is placed in service,
9 or, if the amount of the credit exceeds the tax liability
10 for that year, whether it exceeds the original liability
11 or the liability as later amended, such excess may be
12 carried forward and applied to the tax liability of the 5
13 taxable years following the excess credit year. The
14 credit shall be applied to the earliest year for which
15 there is a liability. If there is credit from more than
16 one tax year that is available to offset a liability, the
17 credit accruing first in time shall be applied first.

18 (2) The term qualified property means property
19 which:

20 (A) is tangible, whether new or used,
21 including buildings and structural components of
22 buildings;

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

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

30 (D) is used in the Enterprise Zone by the
31 taxpayer; and

32 (E) has not been previously used in Illinois
33 in such a manner and by such a person as would
34 qualify for the credit provided by this subsection

1 (f) or subsection (e).

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

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

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

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

30 (g) Jobs Tax Credit; Enterprise Zone and Foreign Trade
31 Zone or Sub-Zone.

32 (1) A taxpayer conducting a trade or business in an
33 enterprise zone or a High Impact Business designated by
34 the Department of Commerce and Community Affairs

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

6 (2) To qualify for the credit:

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

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

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

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

24 (A) Certified by the Department of Commerce
25 and Community Affairs as "eligible for services"
26 pursuant to regulations promulgated in accordance
27 with Title II of the Job Training Partnership Act,
28 Training Services for the Disadvantaged or Title III
29 of the Job Training Partnership Act, Employment and
30 Training Assistance for Dislocated Workers Program.

31 (B) Hired after the enterprise zone or
32 federally designated Foreign Trade Zone or Sub-Zone
33 was designated or the trade or business was located
34 in that zone, whichever is later.

1 (C) Employed in the enterprise zone or Foreign
2 Trade Zone or Sub-Zone. An employee is employed in
3 an enterprise zone or federally designated Foreign
4 Trade Zone or Sub-Zone if his services are rendered
5 there or it is the base of operations for the
6 services performed.

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

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

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

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

29 (h) Investment credit; High Impact Business.

30 (1) Subject to subsection (b) of Section 5.5 of the
31 Illinois Enterprise Zone Act, a taxpayer shall be allowed
32 a credit against the tax imposed by subsections (a) and
33 (b) of this Section for investment in qualified property
34 which is placed in service by a Department of Commerce

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

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

33 (2) The term qualified property means property
34 which:

1 (A) is tangible, whether new or used,
2 including buildings and structural components of
3 buildings;

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

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

11 (D) is not eligible for the Enterprise Zone
12 Investment Credit provided by subsection (f) of this
13 Section.

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

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

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

26 (6) If during any taxable year ending on or before
27 December 31, 1996, any property ceases to be qualified
28 property in the hands of the taxpayer within 48 months
29 after being placed in service, or the situs of any
30 qualified property is moved outside Illinois within 48
31 months after being placed in service, the tax imposed
32 under subsections (a) and (b) of this Section for such
33 taxable year shall be increased. Such increase shall be
34 determined by (i) recomputing the investment credit which

1 would have been allowed for the year in which credit for
2 such property was originally allowed by eliminating such
3 property from such computation, and (ii) subtracting such
4 recomputed credit from the amount of credit previously
5 allowed. For the purposes of this paragraph (6), a
6 reduction of the basis of qualified property resulting
7 from a redetermination of the purchase price shall be
8 deemed a disposition of qualified property to the extent
9 of such reduction.

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

21 (i) A credit shall be allowed against the tax imposed by
22 subsections (a) and (b) of this Section for the tax imposed
23 by subsections (c) and (d) of this Section. This credit
24 shall be computed by multiplying the tax imposed by
25 subsections (c) and (d) of this Section by a fraction, the
26 numerator of which is base income allocable to Illinois and
27 the denominator of which is Illinois base income, and further
28 multiplying the product by the tax rate imposed by
29 subsections (a) and (b) of this Section.

30 Any credit earned on or after December 31, 1986 under
31 this subsection which is unused in the year the credit is
32 computed because it exceeds the tax liability imposed by
33 subsections (a) and (b) for that year (whether it exceeds the
34 original liability or the liability as later amended) may be

1 carried forward and applied to the tax liability imposed by
2 subsections (a) and (b) of the 5 taxable years following the
3 excess credit year. This credit shall be applied first to
4 the earliest year for which there is a liability. If there
5 is a credit under this subsection from more than one tax year
6 that is available to offset a liability the earliest credit
7 arising under this subsection shall be applied first.

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

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

1 distributive share of income under Sections 702 and 704 and
2 subchapter S of the Internal Revenue Code.

3 Any credit allowed under this subsection which is unused
4 in the year the credit is earned may be carried forward to
5 each of the 5 taxable years following the year for which the
6 credit is first computed until it is used. This credit shall
7 be applied first to the earliest year for which there is a
8 liability. If there is a credit under this subsection from
9 more than one tax year that is available to offset a
10 liability the earliest credit arising under this subsection
11 shall be applied first.

12 (k) Research and development credit.

13 Beginning with tax years ending after July 1, 1990, a
14 taxpayer shall be allowed a credit against the tax imposed by
15 subsections (a) and (b) of this Section for increasing
16 research activities in this State. The credit allowed
17 against the tax imposed by subsections (a) and (b) shall be
18 equal to 6 1/2% of the qualifying expenditures for increasing
19 research activities in this State. For partners, shareholders
20 of subchapter S corporations, and owners of limited liability
21 companies, if the liability company is treated as a
22 partnership for purposes of federal and State income
23 taxation, there shall be allowed a credit under this
24 subsection to be determined in accordance with the
25 determination of income and distributive share of income
26 under Sections 702 and 704 and subchapter S of the Internal
27 Revenue Code.

28 For purposes of this subsection, "qualifying
29 expenditures" means the qualifying expenditures as defined
30 for the federal credit for increasing research activities
31 which would be allowable under Section 41 of the Internal
32 Revenue Code and which are conducted in this State,
33 "qualifying expenditures for increasing research activities
34 in this State" means the excess of qualifying expenditures

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

7 Any credit in excess of the tax liability for the taxable
8 year may be carried forward. A taxpayer may elect to have the
9 unused credit shown on its final completed return carried
10 over as a credit against the tax liability for the following
11 5 taxable years or until it has been fully used, whichever
12 occurs first.

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

25 Unless extended by law, the credit shall not include
26 costs incurred after December 31, 2004, except for costs
27 incurred pursuant to a binding contract entered into on or
28 before December 31, 2004.

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

32 (1) Environmental Remediation Tax Credit.

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

1 allowed a credit against the tax imposed by subsections
2 (a) and (b) of this Section for certain amounts paid for
3 unreimbursed eligible remediation costs, as specified in
4 this subsection. For purposes of this Section,
5 "unreimbursed eligible remediation costs" means costs
6 approved by the Illinois Environmental Protection Agency
7 ("Agency") under Section 58.14 of the Environmental
8 Protection Act that were paid in performing environmental
9 remediation at a site for which a No Further Remediation
10 Letter was issued by the Agency and recorded under
11 Section 58.10 of the Environmental Protection Act. The
12 credit must be claimed for the taxable year in which
13 Agency approval of the eligible remediation costs is
14 granted. The credit is not available to any taxpayer if
15 the taxpayer or any related party caused or contributed
16 to, in any material respect, a release of regulated
17 substances on, in, or under the site that was identified
18 and addressed by the remedial action pursuant to the Site
19 Remediation Program of the Environmental Protection Act.
20 After the Pollution Control Board rules are adopted
21 pursuant to the Illinois Administrative Procedure Act for
22 the administration and enforcement of Section 58.9 of the
23 Environmental Protection Act, determinations as to credit
24 availability for purposes of this Section shall be made
25 consistent with those rules. For purposes of this
26 Section, "taxpayer" includes a person whose tax
27 attributes the taxpayer has succeeded to under Section
28 381 of the Internal Revenue Code and "related party"
29 includes the persons disallowed a deduction for losses by
30 paragraphs (b), (c), and (f)(1) of Section 267 of the
31 Internal Revenue Code by virtue of being a related
32 taxpayer, as well as any of its partners. The credit
33 allowed against the tax imposed by subsections (a) and
34 (b) shall be equal to 25% of the unreimbursed eligible

1 remediation costs in excess of \$100,000 per site, except
2 that the \$100,000 threshold shall not apply to any site
3 contained in an enterprise zone as determined by the
4 Department of Commerce and Community Affairs. The total
5 credit allowed shall not exceed \$40,000 per year with a
6 maximum total of \$150,000 per site. For partners and
7 shareholders of subchapter S corporations, there shall be
8 allowed a credit under this subsection to be determined
9 in accordance with the determination of income and
10 distributive share of income under Sections 702 and 704
11 and of subchapter S of the Internal Revenue Code.

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

1 event may a credit be transferred to any taxpayer if the
2 taxpayer or a related party would not be eligible under
3 the provisions of subsection (i).

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

7 (m) Education expense credit.

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

20 For purposes of this subsection;

21 "Qualifying pupils" means individuals who (i) are
22 residents of the State of Illinois, (ii) are under the age of
23 21 at the close of the school year for which a credit is
24 sought, and (iii) during the school year for which a credit
25 is sought were full-time pupils enrolled in a kindergarten
26 through twelfth grade education program at any school, as
27 defined in this subsection.

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

32 "School" means any public or nonpublic elementary or
33 secondary school in Illinois that is in compliance with Title
34 VI of the Civil Rights Act of 1964 and attendance at which

1 satisfies the requirements of Section 26-1 of the School
2 Code, except that nothing shall be construed to require a
3 child to attend any particular public or nonpublic school to
4 qualify for the credit under this Section.

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

8 (Source: P.A. 90-123, eff. 7-21-97; 90-458, eff. 8-17-97;
9 90-605, eff. 6-30-98; 90-655, eff. 7-30-98; 90-717, eff.
10 8-7-98; 90-792, eff. 1-1-99; 91-9, eff. 1-1-00; 91-357, eff.
11 7-29-99; 91-643, eff. 8-20-99; 91-644, eff. 8-20-99; 91-860,
12 eff. 6-22-00; 91-913, eff. 1-1-01; revised 10-24-00.)

13 Section 99. Effective date. This Act takes effect on
14 January 1, 2002.